

# LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 2nd AUGUST, 1934

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## OFFICIAL REPORT



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# LEGISLATIVE ASSEMBLY.

*Thursday, the 2nd August, 1934.*

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

## THE HEDJAZ PILGRIMS (*MUALLIMS*) BILL.

### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I beg to present the Report of the Select Committee on the Bill, which was recommitted to Select Committee, to regulate the activities of persons in British India who offer to assist Muslim pilgrims to the Hedjaz.

**Diwan Bahadur A. Ramaswami Mudaliar** (Madras City : Non-Muhammadan Urban) : Sir, may I suggest that you will kindly give precedence to items Nos. 30 to 45 on the agenda ? They are all motions for leave to introduce Bills and they will not take any length of time : if they are not reached in today's Agenda, there is no possibility of their being reached this Session.

**Mr. President** (The Honourable Sir Shanmukham Chetty) : As a matter of fact, the Honourable Member may remember that this request was once made on a previous occasion, and it was not acceded to by the Chair. Of course, on an occasion previous to that, a request of a similar nature was acceded to by the Chair, but on that occasion the Chair pointed out that, if it was the desire of the House that motions for leave to introduce must take precedence, the House might take steps to amend the Standing Orders accordingly. The House has not shown any interest at all to move in that direction, and the Chair thinks, in the light of all this, it will not be justified in accepting such a procedure.

## THE INDIAN INCOME-TAX (AMENDMENT) BILL.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move :

“ That the Bill further to amend the Indian Income-tax Act, 1922, be continued.”

Honourable Members will remember that this Bill, countersigned by 52 other Members of the Legislative Assembly, was debated on the 2nd February last year, and it was referred to a Select Committee. The

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Government made it perfectly clear that, even after the reference to Select Committee, they will elicit public opinions with special reference to the speech made by the Honourable the Finance Member. Consequently, on the 28th June, 1933, they issued a circular for eliciting public opinions. During the last Delhi Session, I was anxious to convene a meeting of the Select Committee, and, after strenuous efforts, which I made in that direction, in which I received your assistance, Sir, a meeting of the Select Committee was convened, but it was postponed for further consideration. In the meantime, the Session was prorogued, with the result that the Standing Order precludes me from going on with the Bill unless the House permits me to continue it.

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

“ That the Bill further to amend the Indian Income-tax Act, 1922, be continued.”

**The Honourable Sir James Grigg** (Finance Member) : Sir, the Government do not intend to oppose this motion ; but in order to prevent any future misunderstandings, I should like to make clear to the House the circumstances in which and the conditions under which the Government have decided not to oppose it. The Bill to which the motion relates is one to which my predecessor expressed an incurable hostility. I share that hostility. In the course of the circulation for opinions, I think it was the Patna High Court which said that any instrument more likely to result in the collection of no income-tax at all could not be imagined. At the same time, during the course of the circulation for opinions, a certain suggestion was elicited, I think, from one of the Bombay commercial societies which my predecessor thought was worthy of consideration. He, therefore, agreed to a Select Committee, on the understanding that the original Bill would be opposed, but that if general agreement could be reached on this specific suggestion of the Bombay society and it was otherwise found suitable, he would give it sympathetic consideration. Now, as I have just said, the Government are unalterably opposed to the Bill in its original form and that I may say is the Bill before the Select Committee. But at the same time I consider, and the Government consider, that the promise of sympathetic consideration of my predecessor to an alternative scheme does place upon the Government a strong moral obligation to allow further discussion such as might most suitably be undertaken in the Select Committee ; but even on that alternative scheme, I would like to say one word of warning. The Honourable the Law Member and myself have considered this suggestion. We have grave misgivings about it and it is quite clear that it raises important constitutional questions such as the ousting of jurisdiction of the High Courts in certain cases, and we must not be assumed to be committed to more than the commitment entered into by my predecessor, which was sympathetic consideration to any scheme which was workable, which did not result in danger to the revenue, and which was generally acceptable. With that short explanation of the attitude of the Government, I should like to repeat that we are willing, subject to the views of the House, that this motion should be accepted.

**Mr. President** (The Honourable Sir Shanmukham Chetty) : The Chair would point out that the acceptance of Sir Hari Singh Gour's motion

does not commit either the Government or any section of the House either to accept or reject the Bill of Sir Hari Singh Gour. That has to be considered purely on its own merits. This necessity arises because of the difficulty that has been brought to the notice of the Chair by certain Non-Official Members,—a difficulty which they have experienced in having Select Committees on Non-Official Bills convened. According to our present practice, the meetings of Select Committees are convened, the Chair thinks, by the Legislative Department. The pressure of Government business makes it probably extremely difficult for the Legislative Department to find time for meetings of Select Committees on Non-Official Bills. But when the House has agreed to refer a Non-Official Bill to Select Committee, then the Chair would suggest that every effort must be made by the Legislative Department to see that reasonable chance is given. (Opposition Cheers.) It is because the Honourable Sir Hari Singh Gour could not succeed in getting days allotted for the meetings of his Select Committee that he is driven to the necessity of making this motion for the continuance of the measure which, but for this motion, would lapse under the Standing Orders.

**The Honourable Sir James Grigg :** If I may say so, Sir, that was precisely one of the considerations that were in the mind of the Government in not opposing this motion. As regards the opportunity for further discussion, I understand that a date has actually been arranged for the meeting of the Select Committee.

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

“ That the Bill further to amend the Indian Income-tax Act, 1922, be continued.”

The motion was adopted.

### THE CHILD MARRIAGE RESTRAINT (REPEALING) BILL.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I beg to move :

“ That the Bill to repeal the Child Marriage Restraint Act, 1929, be continued.”

Sir, this Bill has been on the anvil for nearly two years, and I had no chance of moving it except on one occasion, but, even then, as all the business on the paper had to be hurried up, the chance of moving my motion came to me at the end of the day. Consequently, nothing could be done further until now, as we had no other non-official day. Therefore, I request that the House may be pleased to order that this Bill may be continued.

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

“ That the Bill to repeal the Child Marriage Restraint Act, 1929, be continued.”

**The Honourable Sir Henry Craik** (Home Member) : Sir, I have only to say that Government have no objection to the acceptance of this motion if it is acceptable to the House at large.

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

“ That the Bill to repeal the Child Marriage Restraint Act, 1929, be continued.”

The motion was adopted.

**Mr. Amar Nath Dutt** (Burdwan Division : Non-Muhammadan Rural) : I don't move my motion\*, Sir.

**Rao Bahadur M. C. Bajah** (Nominated Non-Official) : Sir, as we are not in possession of the opinions on this Bill, I do not propose to move my motion†.

**Mr. Amar Nath Dutt** (Burdwan Division : Non-Muhammadan Rural) : Sir, I don't propose to move my motion‡.

### THE BENGAL STATE-PRISONERS REGULATION (REPEALING) BILL.

**Mr. Amar Nath Dutt** (Burdwan Division : Non-Muhammadan Rural) : Sir, I beg to move :

“ That the Bill to repeal the Bengal State-Prisoners Regulation, 1918, be taken into consideration.”

Sir, if I have taken upon myself the task of moving this Bill to repeal an obnoxious measure, which finds a place in the Statute-book of this country, after nearly two centuries of British rule, it is because I, along with the people of this country, do think that no civilized administration need be armed with such drastic powers as are contained in this Bill. Honourable Members may remember, that it was more than a decade ago, when you, Sir, were one of us, that I had the honour and the privilege of moving a Resolution in 1924 for the repeal of Regulation III of 1818. The history of this country, before the year 1924, during the last two decades preceding it, was one of repression and tyranny, if I may be permitted to use that word and if it is not unparliamentary, throughout the length and breadth of this country. Following in the wake of that ill-starred measure of that brilliant Viceroy, Lord Curzon,—I refer to the Partition of Bengal,—the rulers and the ruled of this country have been divided by sharp differences of opinion in matters political, which concern not only the welfare of millions of our countrymen but which also lie at the root of the peace of the world, if I may be permitted to say so. Sir, our memory goes back to those historical times when the Moghul Throne of Delhi was fast losing its hold upon the administration of this country. Territories after

\* “ That the Bill to remove doubts about the application of the doctrine of representation, in case of succession to *stridhan* under the Dayabhag, be referred to a Select Committee, etc., etc.”

† “ That the Bill to provide for the abolition of untouchability among the Hindus, be referred to a Select Committee, etc., etc.”

‡ “ That the Bill further to amend the Indian Bar Councils Act, 1926, be referred to a Select Committee, etc., etc.”

territories were being taken away, and new rulers were arising not only in Northern India, but also in the South of India. Then we believe that, by Divine Providence, it was ordained that a nation which lived six thousand miles away across the seas, which had come here only for purposes of commerce, should take up the reins of administration of this ill-fated country. Provinces were divided against Provinces. To the Throne of Imperial Delhi, the Nizam of Hyderabad, the Tippoo Sultan in Southern India and others will not owe their allegiance, and we believe that by Divine Dispensation the Englishmen came to this country to give us peace in this land. They did not come here as conquerors. It has often been said that India was conquered by the sword. I say, Sir, that those are the words of false prophets, of people who have no idea of statesmanship. In fact the Englishmen of those days, as soon as they evolved order out of chaos and framed a proper administration for this country, took up the question of educating the people of this country, and that famous Education Despatch of Sir Charles Wood, the grandfather of that great Governor General of India, whose name will for ever be enshrined in our hearts as one of the greatest of peacemakers in this country, I mean Lord Irwin,—that famous Despatch is a Magna Charta of our political liberties, because an alien race, who have not much in common with us, came to us to give us education, to light the lamp of knowledge in the darkness which prevailed in the country, by introducing western science and western philosophy. And, Sir, when they were doing so, a great controversy was raging between Rajah Ram Mohan Roy and Rajah Sir Radha Kanta Deb, as to whether or not the people of India should be given education in oriental languages, in philosophy and literature, or whether they should be educated in western sciences and philosophy, or they should be allowed to combine both. At that time, it is a known fact that this country was not fully under British rule. Still the Britishers of those days thought that they were justified in bringing all the paraphernalia of civilized administration to this country, but at the same time they realised the dangers which existed in the country. There were then in the Punjab, the North-West Frontier and Sind Indian rulers who were making encroachments upon British Indian territories. There was the menace of the Pindaris which is known as the Pindari War in Indian history. There was also trouble along other frontiers and in Nepal; and last, but not the least, there was another European power which was trying to establish its supremacy here. That was the time when Regulation III of 1818 came into operation. That was a time when every administration was entitled to ask for such drastic powers. In the Preamble to that Regulation we find these words :

“Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers,....”

I draw respectfully the attention of Honourable Members to the words “of the alliances formed by the British Government with foreign Powers” :

“.....the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be inadvisable or improper.”

So, Honourable Members will see that when the country had not settled down, when there was still a disturbance of the peace and law

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and order due to foreign machinations and international complications both on the frontiers and in other continents which had repercussions upon this country, it was found necessary to arm the executive of those times with powers so drastic that they have no parallel even in the draconian laws which may be found elsewhere. But nobody was against that Regulation at that time. Honourable Members may be pleased to remember that there was no Legislature of the type which we have at present or which we had during the Morley-Minto Reforms days or even Legislature of the type which was given to us prior to that, through that great friend of India Mr. Bradlaugh's efforts,—Lord Cross's Bill which first introduced the elective element in the Legislatures of India. Long, long before that, we had Executive Councils and we had Legislative Councils and we had Nominated Members there. Occasionally, in those Councils, we had men of revered memory, like the late Sir Rash Behari Ghose, but ordinarily we had an array of illiterate Knights and Rajahs who were known by the name of *jo-hukums* and who always bowed to the wishes of the powers that be.

**An Honourable Member :** They were *āpka-wastēs*.

**Mr. Amar Nath Dutt :** As my Honourable friend says, *āpka-wastēs*. It was even prior to that that this Regulation was enacted. They were the Councils which were foreshadowed in the Regulating Act of 1774, and these Councillors were no other than the rulers of the country and they had the power to do whatever they liked. They got a Regulation like this embodied in the Statute. Of course, I am not aware of the number of times or the number of persons against whom this Regulation had to be called into requisition in those days. Ordinary history does not show that ; probably a file of old newspapers may enlighten us. But to come to more recent days, we find the first application, which comes to our memory, is during the famous Wahabi case, and that was more than 60 years ago. After that, for a spell of nearly a quarter of a century, this Regulation and its sister Regulations in the Presidencies of Madras and Bombay were not heard of and nobody knew that there was such a Regulation in the Statute-book of India even after the inauguration of the elective system in the Legislative Councils of India, through the efforts of Mr. Bradlaugh, for, I am sure, that if the Members of those days, when the elective system was introduced, knew that this archaic weapon would be availed of and could be availed of for purposes other than those for which it was enacted by a Government which wanted to silence the voice of the people, surely Member after Member would have come forward and taken the trouble of having these monstrous Regulations repealed, as I have been doing for the last 11 years in this House. As I have said, after a spell of nearly a quarter of a century, we come across the deportation of the Natu brothers, which marks a landmark in the annals of our political battle for getting our legitimate freedom in the land of our birth. I am not here at the present moment going to discuss what form of administration this country should have in the near future in order to give its people their legitimate rights and dues. But at the same time, I may be permitted to observe that in any administration, however dictatorial,—it may be ruled by a dictator. It may be ruled by a tyrant, it may be a democracy, or it may be a form of administration where responsible Government exists or the right of

self-determination exists,—I beg to submit that no administration has a right to exist by suppressing the voice of the people or their legitimate freedom. It was in the year 1898 that the Natu brothers were deported and Honourable Members may be pleased to note that there was no reason of State embracing the due maintenance of the alliances formed by the British Government with foreign powers, for at that time the British power was not only supreme in the Indian Continent but also in Burma, Baluchistan and also it had much influence in the border state of Afghanistan. Upper Burma had been conquered at that time and Baluchistan was also almost administered under British administration with the Khan of Kelat, while we know the good relations which existed between Afghanistan and India, from the days of Abdur Rahman. I would not go into the history of Dost Mohamed Khan or any of the Royal Prisoners who were kept in the cool heights of Mussoorie or the history of the conference in Rawalpindi. I would not go into the history of those times, but I am only touching the history of the times to which the subject of the Bill refers, namely, the deportation of the Natu brothers under these Regulations.

What led to the deportation of those two loyal and patriotic sons of India? No charge was framed against them, and afterwards they were released, and, I remember how the news was hailed with delight in the Lucknow Congress in 1889. Once more the Britishers retraced the false step they took and acted like true Englishmen. A decade afterwards came the Viceroyalty of that brilliant Viceroy, that superior person, I mean Lord Curzon. The partition of Bengal attempted to divide a highly cultured race and to put a stop to the self expression of a race which produced a jurist like Rash Bihari Ghose, a poet like Rabindra Nath Tagore and a scientist like J. C. Bose. They attempted to crush the legitimate aspirations of the people by dividing the people into two *viz.*, Eastern Bengal and Western Bengal and driving a wedge into the solidarity of that Bengali race. Then a whirlwind campaign was undertaken by the people and their leaders and the settled fact at the beginning of the present century was unsettled. I mention it only to remind my friends that the Communal Award is not the last word and it can be unsettled. No Napoleon or Alexander can prophesy about any settled fact in connection with any political measure. The partition of Bengal was annulled. Later on, nine leaders of thought, none of whom were guilty of any of the crimes to guard against which this Regulation was intended were deported. Very extraordinary powers were asked for by Lord Minto from Lord Morley. Lord Morley promised to the extent that it was possible for him to do so. The perpetrator of that great administrative blunder, if I may be permitted to use that expression, wrote to Lord Minto in these words :

"I won't follow you into deportation. You state your case with remarkable force. I admit. But then I comfort myself in my disquiet at differing from you by the reflection that perhaps the Spanish Viceroy's in the Netherlands, the Austrian Viceroy in Venice, the Bourbon in the two Sicilies and a Government or two in the old American Colonies, used reasonings not wholly dissimilar and not much less forcible. Forgive this affronting parallel. It is only the sally of a man who is himself occasionally compared to Strafford, King John, King Charles, Nero and Tiberius."

Again, speaking of the Regulation and the Bengal deportations, Lord Morley wrote :

"The question between us two upon this matter may, if we won't take care, become what the Americans call ugly. I won't repeat the general arguments about



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Deportation. I have fought against these here who regarded such a resort to the Regulation of 1818 as indefensible. So, *per contra*, I am ready just as stoutly to fight those who wish to make this arbitrary detention, for indefinite periods, a regular weapon of Government. Now your present position is beginning to approach this. You have nine men locked up a year ago by *lettre de cachet* because you believed them to be criminally connected with criminal plots, and because you expected their arrest to check these plots. For a certain time, it looked as if the coup were effective and were justified by the result. In all this, I think, we were perfectly right. Then you come by and by upon what you regard as a great anarchist conspiracy for sedition and murder and you warn me that you may soon apply to me for sanction of further arbitrary arrest and detention on a large scale. I ask whether this process implies that through the nine detenus you have found out a murder plot contrived, not by them but by other people. You say 'We admit that being locked up they can have had no share in these new abominations but their continued detention will frighten evil-doers generally.' That is the Russian argument."

I invite the Honourable the Home Member's attention as also that of the Honourable the Law Member to the words: "that is the Russian argument". We are here not for enacting any provision of law or retaining any law which savours of Russian odour. "By packing off trainloads of suspects to Siberia, we will terrify the anarchists out of their wits, and all will come out right." Probably that was the idea of the predecessor in office of the present Home Member,—to pack off trainloads of detenus from Bengal to Deoli. "That policy did not work out brilliantly in Russia and did not save the lives of the Trepoffs, nor did it save Russian from a Duma, the very thing that the Trepoffs and the rest of the 'offs' deprecated and detested". I may also add that that also brought about the downfall of the Romanoffs and cleared the soil of Russia of a dynasty which had been terrorizing the country for centuries. Sir, who were deported? I will give the names, Babu Aswini Kumar Dutt. Now any one who has had the privilege of ever having talked to him would have been impressed by the saintly character of that man. There are in India born saints, and Aswini Kumar Dutt, a follower of Keshab Chunder Sen, in the *Bhakti Marga*, was a saint. I had the pleasure and the privilege of knowing him for a long time and of even being his guest at the hill recess of Rajgir where I saw his nephew and wife looking into the minutest details of the daily wants of our life,—even from the cup of tea, which he himself did not take, down to milk brought in early in the morning, so that none of his guests might be uncomfortable in any way. He would read in those sequestered places religious books and he found great delight in repeating them to his guests and by collecting them on the verandah of his bungalow, and really men who had not the least religious instinct in them like myself (Laughter) were for the time being spell-bound and were charmed. Sir, such was the man. Even when two Muhammadan brothers were quarrelling with each other and were going to kill each other with the deadly *kodali* in their hand, one of the brothers at once said: "Let us go to Aswini Kumar Dutt", and he at once laid down his *kodali* and both of them went to Aswini Kumar Dutt,—and the quarrel was made up. Then, Sir, you may call it superstition, but my friend over there, who is a Sanatanist, knows also, I do not know how far the Shastras approve of it,—Sir, the first fruit that comes out in our trees is often offered to the gods, and will you believe me, Sir, in Barisal, it was the practice with several people to take the first fruit of the trees to this great saint of Barisal—Aswini Kumar Dutt.

Now, such is the man who was deported along with another gentleman whose memory also is revered throughout Bengal,—who, though

younger in years, was in college with me and was in some way distantly related to me—Raja Subodh Chandra Mullick. I call him “Raja” because he was really a Raja, not like the Rajas whom we see here or elsewhere (Loud Laughter), one who was really the Raja of the hearts of the people of Bengal—Subodh Chandra Mullick, a millionaire, who threw away all his wealth for the uplift of his own countrymen and who, during his last years, lived rather in want. Then, with him was another old veteran journalist who was of the former generation, of the generation of my father as also of the father of the Honourable the Law Member,—I mean Babu Krishna Kumar Mitra,—another saint, so to speak, belonging to the Theistic School, who fortunately for us is still living and who by his wisdom is still trying to help the people in their onward march towards freedom,—not by revolutionary means, not through ways of bloodshed, but through constructive methods. Then there was another gentleman deported—Monoronjon Guha. These, then, were the men deported but against whom no charge was ever brought. And did not the officials afterwards realize their mistake and release all these men? And was not the atmosphere made calmer. Now, Sir, I have given these three instances of the use of this Regulation III of 1818, and afterwards, as the House may remember,—one was long, long after, about half a century from the enactment of this Act and another was a quarter of a century after that, and the third was occasioned by certain ill-conceived administrative measures and that was still a decade after, but what was the history after that? Sir, we find the provisions of this Regulation requisitioned for all and sundry, for every case, for every convenience, in all cases where there may not have been any tangible evidence, but about which some suspicion might lurk in the minds of prejudiced officials; as there was no evidence forthcoming, they would have free recourse to the provisions of this archaic weapon in the armoury of the Government of India, although, if they had taken the slightest care to be honest and fair, they would have found that the provisions of this Regulation did not apply to those cases. The latest one of the cases under this Regulation is the one about which we talked yesterday and about which we were told by the Honourable the Home Member that the Bengal Government had to be consulted in all these matters. They have enough advisers of their own, but they dare not act on their own responsibility nor have they the courage to go against the wishes of the Provincial Governments, although they happen to be the superior government, if I may say so, because I have seen objections to the use of words like ‘subordinate government’ and so forth. Whatever that may be, this Regulation is to be administered by the Government of India and the Government of India alone and not by any subordinate government. Of course, they cannot delegate the powers under the Act to a subordinate government. I was surprised that that can be so. And why? Because there was not a single occasion which is to be seen in the preamble of the Act. Of course, they could cope with it under the ordinary laws if they had the machinery to concoct the evidence as they say in law courts. Sir, about this concoction of evidence by private parties or by any other parties, the less said the better. I may remind the House of only one instance to show to what length this concoction can go. Honourable Members will remember the Naraingarh train wrecking case. People were *chalanned* and evidence was forthcoming that they were the people who wanted to wreck the train. It was proved that they placed the bomb there and every evidence was complete to convince a very

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obliging judiciary of those days with the result that some people were ordered to be transported for life and were sent to the Andamans. Now, by some misadventure, if I may so put it, when a case was launched against Arabindo Ghosh and his so-called fellow conspirators, evidence came out that the men who were sent to the Andamans, as they were found to be guilty on the evidence which the Judge believed to be true and therefore accepted it, were really not the men who were guilty of having placed the bomb in the Naraingarh train wrecking case. This sudden disclosure was attempted to be suppressed in those days. It is nearly a quarter of a century ago when this happened. But human depravity to whatever length it may go at times does assert itself and these people were got back from the Andamans and were released. That is the way in which evidence can be concocted. We, who practise in law courts, know how they fabricate evidence. It is not the peculiarity of India alone but if we look at the annals of the administration of justice of other countries of Europe, we will find astounding fabrications and concoctions of evidence which will baffle the brains of Indian fabricators. So, Sir, this fabrication and concoction is a thing which has come to this country along with English education and the knowledge of English history and philosophy and science.

**The Honourable Sir Nripendra Sircar** (Law Member) : Science is responsible for it.

**Mr. Amar Nath Dutt** : I am told that science is responsible for it. Yes, with due respect to the Honourable the Law Member who says that, I do agree with him. Science is responsible for the manufacture of bombs, and also probably the science of mental and moral aberration is responsible for the fabrication and concoction of evidence. Be that as it may, I submit that if you can have such fabricated and concocted evidence to send men to the Andamans, why should you have a provision of a law brought in for application to a place where there is no fabrication and thereby incur the odium of the intelligent section of the people. I mean, at least the wiser section, who abhor this misapplication of law. Honourable Members may remember that there was an inquiry into the repressive laws by a Committee. The members of that Committee came to the conclusion that the application of this Regulation ought to be confined to its legitimate spheres, but unfortunately the whole Government was within a few months very much disturbed over certain seditious writings and conspiracies. I ask Government to be a little more strict in applying the provisions of this Regulation. They should apply them only in those circumstances in which they are applicable and not apply them by straining the language to those cases in which they are not applicable. As, however, they will not do this, and as past experience shows that they have been mis-applying the whole Regulation to cases in which it is not applicable, I most respectfully submit that it is the bounden duty of every Indian and every Britisher, if they are as much interested in our welfare as we are interested in their welfare, to have this obnoxious measure expunged from the Statute-book of India. Sir, the Repressive Laws Committee observed the following :

“ We recognise the force of these arguments, in particular the difficulty of securing evidence or preventing intimidation of witnesses. We also appreciate the fact that the use of the ordinary law may in some circumstances prevent the very thing which a trial is designed to punish, but we consider that in the modern condition of India this must be done.”

They say that in the modern condition of India this must be done.

12 Noon. Why ? Because the risk will involve less danger to the security and peace of the Government than the application of a measure like this :

"It is undesirable that any Statute should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the Legislature."

This will be proved by looking at the voting list on the Resolution in 1924. The voting was 68 to 44 and if you remember that, out of this 44, forty were Nominated Members we may say that the voting was 68 to 4. In a House consisting of 72 elected Members do you expect that there will not be even four *jo-hakums* to carry on the mandate of the powers that be. I must, therefore, say that it was almost the unanimous voice of this House which represented the voice of the people of India that this Regulation should go. This was the recommendation of the Repressive Laws Committee. They recommended that it should be so amended as :

"to be used only for the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of the Indian Princes entitled to its protection and the security of the British Dominions from foreign hostility and only so far as the inflammable Frontier is concerned from internal commotion."

But the provisions of this Regulation are applied to a Province far off from the North-West Frontier, in the Gangetic delta which has been the abode of peaceful people for centuries and who never cared who ruled over them but who were contented in their village homes never caring for offices either at Delhi or at Murshidabad, for eight long centuries. During this period of so-called foreign rule Bengal non-co-operated with everything foreign except a few who were converted into other faiths by lure of gain either at Delhi or at Murshidabad. Who were the greatest men of those times ? The writer of that melodious song : "the Gita Govinda", Jay Deb, greatest among the Vaishnavite poets of Bengal and Shree Chaitanya, the greatest of the modern Bengalees who was the embodiment of all that was good and great in the Bengali race, these were some of the greatest men that lived during that period, and I am sorry that this Regulation III is applied to a peace-loving people like the Bengalis. There is a proverb which says that, if you tread upon an ant it will also try to bite. Probably that is the reason why we find one or two revolutionaries here and there even in Bengal. The true home of revolutions is, among the martial races to which my Honourable friends over there belong, in the Frontier and in the Punjab. We are a non-martial race and we are not allowed to enter the army. We do not care to enter the army. We leave it to our Rajput and Jat friends, like Mr. Gaya Prasad Singh and Captain Lal Chand. We have our own philosophy, our own literature and our own culture by which we live.

**An Honourable Member :** Your law.

**Mr. Amar Nath Dutt :** Yes. Law is also philosophy. Sir, I was saying that even in the peaceful homes of Bengal you have disturbed to such an extent that some children of theirs have become revolutionaries. It is a fact which I deplore and I hope the Government also deplore. If the Government also really deplore, then they must be awakened to a sense of justice and they must show their sympathy to the parents of these misguided youths. Be that as it may, I beg to submit, do not

[Mr. Amar Nath Dutt.]

misapply such Regulations to peaceful people like the Bengalis. Justice requires that you must remove this measure from the Statute-book. Therefore, I move that the Bill to repeal the Bengal State-Prisoners Regulation, 1818, be taken into consideration. If this motion is passed, I shall move later on that the Bill be passed.

**An Honourable Member :** You do not want it to be sent even to the Select Committee.

**Mr. Amar Nath Dutt :** I am appealing to all the Members of the House, as they are reasonable men, to weigh fully the pros and cons of this measure and vote for the consideration of this Bill. I hope Honourable Members will not have any other consideration in their mind, either the lure of title or the lure of some office, and withhold their assent to this motion. I do not expect Honourable Members as you all are, Honourable as all of us are, every one of us is an Honourable Member and I expect every Honourable Member to be true to his own self and true to the honour of his country and vote with me for the repeal of this measure. (Applause.) There may be some difficulty with Executive Officers who administer the law, to assent to this measure, because they think that they do need this power at times. I trust that the Executive Officers and the Members of the Treasury Bench who adorn this House at the present moment, at least one of them will kindly remember these two lines which I had the honour of quoting on the last occasion. "Great Executive Officers never like or trust lawyers. I will tell them why, for they never trust or like law". I hope that by assuming the high office and the portfolio of law which my Honourable friend over there has assumed and from whom we expect great things in the near future in moulding the constitution of this country so that he will ever be remembered by future generations, I hope that he will be the one officer of the Crown who brought succour to this ill-fated Province. I expect that he at least will not fall a victim to these two lines that great Executive Officers never like or trust lawyers, for he is nothing if not a lawyer from the very beginning of his life. The eminent lawyer and the eminent jurist that he is I am sure that he will not fall into the trap of other Executive Officers (Hear, hear), who I believe are also too honourable and too good to be misled into giving support for a lawless law like the one which I am asking the House to repeal. Sir Nripendra Nath Sircar is perhaps at present trying to think, being a Government servant, how he can support this obnoxious measure, but in his helplessness he sees no way out of the difficulty, lawyer as he is, patriot as he is, a great administrator as he is going to be whose name is going to be handed down to future generations.

**Mr. K. C. Neogy** (Dacca Division : Non-Muhammadian Rural) : Who pays his fees ?

**Mr. Amar Nath Dutt :** My Honourable friend does not do Sir Nripendra Sircar justice if he thinks that he cares for his fees at all. He cares more for his country and countrymen. His past life is a record of which every Bengali will be proud. He may care for his fees in the law courts but in other spheres of activity, political and social, I must say that there is no greater patriot than Sir Nripendra Sircar.

**The Honourable Sir Nripendra Sircar :** Sir, I may inform my Honourable friend that even some of my fees in the High Court are in arrears, and there is no chance of recovering them. (Laughter.)

**Mr. Amar Nath Dutt** : It is a great shame that Government have not yet paid my Honourable friend's fees. But he does not charge any fees for being a patriot or for social work. But I wish with regard to Sir Nripendra Sircar's fees they may not play the same game as they did with Jagat Sett, from whom they borrowed 20 lakhs, promising to repay it year by year, and paid only five lakhs. And when questions were asked here, Sir Basil Blackett said that, it may be that some money is due to him. And that great patriot, Bepin Chandra Pal, said that it is right and proper that those Jagat Setts and Mir Jaffars and Umichands should be served like that. Be that as it may, I think Government cannot back out of their liabilities to Sir Nripendra Sircar.

Sir, it has been said that the deportation of even men of high moral and intellectual attainments was necessary, otherwise they embarrass Government. If that be the attitude of Government I will most respectfully recite a few lines of the great poet wherein it has been said :

“ Earth is sick

And Heaven is weary of the hollow words

That States and Kingdoms utter when they talk

Of Truth and Justice.”

I hope that will not be the case at the present time and Englishmen and Indians in this House will act with the sole aim of peace on earth and goodwill among men, for I believe that in this ancient land of ours, in this land of sages and philosophers, we are destined to work and live side by side for the common benefit and common salvation of both races. With these words, I appeal to every one in this House, to support me in repealing Regulation III of 1818.

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

“ That the Bill to repeal the Bengal State-Prisoners Regulation, 1818, be taken into consideration.”

**Hony. Captain Rao Bahadur Chaudhri Lal Chand** (Nominated Non-Official) : Sir, I am afraid I cannot congratulate the Honourable the Mover, who has so zealously and feelingly moved this motion, on the time he has chosen for this Bill. Honourable Members must have noticed that, during the course of his argument, he has appealed more to sentiment than to reason, and that is another reason, why I will ask Honourable Members not to be led away by sentiments alone.

Sir, I fully realise and agree with the Honourable the Mover that it is one of the fundamental principles of criminal law that nobody should be deprived of his liberty unless he is placed before a court of law, is given a regular trial, charges are framed against him, and is told that he is deprived of his liberty for so long. This is a fundamental principle of law and there can be no disagreement about it. But this principle is applicable to normal times and to ordinary crimes. For abnormal times, Government have to fall back upon another principle, which gets precedence over this fundamental principle. That other principle is, that it is the primary duty of a civilised Government to give an assurance to its subjects, that their property and life will be safe. And in the discharge of that primary duty of Government, without the discharge of which no Government is entitled to be called by that name, they have to make certain sacrifices, sacrifices not of principles but even of persons. There are occasions when there is no trial. In emergent cases, order is given by an

[Captain Rao Bahadur Chaudhri Lal Chand.]

ordinary officer, a subordinate judicial officer, and sometimes by a police officer also, to fire upon a mob. There without any trial, without being brought before any court, the criminals are shot dead and finished there. Why ? This is because there is another principle that the part should be sacrificed in order to save the whole. In order to save the whole society from a certain poison the poisonous matter has to be done away with. So with that principle before us, we should consider the necessity of a Regulation of this sort. As a matter of fact, I sincerely believe that this power is inherent with Government, and even if this Regulation had not been there, Government would be entitled to use the powers they had been using under this Act. Some friends of the Opposition say, this Government is a paper Government ; they want everything in writing and they do not want that any unwritten law should come in. Therefore, as early as 1818, the administrators of this country very wisely brought this Regulation on record and placed it on the Statute-book.

**Mr. Amar Nath Dutt :** May I ask my Honourable friend what he means by the expression " paper Government " ? Does he use that phrase in the same sense in which we use the phrase " paper transactions " ?

**Hony. Captain Rao Bahadur Chaudhri Lal Chand :** My Honourable friend understands very well what I mean, but I can tell him that what I mean is that they go by the written law, except in exceptional cases. When the written law is not sufficient, Government has to hand the authority to an agency which does not care for written law and who go by their conscience,—I mean martial law or unwritten law. So the choice of my friend is between this Regulation and martial law: such is the condition of Bengal nowadays. It is powers like these that have been instrumental in giving settled government and peace to our country, and we should be thankful to the early administrators who foresaw all these exigencies and placed such power in the hands of the Government. The chief argument that has been used by my friend, in favour of his Bill, is that, great men have been sacrificed, and many have been deprived of their liberty. He has quoted a series of names and has feelingly appealed to Honourable Members to have this Regulation repealed. He did not refer to the fact that each individual case has to come up to Government, and the best brains have to examine the records in each individual case separately and that is a sufficient guarantee that no injustice is being done and that all conditions are complied with. This power has not been misused in the past and there is no reason to fear that this will be so in the future.

Sir, there are two other reasons why this Bill should be thrown out. In the first place, the Bengal Council,—the Council of the Province of my Honourable friend,—has recently given evidence by an overwhelming majority of their intention in respect of the principle underlying this Bill. They have just passed a Bill directing these detenus to be detained for any length of times: they have made a temporary Act permanent; and we here at present are discussing the Bill in the Assembly. So this was not the proper time, for my friend to bring in this Bill. The responsible opinion of his own Province was against him. Besides, another and perhaps more weighty reason than this is, that great reforms are in sight. The Provinces are going to get full Provincial Autonomy

and here too we are going to have a great change. Under these circumstances, is it fair for us to ask this Government to leave a legacy of chaos and bloodshed to their successors? For, if they repeal these powers which they have enjoyed during all this period, and which have been responsible for guaranteeing peace to the country and keeping the terrorist movement underground, is it fair, I ask, for us to ask them on the day on which they are giving over charge to give up those powers and leave their successors to face the terrorist movement with all the consequent bloodshed? I think it is highly presumptuous on the part of an Honourable Member coming from Bengal where no less than 500 detenus have been detained and where the Local Council has given by an overwhelming majority proof of their intentions, and where the presence of the terrorist movement was admitted the other day by every Member hailing from Bengal:—I say, is it fair for a Member coming from that Province.....

**Mr. Amar Nath Dutt :** May I inform the Honourable Member that I am asking for the repeal of a Statute which has nothing to do with terrorism and other matters of internal administration which cannot be dealt with under this Regulation? I shall be obliged if he can point out why this particular Regulation should be retained on the Statute-book.

**Hony. Captain Rao Bahadur Chaudhri Lal Chand :** If there was ever an occasion for a so-called repressive measure to remain in the hands of the Government, it is now, and I quote those as instances of the presence of abnormal conditions in my friend's own Province. I say, it is presumptuous on his part or on the part of any Member hailing from Bengal, to come forward and ask this Assembly to deprive the executive to give up all those powers by which they have kept the peace in the country. Does my Honourable friend realise what is being done in other civilised countries of the world? He must have been reading papers and I need not repeat instances here to show how justice is being done in other countries in cases where there are abnormal conditions. This is so in Germany, Austria and everywhere. Here in India we enjoy settled government and peace. This is due to the wise handling of these powers by the executive, and, therefore, I would appeal to Honourable Members not to be misled by any craze for popularity, in spite of the coming elections that are in sight.....

**Diwan Bahadur A. Ramaswami Mudaliar (Madras City : Non-Muhammadan Urban) :** And in spite of the possibilities of nominations to the next Assembly? (Opposition Laughter.)

**Hony. Captain Rao Bahadur Chaudhri Lal Chand :** May I also remind Honourable Members that it is powers like these and others that have brought the Congress, from which all of us, whether Oppositionists or Nominated Members, differ, to their senses? They have realised that the real good of the country lies in co-operation. But I will not take this opportunity of recounting the history of the Congress as they are not here, and so I will earnestly appeal to Honourable Members to weigh the reasons, to see that the result of repealing laws like these, would be to hand over the country to terrorists, and chaos and bloodshed will be the result.

Sir, I will not take any more time of this House, but I will only ask the House not to be misled by these sentiments, and to use their own



[Captain Rao Bahadur Chaudhri Lal Chand.]

reason for the purpose of maintaining peace in the country rather than gain popularity outside while voting on this motion.

**Mr. D. K. Lahiri Chaudhury** (Bengal : Landholders) : Mr. President, after listening to the speech of my gallant friend, Captain Lal Chand, I am compelled to stand up here and refute some of the arguments he has advanced on this very important issue. Sir, it is a piece of good fortune that my friend, the Mover of this motion, got the chance today to make his motion, and I congratulate him. Sir, we on this side of the House know fully well how this Act has been worked by the executive in this country. My friend, Captain Lal Chand, in the course of his observations in opposing this motion, referred to the events of the martial law days, and I do not know if he has been able to convince even a single Member of this House.....

**Mr. Muhammad Yamin Khan** (Agra Division : Muhammadan Rural) : Why not ?

**Mr. D. K. Lahiri Chaudhury** : Perhaps he could convince my friend, Mr. Yamin Khan, but the less said about my friend, Mr. Yamin Khan, the better. And when my friend, Captain Lal Chand, developed his argument, he said that he wanted to throw out this motion on the ground that he did not want to hand over a legacy of chaos and bloodshed to our successors. My friend is perhaps of the opinion that this Regulation, if retained on the Statute-book, will root out terrorism from our country. Sir, not many days ago, we had in this very House a somewhat similar legislation, I mean the Bengal Criminal Law (Amendment) Act, and it is still pending before the House. In the course of the discussion of that measure, my esteemed friend, Mr. S. C. Mitra, made out a very strong case in opposing the motion. He also made it abundantly clear to the House that by measures of this character you cannot prevent terrorism, you cannot prevent young men, who are determined to kill another with a revolver in one hand and potassium cyanide in another, from carrying out their object, however strong measures you may pass in this House or elsewhere. On the other hand, it has been pointed out even by the Treasury Benches that what is wanted to stamp out terrorism from this country is co-operation. Sir, we on this side of the House quite appreciate that spirit, and we are all prepared to co-operate with you in stamping out terrorism from this country. Nobody wants terrorism in our country, but we are prepared to co-operate with the Government on reasonable grounds. This Regulation, which is obnoxious in its nature, should not be allowed to remain on the Statute-book of this country. Under this Regulation you can put under arrest any man without trial for an indefinite period. My friend, the Mover of this motion, cited several instances where the provisions of this Regulation have been grossly abused and misused in the name of law and order. There are thousands of cases which can be cited in which, though this Regulation has strengthened the hands of the executive, it has been administered in a most vindictive manner. Under these circumstances, we have to seriously consider whether the time has not arrived to support the motion for the repeal of this most mischievous measure. Sir, I really feel that if measures of this character are not repealed, they will lead to greater mischief, and there will be more chaos and trouble in the country. I also verily believe that the oppressive methods adopted by Government tend greatly to retard the progress of this country. Nobody will deny that terrorism must be suppressed, but the policy of repression that is now

pursued in the name of law and order will not help to suppress terrorism at all. On the other hand, the oppressive methods pursued by Government are such that they only irritate the public mind, and I can cite instances of repressive methods pursued in the name of law and order, nay in some cases the executive have even usurped the functions of the judiciary. This is certainly most reprehensible. Even the executive have questioned the powers of the High Court in some cases. Do you by these means propose to maintain law and order in this country? You being the custodian of law and order in the country, is this the way in which Government should administer justice? Do Government think that by oppressing and terrorising people, in the way they are doing, they will be able to root out terrorism from this country? Sir, I say it is a wrong dictum that my friend, Captain Lal Chand, enunciated here this morning. I believe he has an assurance,—whether it is a fact or not I do not know,—from his constituency that if he makes such a reactionary speech, it will strengthen his cause.....

**Hony. Captain Rao Bahadur Chaudhri Lal Chand :** Sir, if personal motives come in, then my community will stand to gain by the repeal of the Regulation in question and other similar laws. If there were no peace in the country, then we could deprive some of our rich friends, like my friend, of their property and riches. It is because of the peace that we enjoy under British rule that we are not able to do this.

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

**Mr. D. K. Lahiri Chaudhury :** I did not mean to make any personal reflection. It is a question of principle that is involved here. If Nominated Members are asked to express such views in this House by their constituents, there is little hope for the country. I am sure that in the next Assembly some of the Nominated Members will have better sense.....

**Mr. Muhammad Yamin Khan :** Nominated by whom? By the Congress?

**Mr. D. K. Lahiri Chaudhury :** Nominated by the Government. What I want to point out is this. Terrorism can never suppress terrorism. Sir, in the course of the discussion on the Bengal Criminal Law (Amendment) Bill, it was pointed out that innocent people were attacked and assaulted in the name of law and order. Even a very highly respected man, a doctor of midwifery, I mean Sir Kedar Nath Das, was not spared by the police on his way to Darjeeling, and he was not only searched, but roughly handled by the police. Was there any sense in dealing with such an old and respected man in that manner? If a young man visits any place there may be a suspicion against him, whether he be a terrorist or not, and the police can legitimately search him. But what is the meaning of searching a man like Dr. Kedar Nath Das who is an old man of 85 or 90 years? That merely irritates the mind of the people. It is only by means of the co-operation of the people that terrorism can be suppressed. It is not by oppression but by persuasion that this terrorist movement can be eradicated. The other day, my Honourable friend, Mr. Mitra, threw out a challenge that he was prepared to take up the responsibility if the Government came to us with a reasonable attitude. If the Government are at all anxious to get the co-operation of the people, why do they not call a conference and find out ways and means of stamping out terrorism in India? There is not a single Member on this side of the House who

[Mr. D. K. Lahiri Chaudhuri.]

supports this principle of terrorism, this principle of sporadic murders. We should look to the root cause of this malady. The Government simply give out that it is economic depression which drives these young people into drastic actions like that. It is not for their personal ends that they leave their homes and their parents, and if I may say so, some of them are jewels of the University. Why should they commit such heinous crimes? The Government have power behind them, they have munitions behind them, and think that they can suppress terrorism by simply legislating enactments like these and oppressing the masses. That is not the way to suppress terrorism. No one in this world can suppress terrorism by terrorising the public. It can only be done by enlisting the co-operation of the public and their goodwill. The Indians are inherently loyal to their Government, and if Government come with a clean slate and consider the matter in a calm and dispassionate manner, certainly some solution can be found. But Government will not care to do that; they never care to listen to the public. May I mention the instance of Hijli? What happened there? Those innocent detenus were dining quietly and they were shot dead like dogs. With what result? An enquiry was made and the man who was guilty of that crime was simply transferred, and nothing else was done. Can it satisfy the public? You have heard how detenus are suffering,—men against whom no charges have been brought in a court of law, they are merely kept under suspicion for an unlimited time. Still my Honourable friend, Captain Lal Chand, comes here and opposes this motion. I do not understand on what sense he has based his attitude, I do not know under what guidance he proposes to throw out this motion at this stage. If my Honourable friend had a little grain of sense in him, if he had a sense of responsibility, he would not have said like that.

Among the detenus there are some who are very respectable. Take the case of Mr. Sarat Chandra Bose who the Home Member said was a terrorist. Can any crime or action of terrorism be proved against him in a court of law? The Government cannot, they dare not. And still Government is keeping that honourable gentleman within the prison bars. He is kept under restrictions, and he cannot earn his living. There are thousands of instances like that, and if the Home Member only took a little care to scrutinise each case personally, he would find that there are a number of detenus who are absolutely free from the taint of terrorism. You keep them merely under suspicion. It may be for a temporary period, but there is no reason why they should be detained for ever and not given a chance of coming out and mixing in social life. I could have understood if these special measures were brought in a time of war; it would have been justified then. There is no such thing now. There is no revolutionary movement, no organised revolutionary movement in this country. There are some sporadic murders, and those people who are addicted to such crimes do not consult each other. They have no regular organisations, but they are merely irritated by the actions of the police. Take the affairs in Chittagong, for instance. When I was coming up to Simla I was travelling with some high official; he was a police officer who was a Muhammadan. I asked him how things were going on in Chittagong. Government have always tried to describe this movement as a Hindu movement. My friend told me that it is nothing of the kind, that it contains both Hindus and Muhammadans. He further told me

that 500 Muslim houses were searched in Chittagong and that they were very irritated over that. I do not understand why the Government should simply impose punitive taxes on one particular community. This principle is absolutely wrong—not that I say that the taxes should be levied on other communities also. For one single soul who committed a crime the whole nation is blamed. The higher officials do not spare any opportunity to praise the police, and still the police cannot detect the criminal and for one single action like this the whole nation is branded as terrorist. No soul in Chittagong can sleep soundly at night. Is it administration? Do you call it administration? I think the executive have lost their brains and also their sense of responsibility and their statesmanship at the present moment. We have got strong belief in the British justice. But where is that British justice? Can it happen in England that men are detained without giving them a proper opportunity of facing the charges against them? No. There is no war now, there is no revolution, and still you persist in these Regulations. My Honourable friend, Captain Lal Chand, referred to the fact that the Bengal Criminal Law Amendment Act was passed by a majority. That sufficiently shows that the public are for eradicating terrorism. Why should not Government join hands with the public and have an enquiry into matters? Let there be a non-official enquiry. The other day the Home Member had the courage to say that even a man like Khan Abdul Ghaffar Khan is a terrorist. But I am sure if Government would have cared to see even the cartoon that came out in the *Hindustan Times* they would have realised that they were afraid of their own shadow of terrorism. If the Government will only make inquiries, and face the facts, Government will find that a great number of these men are absolutely innocent and they have been detained on mere suspicion. I am not one of those who support this terrorism. I am not one of those who is pleading the cause of murders and political crimes, but I am certainly one of those who believe that with the co-operation and goodwill of the people this terrorism will stop. If only Government will come over and shake hands with the public and consult them on these matters and try to find out a satisfactory solution, they will get it. If they pursue a policy of repression, there is hardly any chance. Look at the evidence of the girl who shot at His Excellency the Governor of Bengal. You find oppression was done to her. I do not approve of her action. She has to be convicted.

**The Honourable Sir Nripendra Sircar :** May I contradict the Honourable Member? I had something to do with this case. She made no complaint of any oppression of her by anybody.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions : Non-Muham-madan Rural) : On her friends and relations.

**The Honourable Sir Nripendra Sircar :** I am answering my friend's allegation that she complained of oppression on her.

**Mr. D. K. Lahiri Chaudhury :** On her relations.

**The Honourable Sir Nripendra Sircar :** Is my Honourable friend aware that what is supposed to be her speech or defence has been taken *verbatim* from one of the older English trials. Only the names have been changed.

**Mr. S. C. Mitra :** That is done by lawyers.

**The Honourable Sir Nripendra Sircar :** That is not her language. That is the lawyer's language.

**Mr. D. K. Lahiri Chaudhury :** I am only giving that as an instance. I entirely agree with the Law Member. She may not have complained of oppression on her part but it is perfectly true that her relations and other people were oppressed. There are many Members here who will stand by me here on this particular issue that her relations and others were oppressed. I say that boldly.

**The Honourable Sir Nripendra Sircar :** I quite appreciate the boldness. Who was the relation who was oppressed ?

**Mr. S. C. Mitra :** In one of my speeches I have quoted the whole of the details if the Honourable the Law Member cares to read it.

**The Honourable Sir Nripendra Sircar :** I have not only read that but I have read other literature on the subject.

**Mr. D. K. Lahiri Chaudhury :** By terrorising terrorism, they cannot stop it. Every one in this sense who has got some brains and common sense will support me. It is my firm belief that it is wise to adopt a policy of co-operation and conciliation and to take the public into your confidence. This is the spirit with which this motion has been moved and I support the motion of my Honourable friend, Mr. Amar Nath Dutt.

**Mr. Sitakanta Mahapatra (Orissa Division : Non-Muhmmadan) :** By enacting Regulation III of 1818, shortly after the battle of Waterloo, the then Government of India, which were yet in an unstable state, took upon themselves abnormal powers to deal with abnormal circumstances by deporting without trial persons suspected of conspiracy with foreign and rival powers. The French power in India were still a menace and the erstwhile wards of the new Home Member from the Punjab. I mean the Sikhs and the Jats, (including my esteemed friend Captain Lal Chand), were rising in power. But it was quite one hundred and sixteen years ago. Administrators that used to be sent out to India then from the British Isles had, I suppose, much less brain than those of recent years. At that time, the most ruthless legal weapon that could be devised by the law makers was this Regulation III. But the law makers of the present day have been able to devise the Bengal Criminal Law Amendment Acts which stand incomparable among the Statutes of the world from which both Stalin and Hitler may take lessons with profit. In the face of these repressive Statutes, the old and decrepit Regulation III has become worn and obsolete. But our administrators are nothing, if not extremely courteous. In their supreme regard for their ancestors in office and their actions, they still cling to this antiquated and ante-diluvian law; Regulation III of 1818, for it deserved effacement from the pages of the Statute-book long ago. I trust the new Law Member, who has dealt extensively with both Regulation III and the present Criminal Law Amendment Act in Bengal, will advise the Government on the comparative merits of the two Statutes.

**The Honourable Sir Nripendra Sircar :** May I contradict the Honourable Member. I have never dealt with Regulation III. I have had nothing to do with it either as Advocate General or as Law Member.

**Mr. Sitakanta Mahapatra :** I stand corrected. Sir, I will take this opportunity to state before this House the pathetic story of two Regula-

-tion prisoners deported from Jaypore Estate in the District of Vizagapatam. Two brothers named Narsing Sahu and Radhakrishna Biswas Rai, who happened to be non-violent Congress volunteers working in the *Samasthanam*, were arrested and deported in 1930, for what offence nobody knows.

**Mr. Muhammad Yamin Khan :** Were they non-violent ?

**Mr. Sitakanta Mahapatra :** Even the signing of the Gandhi-Irwin Pact could give them no relief and they are still rotting in the dungeon. I believe their difficulty is that as they happen to be very small fry in the Congress movement, Government of India have completely forgotten all about them—their very existence.

**The Honourable Sir Henry Craik** (Home Member) : May I ask the Honourable Member what is the case to which he refers.

**Mr. Sitakanta Mahapatra :** These two brothers are residents of Jaypore Estate in the Vizagapatam district. It is a zamindari.

**The Honourable Sir Henry Craik :** I do not think that could be under Regulation III.

**Mr. Sitakanta Mahapatra :** They were deported under the sister Regulation in Madras. Sardar Vallabhbhai's case was always before the mind's eye of the rulers. He had friends and admirers throughout the length and breadth of India. Even Mahatma Gandhi was very much concerned on his account. But it is no wonder that these two poor unknown young men, coming from an obscure place and, arrested for minor activities, have been totally forgotten by the mighty British Government. Sir, there is still reason why their cases have been obviously forgotten. The type of our administrators who framed regulation laws were perhaps much more humane and considerate than at present. So in these regulations there is provision for suitable allowance to regulation prisoners. But while perhaps all such prisoners are getting allowances, these two unfortunate fellows happen to be noble exceptions. They do not get any allowance with the result that, if newspaper reports be correct, the members of their family, who were dependent upon them for their maintenance, are living by begging. Because they do not cost the Government anything in the shape of allowances it is another reason why they have been thrown to the depths of oblivion. Sir, I have stated all these facts before the House only in the hope of drawing the kind attention of the new Home Member to their cases and I hope it has been drawn. I trust the new Home Member will interest himself in their cases and see if their detention is still necessary and if so whether they deserve any allowance.

**The Honourable Sir Henry Craik :** I should be glad if the Honourable Member will send me particulars. I cannot trace the cases either under the Bengal Regulation or under the Madras Regulation.

**Mr. Sitakanta Mahapatra :** Thank you. I have concluded my observations.

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

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

**Mr. N. N. Anklesaria** (Bombay Northern Division : Non-Muhamadan Rural) : Mr. President, after the very statesmanlike and gentlemanly speech of my Honourable friend, Mr. Lahiri Chaudhury, I do not think there is any doubt as regards the fate of this motion. My Honourable friend, Mr. Amar Nath Dutt, is not here, I am sorry to say. He has always said that he has got a soft corner for me in his heart ; I should also like to inform him that I also have got a very soft corner for him in my heart, and, therefore, I regret very much that I have to oppose his motion. Sir, my Honourable friend recited old and recent history ; he appealed to our honour and he appealed also to my Honourable friend, Sir Nripendra Sircar, as regards arrears of fees. Sir, much better and much more cogent arguments were brought forward and considered by a Committee of this House appointed to consider the abolition of the repressive laws. That Committee was presided over by Sir Tej Bahadur Sapru,—a name, Sir, which evokes as much regard and respect as that of my Honourable friend, Mr. Amar Nath Dutt. (Laughter.) What did that Committee say ? That Committee was decidedly of the opinion that, of all repressive laws, this particular repressive law should not be abolished but should be continued on our Statute-book. That should be a sufficient answer to the present motion. Sir, my Honourable friend stated that the conditions which obtained, when this law was enacted in 1818, are no longer in existence. My Honourable friend's memory is very short. If he had just tried to remember the very cogent and very forcible and very documented speech made in this House, only a few days ago, by the Honourable the then Home Member, Sir Harry Haig, I think he would have found and he would have realized how uncalled for and how unjustifiable his present motion is. Sir, Sir Harry Haig stated that not once, not twice, but many times that powers to fight terrorism and revolutionary activities were taken and were relinquished and that after each relinquishment and relaxation of such law there was a fresh recrudescence of terrorist and revolutionary activities. Sir, it would be defying common sense and experience to accede, under the present conditions, to the motion of my Honourable friend. It would be a serious dereliction of duty on the part of this Government not to stand by millions of peace-loving and law-abiding citizens and loyal officers of the Government who are doing their duty under conditions of extreme embarrassment and distress. (Ironical Laughter.) Sir, my Honourable friend said that under this law there was much room for concoction of evidence. I am not in a position to deny. ....

**Mr. Amar Nath Dutt** : I never said that under this law there was room for concoction of evidence. I said, in other cases.

**Mr. N. N. Anklesaria** : I stand corrected, but I understood him to say that because there was some concoction of evidence in cases under this law, therefore this law is a bad law. My Honourable friend is also a lawyer and I would ask him whether he does not come across every day,

in Courts of law, concoctions of evidence in criminal cases. Does he mean therefore that the Penal Code should be abolished and repealed. My Honourable friend also said that there has been much oppression of detenues detained under this law. Very serious charges were made on the floor of the House the other day as regards the alleged Midnapore atrocities and the Government of India, after due and considerable inquiry, have refuted those charges and shown them to be absolutely unfounded.

**Mr. S. C. Sen** (Bengal National Chamber of Commerce : Indian Commerce) : Who made the inquiries, may I know ?

**Mr. N. N. Anklesaria** : The Government-constituted authorities made that inquiry.

**Mr. S. C. Sen** : Which Government ?

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran : Non-Muhamadan) : Judge of their own case.

**Mr. S. C. Sen** : Which Government ?

**Mr. K. C. Neogy** : Chaukidars' Government ! (Laughter.)

**Mr. N. N. Anklesaria** : Sir, my Honourable friend, Mr. Lahiri Chaudhury, talked of the root causes of the revolutionary activities. I would agree with him in asking the Government to try and investigate and remedy whenever possible those root causes. So far as I am able to ascertain, the root causes are more economic than political. (*Mr. S. C. Mitra* : "Question.") If the Government side by side with attempting to suppress terrorism and revolutionary activities also tries to suppress and remedy the acute unemployment in Bengal and acute economic distress in Bengal, I think we shall hear much less of terrorism. (Hear. hear.)

**Mr. Amar Nath Dutt** : May I inform my Honourable friend that this Regulation is not meant to deal with terrorism or terrorist activities but is meant to deal with international relations and relations with foreign powers and internal commotions, and not with sedition or terrorism.

**Mr. N. N. Anklesaria** : My Honourable friend has at last stated the truth. This Regulation is meant to deal with internal commotion also and people, who, behind the screen, behind the *Purdah*, foment movements of terrorism and revolution, are meant to be dealt with under this Regulation. This is my answer to the interruption of my Honourable friend. I was finishing and he interrupted me. I say that if Government were to take some trouble to ascertain the root causes and eradicate those causes, which I find to be more economic than political, we should hear much less of terrorism and revolutionary activities in this country. For, Sir, I do believe that the pangs of hunger are the worst possible pangs and people afflicted with the pangs of hunger cannot be held responsible for deeds which we all must deplore.

Sir, I oppose the motion.

**Mr. J. M. Chatarji** (Bengal : Nominated Official) : Sir, the motion before the House is to repeal the Bengal State-Prisoners Regulation of 1919. This Regulation, however, has been extended, on different occasions, by various enactments, to parts other than Bengal. and the motion for



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repeal will, therefore, mean that it will be repealed not only in respect of Bengal but also in respect of other parts of the country to which it has been extended under various Acts.

**Mr. S. C. Mitra :** How will the repeal of this Regulation affect the other Acts ? What is the relevancy ?

**Mr. J. M. Chatarji :** It will not affect the other Acts but it will affect the areas to which it has been extended. In the discussions which have followed the motion, Bengal and the situation in that Province have necessarily loomed very large. It may, however, be mentioned that the Regulation provides for several contingencies only one of which, as has been pointed out by the previous speaker, is that arising from internal commotion. There are other aspects of the Regulation which do not concern Bengal particularly and on those aspects there will probably be other speakers to speak.

As regards the danger to the State from internal commotion, I need mention only one aspect which must be patent to those who have to carry on the day to day administration in the country. We have heard of terrorism and other matters connected with circumstances which this Regulation is intended to provide against. It may be said that of late the Province has taken powers to combat the most recent phase of subversive activities in the form of terrorism. Why, then, have this Regulation on the Statute-book ? As has been pointed out by my Honourable friend, Mr. Anklesaria, the sources of mischief are very difficult to reach under the ordinary laws of the land. Sir, during the last four years I have had to deal with hundreds of political prisoners. I have also had the awful misfortune of having to attend an intended victim of a terroristic outrage immediately after the crime was committed. Fortunately for those who stood by that victim, it pleased Providence to help them in bringing him back from the jaws of death. I have also been the recipient of many threatening letters while in the discharge of my duties. I do not boast of these experiences. As an official, it has been my duty to face them. As an Indian and as a Bengali, it has been my misfortune to have been in circumstances in which I had to witness the misery of many promising young men, a misery which they not only brought upon themselves but one which they carried to their homes, their families, their relations and their friends. I do not think, Sir, there is anyone in this House who will not deplore these developments. I believe the voice is unanimous in deploring these developments and in wishing that they did not occur. We have also heard, times without number, that the ways in which the Government are trying to tackle the situation are not proper. We have yet to know what exactly is the proper solution. It is exactly that which has not been quite clearly and plainly put. It is not my business to go into them, nor do I intend to go to the root causes of these activities. But what I do intend to say here and now is that behind all these manifestations of unrest there must be some spirit and some power which is not quite manifest and it is to get at the source of that mischief that the Government must always have some power in reserve. I have known boys and young men who have done deeds which, in their cooler moments, they would probably never have thought of doing and which, in their cooler moments, they probably have repented having done. Now, what was it that incited them to do what they would not have

done if they had not allowed their judgment to be clouded by extraneous influences ? Sir, it is the atmosphere which is in the country. I will not go deeper into the causes which have led to the development of that atmosphere. Some may be of the opinion that it is due to an irresponsible Press ; others may hold that it may be due to irresponsible speakers on public platforms ; others, again, would put it down to economic and political discontent. Whatever the reason may be, it will probably not be denied that each and one of these causes has in varying extent contributed to the situation which we have unfortunately to face at the present moment. Now, what is the remedy against those who will not show their hands but who will use these impressionable young men to do all the dirty acts that they, in the secrecy of their own office or their chamber, want them to do. A power like that given in Regulation III of 1818 is about the only power which the State can possibly have for exercise in times of internal commotion and grave emergency. I have heard some speakers say that the powers have been abused, but that is quite another matter. That power has been abused or that some officials of the Government have exceeded their powers is no argument that the power is unnecessary and superfluous. Unless you have the power you cannot exercise it in case of necessity. I should think that many of those, who, with a sense of their own security, decry the possession of such power, would, when faced with threats and dangers from outside, come to those very men who are looked upon as the myrmidons of the administration which sanctions the exercise of such powers. Sir, in my official career, I have often been amused by the conduct of people who have large interests at stake in the country. I have known of instances in which the prospective heirs to large landed interests have been either overtly or covertly implicated in some subversive movements. It required only a few minutes conversation with such people to convince them that the views they entertained were not only subversive of the State but that they might mean ruin to their own future career. What was the influence that made them go into planes of conduct to which they could never have thought of going if they had time coolly and calmly to reflect upon what they were going to do. I can cite one instance, in which the President of a Union Board, who happened to be the grandson of a great Maharaja in Bengal, gave me notice that he with some of his fellow members had decided to resign from the Union Board and to carry on an intensive no-tax campaign within his area. When I got that intimation, I got into touch with the old Maharaja who naturally was very much fluttered about it. I went to the place and had a quiet conversation : it took me about half an hour to convince him that if they did anything like that, the next thing that his *raiyats* would do, would be to turn him out from his beautiful palace, to take out all his motor cars from his garage and to ask him for the privilege of occupying the palace from which they had been kept out so long.

**An Honourable Member :** Who is this gentleman ?

**Mr. J. M. Chatarji :** I may be pardoned for not mentioning the name ; for the old Maharaja is still alive in Bengal and he is one of the most loyal supporters of Government with a very sensible head on very old shoulders. It did not take me long to convince the young man : he felt that I had gone there like a friend to talk the matter over with him and to find out the reasons which led him into that frame of mind. It may be that we shall have to cope with influences which we cannot possibly get round

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with the ordinary criminal law of the country and it is for that reason that the Government must have the power to act upon reliable information and when they are convinced that sinister influences are at work which could only have the inevitable effect of leading to internal commotion.

Sir, I need not detain the House very long. I can only say this that anyone who has got an ounce of practical experience in the administration of the country will probably recognise the need for the State to have powers for use in emergencies like that we certainly have in Bengal today. It is no use concealing the facts from ourselves. If we say that things have quieted down, the latest attempted outrage on the ruler of that Province would be a grim reminder of the embers. Fortunately for us, an all merciful dispensation of a wise Providence ruled that a career so bright should not be cut off in the prime of youth, and that a Province which was so bravely struggling to rise above her difficulties should not be cut off the guidance of a farsighted statesman that she has now the fortune to have to preside over her destinies. Sir, I believe that every parent and guardian in Bengal, whatever he may say outside, whatever he may say on public platforms and in the Press or whatever he may say in order to court popular favour, cannot but view with some amount of distress the position in that unfortunate Province in which he can never be sure that his young ward, away from him possibly for purposes of education, training or employment, is very safe. I might admit that laws are not the only thing to meet the situation. There must be other avenues : and along with those who have always thought that Government must have powers to keep control over those who, without showing their own hands, directly engineer sinister movements, and lead innocent blooming lives into devious ways and paths, I have also been among those who thought there must be other remedies also for a solution of the most difficult problem that the State has ever had to face. Sir, it is some consolation to the people of my Province that they have at last an administrator who has the breadth of vision and the courage to look deeper into the problems and to take whatever measures he may think necessary.

Sir, at a time like this, it would be unfair to Bengal, it would be unfair to the country, to do anything to cripple her honest efforts to set herself again on the path of progress. Sir, I oppose the motion. (Applause.)

**Mr. N. B. Gunjal** (Bombay Central Division : Non-Muhammadan Rural) : (The Honourable Member, supporting the motion, spoke in the vernacular.)

[During the course of the speech, Mr. President (The Honourable Sir Shanmukham Chetty) vacated the Chair which was then occupied by Mr. K. C. Neogy, one of the Panel of Chairmen.]

**Mr. H. A. F. Metcalfe** (Foreign Secretary) : Sir, I have listened with great attention to the speech made by the Honourable the Mover in proposing this motion, and I gathered that he was really chiefly interested in criticising the Regulation from the point of view of its use for dealing with internal commotion. He did not, so far as I understood him, nor did any other speakers who have spoken after him, object to its use for

the other purposes which are mentioned in the preamble to the Regulation. If I may quote for a moment from that preamble, it is stated that :

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

Now, you will see, Sir, that at least 75 per cent. of the objects of the Regulation are devoted to matters other than quelling internal commotion, and I think I am right in saying that probably some 75 per cent. of the use which is made of this Regulation at present is intended to serve those purposes and not the purposes of dealing with internal commotion. However, the Honourable the Mover wishes the House now, because he objects to the use that is made on that 25 per cent. basis, to repeal the entire Regulation and to leave Government without any powers whatever for fulfilling its other obligations. If I may say so, Sir, his attitude appears to be somewhat like that of the auctioneer who said to a prospective purchaser : “I am sorry, Sir, if you wish to buy this table lamp, you must also take the garden roller.” I am quite sure that the Honourable the Home Member will have very good reasons to tell us why it is quite out of the question for him to accept the table lamp. My only object is to try and assure the House that it is quite impossible for the Government to purchase the garden roller. I will now attempt to give the House my reasons for that view.

Sir, as the House is well aware, India is surrounded by a very long line of frontier, on the other side of which there are a number of foreign countries. There are, out of these facts, arising certain implications and obligations which make it important for the Government of India to possess the power of restraint over the movement of individuals. I mainly refer to refugees from foreign countries who may take asylum in India ; also I refer to persons whose presence, within the borders of an Indian State, cannot be tolerated in the interests of law and order. I am concerned, as Foreign Secretary, mainly with refugees from foreign countries and with the use of Regulation III as it arises out of the presence in this country of such foreign refugees. The House will realise that along that enormous stretch of the country which borders India, there are a series of States in various stages of personal rule. In those States, dynasties rise and fall, and with those rises and falls, there are necessarily a certain number of individuals who are obnoxious or may have reason to fear the existing dynasty and those individuals very often take refuge in India. It is obviously in the interest of India to see that those refugees are not in a position to create trouble for the country from which they have fled. Now, it will be easy enough for the Government of India to say to these people : “you must go and live in a certain place”,—but without legal powers to enforce such orders, there is nothing to prevent those refugees from living where they like and, as they have frequently done in the past, from escaping again to the country from which they originally fled and there causing an amount of trouble to our relations with that neighbour, which I do not think I need go into. Some form of personal restraint is, therefore, necessary not only for the good of India and the maintenance of peace, but for the fulfilment of ordinary international obligations. I could, Sir, quote numerous instances in which the Regulation has been applied, but it is perhaps unnecessary to trouble the House at length on this point. I can only say quite frankly that from the foreign point of

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view,—and I have done no more than touch upon the political point of view relating to Indian States,—I can say from the foreign point of view, with complete confidence, that it would be utterly impracticable to deprive the Government of India of the powers which they at present possess under this Regulation. I, therefore, would ask,—is it worth while for the House to take into consideration a motion for the complete repeal of a Regulation, under which alone these powers can be exercised ?

**Mr. Lalchand Navalrai** (Sind : Non-Muhammadian Rural) : Sir, I rise to support this Bill. My namesake, Captain Chaudhri Lal Chand, has spoken on this Bill, but he held a different view and a different brief. I must say that I do not in the least blame him for the opinion that he has held and which he placed before the House. I will not go to the extent of blaming him for it, because he is a Nominated Member, nor do I suggest that he holds that opinion and supports Government in expectation of some help like a re-nomination to the next Assembly.....

**An Honourable Member** : What are your expectations ?

**Mr. Lalchand Navalrai** : I am not going to blame my friend at all for the opinion he holds. As I said, I am not in a mood to blame him, but I shall point out his mistake very soon. My friend, in his zeal and enthusiasm to speak for Government, has missed the real issue involved in this Bill. He failed to understand the very requirements of this measure and proceeded to make a general criticism and condemn the terrorists, the Civil Disobedience and other movements. Sir, those things have no bearing on this measure at all. Nobody will say that the terrorist and other allied movements should not be curbed, and if for that purpose Government adopts certain reasonable measures, if they do not do anything unlawful, they will have every support from this side ; and they will be perfectly justified in adopting all proper and reasonable measures. But, Sir, he has really missed the issue involved in this Bill. I do not belong to Bengal, and I cannot cite many instances of injustice that have been perpetrated, as has been done under this measure ; but I must say, Sir, that though this Bill is applicable to Bengal alone, the whole House knows there are similar Acts in force in other Presidencies as well. In the year 1827, they have passed certain regulations which are in force in the Bombay and Madras Presidencies. They exist up to this day. I only ask whether the present civilisation, whether the present times require such Regulations, and that is the main question that should be considered. I will not go to the extent of saying that terrorists should not be confined and that measures are not necessary to put them down. The question is what are the provisions of this Regulation and whether any sensible man can say that such un-British laws should remain on the Statute-book any more. Let us take the history of these Regulations. They were made in 1818 and 1827, and in order to come to a decision on this motion we should know what the provisions of those Regulations contain. These are Regulations for internment persons, but the point is, is that internment done in a manner so as to give justice to the interned and the trial may not be a mockery or a farce ? If you are still in need of special laws to meet the present conditions and present circumstances, do make them by all means, but we are asked to make laws putting restrictions on peoples' liberty, even freedom of speech, etc. Such laws are being actually made even now but provisions are made in them in

order to give opportunities to people to explain themselves. But under the 1818 Regulation, a man can be interned without giving any reasons. Is that right I ask, is that justice I ask, is that British law I ask ?

**An Honourable Member :** No.

**Mr. Lalchand Navalrai :** When a man is interned without any reasons, if he asks what is the harm he has done, the reply would be : " I won't tell you ". When the representatives of the people come here and ask questions as to why he is interned, they get answers such as were given the day before yesterday, that they are not going to say anything or give any reasons to the representatives of the people.

**An Honourable Member :** Their case is put before two Judges.

**Mr. Lalchand Navalrai :** No, it is not. I shall come to that. There is no charge against the man, and the matter does not go beyond an executive officer. It is a matter in which you are actually curbing the liberty of a man. When you do so, you should certainly bring his case before some judicial authority so that the man may vindicate his innocence and show to the public that the Government are proceeding on a wrong assumption. What happens in this country is this. Everybody knows who virtually decides these things. It is none else but the police, it is the C. I. D. The C. I. D. and others bring information to the officers. It may have been a police constable who gave the information. When it goes before the higher officers, they cannot over-ride the constable's information. The horror comes to them that if they do not support the constable now, then he won't give them information afterwards and others will also not give information. Can you say, therefore, that the way by which you get this man interned is pure, honest and impartial ? Therefore, what I say is, repeal all these Regulations, and if necessary enact another law amending the defects of these Regulations. By all means you intern him. I have no objection to that if you have any reasonable grounds, but after getting him interned at one place, what do you lose by giving him a charge sheet ? He is not out ; he is under restraint, and why do you not bring the case before two Judges to decide ? What harm is there in doing that ? Why do you perpetuate such a measure which does not give any help in that direction ? As regards the terrorists, their cases are brought before two Judges, and why should you not do the same thing in the case of these interned men ? Is it because you will not be able to prove the case that you do not want to do it ? In that case, make a law that the matter will be summarily tried and not elaborately tested under the Evidence Act and so on. At any rate, the man will have some chance. What happens under the Regulation is, you just gag the man, clap him in, and that is all, finished. Therefore, this is a law, which should not exist any more. There is only one question which I have to answer and that came from the Foreign Secretary. The Foreign Secretary is not here in his seat ; however, I will reply to his point. He said that this Regulation is intended to apply not only to internal commotions but also to external disturbances in which foreigners are concerned. My point is, after he is interned, why not enquire whether that is really a reason for interning him ? Nowadays measures have been passed to protect the interests from foreigners aggression also. We have in this very House passed the Press Act controlling the Press from saying anything against a foreign sovereign or government. We have also passed laws by which people have been barred

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from doing certain things. These are new laws which have replaced the old antiquated laws. Then why do you want to keep this one? Therefore, what is asked by my Honourable friend, Mr. Amar Nath Dutt, is not that you should not take any steps against terrorism or against the Civil Disobedience Movement but that if you are going to intern a man you should do it justly according to the rules and regulations in your own country. You should not place him in one place and say that you shall never open your mouth. Sir, I support this Bill whole-heartedly.

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

**The Honourable Sir Henry Craik :** I am perhaps fortunate in that, on this the first occasion on which I have the honour of addressing this House, the issue should be one that is perfectly clear cut and completely lacking in ambiguity. The answer to the Honourable the Mover's motion today must be a clear "Yes" or a clear "No". There is no half way house about it. I am perhaps less fortunate in that the subject is, owing to the Honourable the Mover's courage and persistence, one with which this House is perhaps almost unduly familiar and which I am perhaps not wrong in describing as having been discussed almost threadbare. On numerous occasions within the last ten years, this motion or an almost exactly similar motion has been before this House. The first occasion was a little more than ten years ago, the last was a little less than six months ago, when this House, after a somewhat brief debate and without a division, rejected a motion that this Bill should be circulated for opinion. Now, Sir, the Honourable the Mover in an early passage in his very eloquent, and if I may be allowed to say so, very moderately worded, speech gave expression to the following sentiment. "No administration", he said, "has a right to exist by suppressing the voice of the people and the legitimate freedom of the people". That, Sir, is a sentiment to which nobody, least of all myself, who has any regard for ordered Government or for liberty, can take the slightest exception. On the other hand, I am afraid that in these days we must face the facts and however much we may object in theory, today we must admit that there are in point of fact a great many Governments in a great many countries which exist, to put it quite frankly, by suppressing the voice of the people and by suppressing their legitimate claims to freedom. It is not necessary for me to mention the names of those countries. They will suggest themselves to every Member of this House. In those countries, the power of internment of Government's political opponents, not necessarily of violent opponents but merely its theoretical critics, is used on a scale far surpassing anything that has ever been seen in India. The Honourable Member reinforced that principle, which I have just quoted from his speech, by reading to the House certain quotations from the speeches or letters of that eminent Secretary of State, the late Lord Morley. Now, Sir, Lord Morley was of course a very eminent Liberal statesman, but he was essentially, if I may say so without disrespect, a statesman of the doctrinaire liberal school, and like so many of that school, his actions were very often not in strict accord with his expressed sentiments. It is no doubt within the knowledge of every Member of this House that, whatever sentiments Lord Morley might have expressed in those letters which the Honourable the Mover quoted, he did not in fact agree to the repeal of this Regulation, though he was repeatedly and incessantly pressed to do so. I would like the House to listen, if they will bear with me for one moment, to a short quotation from a speech of

that statesman in which he alluded to the pressure put on him to repeal this Regulation, and in which he said that the Regulation is :

"of course, a tremendous power to place in the hands of an Executive Government. But I said to myself then, and I say now, that I decline to take out of the hands of the Government of India any weapon that they have got, in circumstances so formidable, so obscure and so impenetrable as are the circumstances that surround the British Government in India."

He then went on to say :

"You must protect the lives of your officers. You must protect peaceful and harmless people, both Indian and European, from the blood stained havoc of anarchical conspiracy. We deplore the necessity, but we are bound to face the facts. I myself recognise this necessity with infinite regret, and with something, perhaps, rather deeper than regret. But it is not the Government, either here or in India, who are the authors of this necessity."

Now, Sir, in the face of that quotation, I really do not think that the Honourable the Mover can claim that the late Lord Morley was a very stalwart champion of the motion that he wants the House to adopt today.

The Honourable the Mover has quoted instances in which he alleges that in the past the Regulation has been abused or has at any rate been used without proper discrimination and in effect, he intended to imply, in a cruel and vindictive manner. I regret I cannot follow the Honourable the Mover into the details of those cases, but I must admit that I do not see how the repeal of the Regulation now would right those past wrongs, even if they do in fact exist ; but I do most emphatically take the stand-point that at present the Regulation is not being used in any such manner. I deny altogether that the Regulation at present is being abused. On this point there is one side issue which I would like to mention very briefly. One speaker, I cannot remember who, attacked the Government in respect of a reply which I gave yesterday admitting that in regard to the internment of a certain gentleman, Mr. Sarat Chandra Bose, the Government of India had consulted the Local Government and he implied that by this consultation the Government of India had exceeded their rights, their statutory or legal rights, and had evaded their responsibility. Now in regard to that, I admit I am wholly unrepentant ; and I do not for a moment admit either that the Government of India, by consulting the Local Government, have evaded their own responsibility, and in fact I go a great deal further than that,—I say that the Government of India would have been very much to blame if they had come to a decision in a case of that sort without consulting its local agents—the Government of Bengal. On that point I fear I cannot for a moment allow that the Government of India are in any way whatever to blame.

Now, if I may allude to what was said by the last speaker, Mr. Lalchand Navalrai, I should like to say,—and here I speak from personal experience,—that the picture which he gave to this House of the procedure that is followed in deciding whether a person is to be interned or not, that that picture was an absolutely misleading one and that what actually happens is nothing of the kind. He made out that Government, on the report of some constable of the C. I. D.,—those mythical constables of the C. I. D. of whom there are very few but who in the imagination of some Honourable Members exist by the million,—on the information supplied by some constable of the C. I. D., and entirely unverified and entirely unchecked by such other information as is available, the Government decides that a man must be interned. Now, I have had in another



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capacity myself to deal with a considerable number of these cases,—not of course under the Regulation but under the very analogous case of the power which was given, and still is given, to the Punjab Government by the Punjab Criminal Law Amendment Act. Under that Act, the Government has power to detain, for a limited period only, without trial, persons whom it suspects of being likely to cause internal commotion or to upset the tranquillity of the realm. I would ask the House to believe me, when I say that the picture drawn by the Honourable Member from Sind of what actually happens in those cases is entirely wrong. What happened within my experience? Practically all the people, at any rate the very great majority of British Indian subjects interned under this Regulation,—and I think I am right in saying all those interned under the analogous power given by the local Criminal Law Amendment Act,—are interned because they are implicated in the terrorist movement. Now the sort of thing that used to happen was this. A report, not by a C. I. D. constable at all, but a report, usually by an officer of at least gazetted status and often of a very high gazetted status, would come to me and it would say in effect “for months, we have been following, trailing so and so. We know his movements; we have checked them up for weeks; we know who he is in touch with, we know who he is corresponding with. We know, or at any rate we in our own minds are absolutely convinced, that he has just come into possession of arms or bombs. We cannot lay our hands on these, because we do not know where to look for them and because, every possible precaution is taken to conceal them. Further, we know”—and this information generally comes to the officer within twenty-four hours before he would approach me,—further, he would say,—“we know that this particular man contemplates a particular outrage and we have strong reasons to suspect that that outrage will be attempted within the next day or two”. Very often it is even known who the intended victim is. We know sometimes, or we have reason to believe, what the place of the outrage will be....

**Mr. Lalchand Navalrai :** Who gives that information? Who gives that information to that officer?

**An Honourable Member :** Order, order.

**Another Honourable Member :** Why “Order, order”?

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

**The Honourable Sir Henry Craik :** That information is given by methods which are necessarily secret and devious, but to which I have myself on several occasions applied every possible test. It is easy enough to say “Oh, this man is a police informer, he is not worth anything”. But you *can* believe him when he makes a statement if you know that ninety-five per cent. of his previous reports are true, and when you can check up by actual past events or by information drawn from other sources that the report put forward is one that the informer could not have invented or could not have found out for himself, unless the events related had come to his own actual knowledge. Now, Sir, confronted with information like that, I should like the House to reflect very seriously, what action an officer of Government in the position I held and now held is to take. Am I to say: “well, I cannot put this

suspect before a Court ; I have no evidence to put before a Court. But on the other hand, I am convinced that if I do nothing, somebody's life will not be worth twenty-four hours' purchase " ? Am I to say : " very well, I will allow him to go on, I will take every possible precaution, I will surround the intended victim with gun-men, I will post sentries around his house and will not allow him to go out, and then let him take his chance " ? Well, Sir, the experience of the last ten years has proved, if it has proved anything, to the satisfaction of anyone who knows anything about the subject, that, given a sufficiently desperate man, a man who is entirely reckless of the consequences to himself and who is determined on assassination, that no precautions, however carefully planned, can prevent him carrying out his design. Well, if I take that line, if I say, " let the man go on, and only when he attempts to commit his outrage, then arrest him and then try to get a conviction in Court ", am I not surely running an entirely unjustifiable risk, while I have this weapon available in my hand, the power to intern ? I am not at the moment speaking of the Regulation but of the analogous power given by the Provincial Act. Surely, I should be gravely failing in my duty if I allowed this man to go on and attempt to commit the outrage planned and allow his intended victim to risk his life. No, Sir, I cannot for a moment accept that view ; I think I should be gravely wrong if, in circumstances such as those,—and those are the actual circumstances of half a dozen cases at least with which I have actually had to deal,—if, in such circumstances as these, I did not use this weapon which the law has placed in my hand. I feel sure that the House will agree and that in fact nobody in the House would take a different view if he was placed in similar circumstances. (Hear, hear.) I should be absolutely wrong if I neglected to use an instrument which might save several valuable lives.

Sir, the words which I read from Lord Morley's speech speak of his unwillingness to deprive the Government of India of

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this weapon or indeed of any weapon " in circumstances so formidable, so obscure and so impenetrable " as were the circumstances of that day. Our justification for the retention of this Regulation is that the circumstances of today are every bit as formidable and every bit as obscure. We are today confronted with two very grave dangers. The first is anarchical crime and the second is communism, and it is against these two dangers, almost exclusively, that the Regulation is now being used. I am not for the moment speaking of its use in regard to the persons referred to by my Honourable friend, Mr. Metcalfe, but its use in regard to internal commotion is now practically entirely confined to terrorists and communist agents. I do not know if the House is familiar with a phrase which has lately become a sort of cant saying or a common place piece of journalese in England,—it came over from America,—it is a phrase " Public Enemy No. 1 ". It was originally applied to a certain notorious gangster in America whose name, I think, was Dillinger, who was " bumped off ", to use again an American expression, by a squad of police outside a Chicago cinema the other day. That gentleman, who was responsible for I do not know how many murders, was known as " Public Enemy No. 1 ". Now, Sir, I take it that in India our " Public Enemy No. 1 " is the anarchist, the terrorist who brings to his abominable cult every kind of diabolical ingenuity, not only in carrying out his crimes but in concealing the traces and the evidence

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of it. Further than that, he exercises the same diabolical ingenuity in perverting to his cult ill-instructed, uneducated and half-formed youths, and I submit that in both those capacities, I am perfectly entitled to call him our "Public Enemy Number One". I further submit that, in dealing with a man of this nature, who not only deliberately sets the law at defiance, but whose object is deliberately to paralyse and render ineffectual the whole machinery of the law, we are entitled to use any weapon, however drastic, that we have at our disposal. The methods used in other countries are, of course, far more drastic than those which we apply. The gangster, who first earned the title of "Public Enemy No. 1", was hunted for months before he was eventually exterminated. There was no question of arresting him. He was to be shot at sight and that was his eventual fate. He fell riddled with bullets.

Now, as regards communists. I really think that I may call the communist "Public Enemy No. 2". Communism is, as the House is aware, a very growing danger in certain parts of India and the country is being, I will not say flooded, but infiltrated by communist agents, many of them trained by the Communist Internationale or by communist teaching institutions at Moscow and most of them supported by the funds of the Communist Internationale. Those people are steadily penetrating into India and as regards their objects, it will be within the recollection of the House that we had recently within the last year a judicial pronouncement by a High Court that their object is,—I cannot remember the exact words, but it comes to this,—by armed revolution to subvert not only the existing form of Government but the whole fabric of society, to nationalise land, factories, railways, irrigation schemes and practically every sort of wealth and, in fact, to turn the existing fabric of society completely upside down. Their object is to do that by means of an armed rising of what they call "the peasants and workers" and it has been held judicially that that object is not a distant or eventual one but an immediate object. Against those persons, I submit, we are fully entitled to use this weapon of the Regulation. It is impossible, in practically all cases against persons of that character, to secure a conviction in a Court of law. Their methods are underground, evidence is not available and I am not even ready to say that the holding of these doctrines is in itself an offence. But, at the same time, they constitute a public danger only slightly less appalling than the anarchist.

Sir, I might have appealed to this House to reject this motion on the ground that its acceptance would stultify the decision to which the House itself arrived with very little hesitation less than six months ago, but I do not desire for a moment to take that tactical point. I would appeal to the House to give its verdict entirely on the merits of the case. That is to say, to say definitely whether it desires to deprive the Government at this stage in the history of India, at this stage both in the history of the terrorist movement and the history of the communist movement, and also I may say, because I think it is just as relevant, at this stage in the history of the constitutional progress, of this valuable weapon for dealing with the forms of menace which I have described. I have little doubt that, from a House which has repeatedly assured Government of its detestation of the terrorist movement, of its readiness to

help Government in getting rid of that movement, the answer will be that which I hope the House will give. (Applause.)

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, if I intervene in this debate at this stage, it is to bring to the notice of this House certain facts to which the Honourable the Home Member has not adverted. While speaking of the Home Member, Sir, I wish heartily to congratulate him upon his maiden speech and I am quite sure that as a Home Member he will make himself thoroughly popular with both Sections of the House (Applause) by representing the case of the Government as fairly and fully as he has done today. And if I criticise the Honourable the Home Member, it is not because what he has said but what he has omitted to say, and that was perhaps because it was not in his brief. This Regulation was passed as far back as 1818, and it was brought under review of this House in 1922. In the report of the Repressive Laws Committee, signed by the then Home Member after the examination of the present Home Member who was then officiating as the Home Secretary of the Government of India, the unanimous decision of the Repressive Laws Committee dealing with the State Prisoners Regulation was that it required to be amended, and Honourable Members will find this fact clearly stated at page 7, paragraph 13 of their report. This was a compromise report to which the then Home Member appended his signature as also the Law Member and it was then expected that what was given in this report would be given effect to by the Government of India. Now, Sir, Honourable Members will find that this report was signed on second September, 1921. Now, it is about 13 years since the publication of this report that this House has been expecting the Government of India to implement their decision by bringing forward before this House appropriate laws. They never said for one moment that they were not going to abide by the decision of the Repressive Laws Committee. On the other hand they were co-signatories to the unanimous report of that Committee and when, in the first Assembly, this question was raised by one of us, the Honourable occupants of the Treasury Benches assured the House that they were taking steps to bring appropriate laws to give effect to the recommendations of that committee. Some laws were brought. They were brought forward and they were passed. One of them at least has since been repealed. Now, Sir, the question that this House is entitled to ask of the Honourable the Home Member is this : do not the Government stand pledged to modify the provisions of the State Prisoners Regulation in accordance with the decision of the Repressive Laws Committee to which they were a consenting party. That is my first question. Now, the second question that I wish to put is this. Whatever the Honourable the Home Member has given is a blood-curdling picture of the activities of the communists and terrorists in this country, we are used to that picture, only the other day his distinguished predecessor, speaking probably from a similar brief, raised the hair-raising story of the terrorist movement which required the enactment of what is known as the Criminal Law Amendment Act. Now, the plenary and full provisions of that permanent measure of the Bengal *cum* Government of India legislation is to suppress terrorism in Bengal. Under the provisions of that Act, the Home Department of the Government of India, only the other day, issued a Notification declaring as illegal all communistic organisations throughout the length and breadth of the country. Therefore, we are led to the conclusion that the Criminal Law Amendment Act, enacted by this House only the other day, is sufficient in the eyes

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of the Government to deal with the dual terror to which the Honourable the Home Member has adverted, namely terrorism and communism. If that be so, what is the necessity of retaining on the Statute-book an old rusty weapon which has long been superseded by an enactment of this Legislature passed only the other day. That I submit is my second question. The Honourable the Home Member has said that there are other countries where more drastic laws are passed and he asked this side of the House to recall those countries. We remember them, but may I ask the Honourable the Home Member to extend to us the courtesy of studying the constitution of those countries. Have they got an irresponsible Central Government, or have they not a responsible parliamentary system of Government? It may be that they have got Dictators but these are the Dictators created by the people and maintained by the people and have the confidence of the people and the moment they forfeit that confidence they will be thrown out of their dictatorship. Can we say the same of the Honourable the Home Member? Can we say the same of the entire occupants of the Treasury Benches? If they had been there by our vote and suffrages, the analogy between the countries which enjoy responsible Government and whose heads resort to repressive laws for the purpose of suppressing terrorism and crime in that country would have been more appropriate. I hope the Honourable occupants of the Treasury Benches will remember when they deal with this question the very anti-thesis that exists between the Governments of those countries and the Government of this country. Sir, we have been told that, so far as internal commotion is concerned, this Regulation is at the present moment utilised for the purpose of suppressing terrorism and communism. I have already reminded the House that the Government have a sufficient and strong weapon in their possession which the Government have used most effectively for the purpose of suppressing the dual mischief of which the Government complain. The Honourable the Foreign Secretary, Mr. Metcalfe, said that 75 per cent. of the detenus under the Bengal State Prisoners Regulation are foreigners and are persons connected with illegal foreign activities and only 25 per cent. of them are persons.....

**Mr. H. A. F. Metcalfe :** I do not claim any exact knowledge on the subject. I said that was my impression. I stand open to correction. I am not certain of the figures.

**Sir Hari Singh Gour :** I understood the Foreign Secretary to state in that sense. It is only a rough calculation. I am not binding him down to the exact percentage. The bulk may be 75 per cent. or 70 per cent. or it may be even 50 per cent. We are concerned here with the bulk of the persons dealt with under this Regulation and they are persons who come under the exact wording of the preamble to the Regulation and according to the estimates of the Foreign Secretary, only a small fraction, 25 per cent., it may be more or less, are persons who are the disturbers of internal peace. Now, so far as the disturbers of internal peace are concerned, I have already pointed out that we have given Government a *carte blanche*. They have been entitled now under the provisions of the Criminal Law Amendment Act to issue *lettres de cachet* against anybody whom they think responsible for terroristic or communistic activities. Now as regards those, who come under the jurisdiction of the Foreign Secretary, the bulk of the people, the Repressive Laws Committee were presented with a similar argument and it was pointed out to them that

this State Regulation was being used very largely for the purpose of upholding the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Indian Princes entitled to its protection and the security of the British Dominions from foreign hostility. The Repressive Laws Committee unanimously decided that this limited purpose for which the Statute was being used should be clearly defined in another Statute and that the Government of India should take in hand the enactment of such a Statute. My friend, Mr. Anklesaria, ejaculated a moment ago, that this was a motion for the repeal of the State Prisoners' Regulation. He has been long enough in this House to know that, on a consideration motion being passed, it is open to any Member of Government to refer the matter to Select Committee, and to limit its scope in the Select Committee, for the purpose for which the Repressive Laws Committee recommended the Statute should be limited. Now if the occupants of the Treasury Benches intended to carry out the recommendations of their own Committee they would have said that they are quite prepared to consider the State Prisoners' Regulation by limiting its scope to persons mentioned by the Foreign Secretary. But that has not been done because if that had been done I am quite sure that my Honourable friend, the Mover of the motion, would have been found in a more compromising mood. Now, Sir, the position, therefore, is this. If you wish to limit the scope of the Statute, for the limited purpose for which it is being mainly used, you will have no difficulty in limiting it for that purpose; and the Statute as it stands is too wide and it is against that that we complain. It has been said by my Honourable friend, Mr. Anklesaria, that we on this side of the House complain that prisoners and persons dealt with under this State Regulation are dealt with upon *ex-parte* evidence and *ex-parte* information. That fact is admitted by the Honourable the Home Member that there is *ex-parte* statement and *ex-parte* information, most of it secret information, upon which these people are apprehended and detained in custody for an indefinite term. Now what we ask the Honourable the Home Member is that, whatever may have been the position in 1818, we have now regularised our criminal procedure. In 1818 there was no criminal procedure at all. *Hic volo hic jubeo*,—that was the compendious expression of the law of the executive government, but since then we have regularized the procedure. We have the Evidence Act and the Criminal Procedure Code, and I am somewhat surprised that my friend, Mr. Anklesaria, who is drawn from the Bar, should ask if there is no concoction of evidence in cases falling under the Indian Penal Code. If there is concoction of evidence in cases falling under the Indian Penal Code, there is a Court of appeal of which perhaps my Honourable friend, Mr. Anklesaria, has not yet heard, and there is a Court of revision of which I am afraid my Honourable friend, Mr. Anklesaria, is wholly ignorant. If there is concoction of evidence it passes through the filtering judgment of two superior judicial Courts and is there any similar safeguard.....

**Mr. N. N. Anklesaria :** My Honourable friend has a very short memory. The Honourable the Home Member distinctly stated and made it clear that it is not possible to put the evidence before a Court of law.

**Sir Hari Singh Gour :** I never thought that my Honourable friend, Mr. Anklesaria, would arrogate to himself the position of the Home Member. I was dealing with the legal aspect of the question and I was

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turning to the Honourable the Home Member with reference to the remarks that fell from him that a great deal of the evidence has got to be necessarily secret and one-sided. Now I ask the Honourable the Home Member one question and I am quite sure that he will at once see the justice of our comment. In cases under the Indian Penal Code and under the general criminal law, which are tried by experienced Magistrates, where there is a law of evidence, where the evidence is tested by cross-examination, no less than 50 per cent. of the cases are set aside by the High Court on the ground that either the evidence is insufficient or that it is incredible or that it is concocted or that it has been believed without any justification.

**The Honourable Sir Henry Craik :** Did the Honourable Member say 50 per cent. ?

**Sir Hari Singh Gour :** Yes, about 50 per cent.

**The Honourable Sir Henry Craik :** I cannot agree with that at all.

**The Honourable Sir Nripendra Sircar :** Which High Court is my Honourable friend talking about which sets aside 50 per cent. of the convictions ?

**Sir Hari Singh Gour :** I was dealing with the statistics that were collected in connection with the establishment of the Supreme Court in India, and portions of which have been sent out to England, showing how many cases are likely to appear before the Supreme Court. And it is in that document that Honourable Members will find the reference to which I have alluded. I am not referring to 50 per cent. up to the last decimal but about 50 per cent. is what I said. But let it be 25 per cent. of the cases. My argument is equally sound because it does not depend upon the percentage of cases.

**The Honourable Sir Nripendra Sircar :** That is a big drop, from 50 to 25, and you are now somewhere near the mark.

**Sir Hari Singh Gour :** There may be a big drop in the figures, but no drop in the argument. (Loud Laughter.)

The point I was making was that you have a considerable percentage of cases in which the High Courts have found that the evidence that was recorded by the trial Judge was either insufficient or incredible or concocted or otherwise inadequate to support a conviction. Now you have, therefore, a salutary check by a judicial officer which gives an innocent person the relief to which he is entitled. I ask the Honourable the Home Member what similar relief is provided to a person who is apprehended under the State Prisoners Regulations ? That is a question which worries me and I am sure that it worries many Members on this side of the House. Have you got any check upon the vagaries of the police and other subordinates who collect evidence ?

**The Honourable Sir Henry Craik :** We have the evidence almost invariably reviewed by two experienced Judges. The question of the continuity of the internment or release of the internee is periodically reviewed by the Government.

**Sir Hari Singh Gour :** Once upon a time, in 1922, this evidence was reviewed by two High Court Judges. Then the High Court Judges complained and said : "This is not our job." Now the evidence is being

reviewed, as the Honourable the Home Member knows by two Sessions Judges but reviewed *in camera*, without the arguments of Counsel, without hearing both sides, and without the salutary test of checking the credibility of that evidence through the process of cross-examination. What is the value of this check? I was only dealing, when I drew the analogy of the High Courts setting aside the convictions arrived at under the process of law by the constituted judicial tribunals and compared them with the *lettres de cachet* issued by the executive government against which the prisoner had really no relief. The point I was making is, assume that where in a judicial trial you have at least half the number of people,—the Honourable the Law Member does not like half but will perhaps concede one-fourth or a certain percentage of people who are wrongly convicted: what guarantee is there and what check have you provided against the illegal incarceration of State prisoners under the Regulation? There is no provision, and I can well understand it. In the good old days of 1818, when there was no procedure, no Evidence Act, no Legislative Assembly and indeed no Legislative Council....

**An Honourable Member :** And no lawyers !

**Sir Hari Singh Gour :** And, as my friend very rightly points out, no lawyers to act as tribunes of the people, the executive government made the laws and administered them. Now, in 1934, can the Honourable the Home Member ask this House to retain these laws in the executive armoury without a protest? And I say this protest was once made in 1921 by the Legislative Assembly, and it will continue to be made with increasing vigour by the later Assemblies. It is, therefore, time, while the Honourable the Home Member has got such friendly critics as my friend, Mr. Anklesaria (Laughter), and my friend, Mr. Yamin Khan (Laughter), to take courage in both hands and ameliorate the condition of these prisoners by reducing the severity of the Regulations and giving them a reasonable chance of defending themselves either *in camera* or in open Court according to the wishes and expediency of the Government. That, I submit, is a very reasonable request to make and if the Honourable the Home Member would only ponder over these small questions that we are bringing to his attention, I am sure he will feel that there is a great deal to be said on this side of the House. We may be treated by some Honourable Members on the other side as Public Enemy No. 1, but I can assure the Honourable Member that we, in our desire to co-operate with the Government, aspire to be Public Benefactors No. 1, and it is in that spirit that we ask the Honourable the Home Member not to make a dialectical point by saying that everything is well done and well tried, well tested by the executive government, because if the executive government is capable of testing these cases, why have the High Courts? Why have judicial administration in this country? Try every case yourself,—it will mean saving of time and money. Let all cases be dealt with by the executive government. Abolish all your Criminal Procedure Codes, the Evidence Act.....

**An Honourable Member :** And lawyers !

**Sir Hari Singh Gour :** The lawyers will act as advisers of the Government. (Laughter.) Raja Bahadur Krishnamachariar will be one of them. I, therefore, submit that this is not one of those cases in which the Government should carry their point by brute force. We know that situated as we are, we may not be able to carry this point in the division lobbies, but I appeal strongly to the Government to carefully reflect upon



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the injustice, that at least some people incarcerated under the State Prisoners Regulation have suffered, and to ameliorate their condition; and if this is done, I am quite sure that justice will not be over-strained. On the other hand the occupants of the Treasury Benches will receive the congratulations and thanks of the representatives of the people on this side of the House for having not only carried out the solemn pledge which they themselves gave as far back as 1921, but carrying out the repeated Resolutions passed by the House since that year. That I submit ought to add to the force and strong contention of Members on this side of the House. Whenever a question comes up on that side of the House, we on this side are alarmed by the words 'terrorism', 'anarchism', 'communism', and my timid friends, like the Raja Bahadur, are hypnotised into a willing acquiescence by the words: "Your land will be forfeited, your land will be nationalised, your property will be confiscated.".....

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : That is what the Congress says.

**Sir Hari Singh Gour** : Let us not be hypnotised by these amulets, these charms, these talismans of the executive. Let us look at the question in a cool and calm light, as persons who wish to feel that while all lawlessness is curbed, in curbing that lawlessness, the innocent are not mixed up with the guilty. That, I submit, is the only point of difference between us on this side of the House and the occupants of the Treasury Benches. (Applause.)

**Mr. S. C. Sen** : Sir, I did not desire to take part in the discussion on this motion at this late stage. I support the motion of my friend so far as the repeal of this Regulation relating to internal commotion is concerned. We are much indebted to the Honourable the Home Member for informing us of the practice which he used to adopt as regards the terrorist movement in the Punjab, and also for the careful manner in which he looked into the papers. Of course, he denied that the Local Government had any voice in the administration of Regulation III of 1818 and that the whole responsibility lay on the Government of India. In this matter he could not enlighten us, as to what the procedure of the Government of India was, as regards any particular person who was considered to be a man to whom the provisions of Regulation III of 1818 should be applied. Sir, he referred to a particular case, namely that of Sarat Chandra Bose. I would ask him to refer to the papers in that case, to refer to the record of that case, and let us know, some time later, what inquiries the Government of India made in connection with that matter. I know, Sir, from personal interviews I had with my Honourable friend's predecessor, that he was actually guided in his orders by the Government of Bengal. (Hear, hear from the Opposition Benches.) I saw my Honourable friend's predecessor on more than ten or twelve occasions regarding this matter. I was instrumental in transferring Mr. Sarat Chandra Bose from the hot prison at Jubbulpore to his house at Kurseong. I was instrumental in getting his leave to send his brother Subhash Chandra Bose out of India for being treated at Vienna. I asked Sir Harry Haig, during the last Delhi Session, whether, now that the country was in a more quiet and peaceful condition, now that Mr. Sarat Chandra Bose had been transferred to his own home and as there was no complaint against him, he could release him. He said: "I can't release him. I

can release him at once if the Government of Bengal would consent to such a release". (Hear, hear from the Opposition Benches.) That was his opinion.

**Mr. K. C. Neogy :** What does the present Honourable Member say to that ?

**Mr. S. C. Sen :** I would, therefore, ask my friend, the Honourable the Home Member, to go into the papers. If he likes, I should like him to take advantage of the opinion of that eminent and brilliant lawyer whom the Government of India have been fortunate enough in having as their Law Member at the present moment. (Hear, hear from the Opposition Benches.)

**Mr. K. C. Neogy :** Here is a sporting offer. Place it before the Law Member.

**Mr. S. C. Sen :** Sir, from the speech made by the Honourable the Home Member, I consider him to be a sympathetic man, a man who will not decide matters in an autocratic manner, a man who is prepared to consider all these cases judicially and to the best of his ability. Sir, the Honourable the Home Member referred to certain cases which he said he had to decide based upon the reports of the police. He said that he took ample care to see that the police reports were correct, so far as he could judge them,—but that he could not do anything more. I suggest, Sir, why did he not act according to the provisions of the Act known as the Rowlatt Act, an Act which came out of the Rowlatt Committee's Report. Sir, the Rowlatt Committee, after considering the whole matter, came to the conclusion that an inquiry should be made as regards these particular cases *in camera* during which the accused or the detenu should be given an opportunity without the help of a lawyer to clear himself.....

**Mr. K. C. Neogy :** And be present.

**Mr. S. C. Sen :** Yes, and be present and clear himself. Why can't you follow that procedure ?

**The Honourable Sir Henry Craik :** By what agency is that inquiry to be held ?

**Mr. S. C. Sen :** That inquiry is to be held by two persons, one a High Court Judge and another any other well-known loyal person on whom the Government can place reliance.....

**Mr. K. C. Neogy :** Does the Honourable Member challenge the authority of the Rowlatt Committee ?

**The Honourable Sir Henry Craik :** No. But I did not remember what procedure it prescribed.

**Mr. S. C. Sen :** There was an Act, known as the Revolutionary Crimes Act, which came out as the consequence of the Rowlatt Committee's Report and he will probably find the procedure laid down there as also in the report of that Committee presided over by that eminent Judge, Sir John Rowlatt, and I ask my friend, I entreat him, so far as it lies in his power, to adopt the procedure suggested in that Act, and not to imprison these people for ever and without giving an opportunity to clear themselves.

Now, Sir, as regards this particular motion, I support it, because I do not see any utility in keeping it on the Statute-book. My friend, the Honourable the Home Member, referred to the two classes of cases in which this Act is sought to be applied ; the first is the terrorist movement, and the second is the communist movement.....

**The Honourable Sir Henry Craik :** It has been applied not only in Bengal, but it has been applied in the North of India also.

**Mr. S. C. Sen :** The terrorist movement is not an all-India movement, nor have we seen references of such a movement in the papers because the papers are now gagged.....

**The Honourable Sir Henry Craik :** You never heard of the attempt to assassinate the Governor ?

**Mr. S. C. Sen :** That was several years ago.

**The Honourable Sir Henry Craik :** That was about three years ago.

**The Honourable Sir Nripendra Sircar :** There were some cases in Delhi known as the Delhi conspiracy case.....

**Mr. S. C. Sen :** I have not heard of those cases.....

**The Honourable Sir Nripendra Sircar :** They were published in newspapers.

**Mr. S. C. Sen :** From the recent Act passed by the Bengal Legislative Council the newspapers are not allowed to publish the names of the prisoners or of the witnesses who are examined in a Court of law, nor to publish any part of the proceedings without the consent of the President of the Tribunal.....

**The Honourable Sir Nripendra Sircar :** That explains why you did not read the Delhi conspiracy cases ?

**Mr. K. C. Neogy :** That might be infringing the law.

**Mr. S. C. Sen :** I am talking of Bengal. As my Honourable friend, the Law Member, knows perfectly well, the Bengal Act recently passed goes much in advance of this Regulation 1818.

**Mr. K. C. Neogy :** This is milk and water in comparison.

**Mr. S. C. Sen :** Yes, compared to the Bengal Acts, this is milk and water. Under these circumstances, when the Government have got such powerful weapons in their hands, why keep the rusty weapon of 1818 ? I ask the Honourable the Home Member to consider what is the use of retaining this Regulation in the Statute-book when they are armed from head to foot with more powerful weapons ? I, therefore, consider, Sir, that this motion which has been brought forward, and especially so far as its application to internal commotion is concerned, is well conceived and ought to be supported by the whole House. With these remarks, I support this motion.

[At this stage, several Honourable Members rose to speak.]

**Mr. President (The Honourable Sir Shanmukham Chetty) :** If it is the desire of the House to continue this debate, the Chair has no objection to carry it over.

**Several Honourable Members :** Yes, Sir.

**Mr. President (The Honourable Sir Shanmukham Chetty) :** Is that the desire of the House ?

**Several Honourable Members :** Yes, Sir.

**Mr. President (The Honourable Sir Shanmukham Chetty) :** The House now stands adjourned till 11 O'clock tomorrow morning.

The Assembly then adjourned till Eleven of the Clock on Friday, the 3rd August, 1934.