

*Saturday,
6th August, 1910*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLIX

April 1910 - March 1911

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED
FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE
PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 to 1909
(24 & 25 VICT., CAP. 67, 55 & 56 VICT., CAP. 14,
AND 9 EDW. VII, CAP. 4).

The Council met at Viceregal Lodge, Simla, on Saturday, the 6th August 1910.

PRESENT:

His Excellency, THE EARL OF MINTO, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy
and Governor General of India, *presiding*,
and 85 Members, of whom 28 were additional Members.

CONTINUING BILL.

The Hon'ble MR. JENKINS said:—"My Lord, the Seditious Meetings Act of 1907 will expire in ordinary course on the 31st October this year, and the course which we should take with regard to it has been a matter of anxious consideration. I will briefly explain the reasons which have induced us to come to the decision, first of all that the Act should be continued, and secondly that it ought not now to be continued beyond the 31st March 1911. Before the Bill was prepared, Local Governments were consulted, and the Local Governments are generally independent in their opinions. One of the great difficulties which the Government of India generally experience when Local Governments are consulted is in reconciling the differences of advice given by them. On this occasion the Local Governments are absolutely unanimous; and especially the Lieutenant-Governors of Bengal and Eastern Bengal, who declared that the continuance of the Act is absolutely necessary to the preservation of law and order in their Provinces. Now, we have no intention of sheltering ourselves behind the Local Governments. The decision is ours; it is based upon our own convictions of what is necessary in the conditions of the time. At the same time the Government of India would be incurring very grave responsibility if they refused to accept the recommendations of the Local Governments in a matter of this kind. For my own part, I am free to admit that

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when a Lieutenant-Governor like Sir Edward Baker, of wide and liberal sympathies, who knows his Province thoroughly, declares that the continuance of this Act is absolutely necessary in Bengal, I should feel myself bound to surrender my opinion to his, even if my own opinion were different; and we have decided therefore that the Act should be continued. Next, as to the date to which it should be continued. There is a precept of old standing which directs that contentious business should not be taken up in Simla, and we have reason to apprehend that this is a contentious measure. That precept was issued when Simla was remote and inaccessible; conditions have changed greatly; the stress of business has become very considerable; and it is possible that the position may have to be reconsidered. Nevertheless, as long as the precept is in force, we feel ourselves bound to observe it as far as possible. There is another consideration which has weighed with us; there will before long be very great changes in the constitution of the Government of India, and although the life of the Government is continuous, we think it proper that the ultimate decision in this matter should rest with the Government of India as it will be constituted at the session which will be held at Calcutta. We are by no means pledged to continue this measure beyond the 31st March 1911. On the other hand, neither are we pledged to allow the Act to lapse. I consider that it is greatly to be desired that this Bill should be regarded as a measure of convenience, as an *ad interim* measure intended to bridge over the time between the Simla session and the session in Calcutta, and that no discussion should be raised which will have the effect of even appearing to commit the Government of India or individual Members of Government to any opinion relative to the further continuance of the Act. If it is finally decided that the Act ought to be continued, there will be ample opportunity for discussion in Calcutta. If, on the other hand, it is decided that it ought to be allowed to lapse, we shall have escaped a debate which, however carefully conducted, cannot fail to do a certain amount of harm. My Lord, I now introduce the Bill to provide for the continuance of the Prevention of Seditious Meetings Act, 1907, and move that it be taken into consideration."

The motion was put and agreed to.

The Hon'ble MR. GOKHALE said:—"My Lord, this Bill may at first sight appear to some to be a comparatively modest measure, inasmuch as all that it ostensibly seeks to do is to prolong by just five months more the life of an Act which in the natural course of things would expire on 1st November next. And the very brief speech with which the Hon'ble Member has introduced his motion to-day is calculated to lend support to this view. Now, my Lord, if this had been really all that the Government had in view—even then, I should have deplored the action of Government, for, as I understand the situation, what the country taken as a whole needs today above every thing else is the opportunity for things quietly to settle down again to the normal; and, in providing this opportunity, responsibility rests as much on the Government as on the people. And in my humble judgment, a proposal at a time like the present to renew—even for a few months a repressive measure of such exceptional severity as the Seditious Meetings Prevention Act, when the country is comparatively quiet and is getting quieter every day, is not likely to hasten that return to a normal frame of mind on the part of the people and that restoration of normal relations between the people and the Government which every true well-wisher of the country must so ardently desire. But, my Lord, I do not think that this Bill is merely a proposal to continue an expiring Act for a few months longer, and nothing more. I think there are grave reasons to fear that it is rather intended to be the prelude to another proposal to place the Act permanently on the Statute-book after the formality of a discussion in full Council at Calcutta next March. It seems clear to me that if the Government had been anxious to govern the country without the aid of this Act—if even they had wanted to find out if they could so govern it—they would have welcomed the opportunity, instead of regretting it, of the Act lapsing next November, conscious of the fact that, if the necessity arose, they could

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re-enact the measure in a single day, and re-enact it probably with the support of a strong body of public opinion. The Statement of Objects and Reasons says that 'on the unanimous advice of Local Governments the Government of India are convinced that the continuance of the Act for the present is essential to the preservation of the peace,' and therefore they are continuing it for five months. I am not surprised, my Lord, taking human nature as it is, that the Local Governments want to retain the powers which the Act confers upon them. That does not by any means show that the condition of the country is such that the Local Governments should have those powers. What is there, for instance, today in the condition of the Madras Presidency that should make the Government of Madras wish to have those powers? And yet we find Madras anxious along with the other Local Governments to retain these powers! It is therefore only ordinary human nature, and I do not think that we need attach any special importance to it. I wish, however that the Council had had an opportunity of seeing those opinions of Local Governments. In the case of ordinary Bills such opinions are as a rule supplied to Members. I asked for those papers two days ago under rule 13 of the Rules for the conduct of legislative business; but the Government have not seen their way to comply with my request. But whatever be the grounds on which the Local Governments have based their advice, one thing is certain, that if they have asked for a continuance of the Act, they cannot have asked for its continuance for five months only; no one could, I think, calculate the requirements even of repression with such nicety! It is true that when the question comes up again for consideration, the personnel of the Government of India will have undergone a considerable change. But I do not think it is possible to find any comfort in that. In the first place, a Viceroy entirely new to the country is far less likely to take a line of his own in dealing with what we have been told is the unanimous opinion of Provincial Governments than one who has been five years in the country; and secondly, we have already before us the fact that, though not one of Your Lordship's colleagues of 1907 in the Government of India is today a member of the Government—a fact which significantly illustrates the rapidity and completeness with which the personnel of the Government changes in this country under the existing system—that has not made any difference as regards the present decision to continue the Act after October next. I take it therefore that during the next Calcutta session the Government will come forward again with a proposal either to further extend the period of the Act or, what is even more probable, to place the Act permanently on the Statute-book. Now, my Lord, we all know that when once the Government have made up their mind to adopt a particular course, nothing that the non-official Members may afterwards say in Council is practically of any avail in bringing about a change in that course. Our only hope of preventing a decision which we consider to be fraught with serious injury to the best interests of the country is in any opportunity we may get to state our objections before the decision has been arrived at. And it is because the Bill before us gives us such an opportunity, as also because I am against the proposed continuance of the Act even for five months, that I deem it my duty to offer what resistance I can to the motion which the Hon'ble Member has just submitted to the Council.

"My Lord, three years ago, when this Act was hurried through the Council at this hill station, only three non-official Members were able to attend the meeting. But among those there was my distinguished friend, the profoundly learned and ever-brilliant Dr. Rash Behary Ghose. To the criticism which he then offered on the various provisions of the measure, I think it is unnecessary to add anything even today. The Act admittedly confers dangerously wide powers on the Executive, which, if used at all, are almost certain to be abused, and which must in practice paralyse all activity in the country. Meanwhile the Government already possess in the ordinary law of the land ample powers

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to meet all reasonable requirements, not only for punishing but also for preventing what has been called seditious or dangerous oratory. Under the Criminal Procedure Code the Government can break up, and even prohibit, meetings likely to prove dangerous to the tranquillity of the country, and they can bind down individuals. And the provisions for punishing seditious utterances do not certainly err on the side of leniency. I really do not see what more is wanted if the Government are to show a reasonable regard for the elementary rights of the people. Unless the idea is that nowhere in the country shall there be any deliberation or discussion or expression of opinion except on lines approved by the Government, and that too with their previous permission, I do not understand the necessity of arming the Executive with the vast powers which the Act confers. That these powers can be and as a matter of fact have been used, or rather abused, for such a purpose may be seen from the fact that this year three ordinary district conferences in East Bengal were prohibited by the District Magistrates. My Lord, I listened carefully to the answer which the Hon'ble Mr. Earle gave yesterday to a question of my friend the Hon'ble Babu Bhupendra Nath Basu on this subject. In spite of that answer, I feel bound to say that, in my opinion, the action of the authorities was not justified; and I hold that the prohibition of the conferences was a serious abuse of the powers which the Act confers upon the Executive. Such conferences have been held for years past, not only in Bengal but all over the country. They are strictly on constitutional lines, and so far they have nowhere given rise to any trouble whatever. The Hon'ble Mr. Earle in his reply said that the prohibited conferences proposed to deal with subjects which did not concern the districts only. Now I would like to know what right or authority the Hon'ble Member had to lay down a proposition like that. A district is part of a Province; it is also a part of the whole country; surely the people of a district, if the Government are willing to allow them even a small amount of patriotism or public spirit, are entitled to take an interest in the affairs of their Province and their country; and I say it is absurd to insist that a district conference should confine itself only to matters that concern that district. But, my Lord, it was not only these district conferences that were thus interfered with. In one of the districts a meeting proposed to be held by members of the depressed classes for the discussion of a social grievance was also disallowed. I understand that these classes in Eastern Bengal have some difficulty in obtaining the services of barbers, and these people wanted to hold a meeting and consider what arrangements they could make for getting themselves shaved. Surely that was not a subject in regard to which the powers conferred by the Act should have been exercised by the district authorities! And yet this was actually done under this Act. I understand that this prohibition was afterwards withdrawn. But that it should ever have been exercised shows the liability to grave abuse of these powers. In some places the District Magistrate went the length of claiming the power to determine the actual wording of the resolutions proposed to be passed at public meetings! Such a claim reduces a public meeting to a mockery and a farce, for the resolutions then express the views not of the people assembled in the meetings but of the district authorities! My Lord, I am quite prepared to admit that circumstances may arise when even such drastic powers as the Act confers may be necessary in order to stem the flood of wild, irresponsible oratory dangerous to public peace. But I do not think that such circumstances exist at the present moment anywhere in India.

"My Lord, I can conceive of circumstances in which it may be necessary to put even such powers into the hands of the Executive as the only way of checking the flood of wild and dangerous utterances that may be threatening the peace or tranquillity of the country. But I do not think such circumstances exist in any Province at the present moment. And, in any case, it is to my mind intolerable that the whole country should be indiscriminately placed under such Praconian legislation. And this brings me to a suggestion which I made in

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the Council three years ago, when the Seditious Meetings Act was under discussion, and which I wish to repeat today, namely, that if at any time such legislation is found to be necessary in any Province it should be undertaken by the Provincial Government in the Council of that Province, and not by the Government of India for the whole country. At present what happens is this. The alleged needs of the Province whose condition is the worst furnish the standard and determine the character of the legislation with which not only that Province but the rest of the country is to be saddled. Now, this is gravely objectionable, and to my mind it constitutes a most serious grievance. A simple remedy lies ready to hand, namely, to require each Provincial Council to undertake in such matters its own special legislation according to its needs. This will have the additional advantage of ensuring a full discussion of the condition of the Province before the legislation is passed. I claim on this subject the support of the Hon'ble Member whom we in Bombay have known to be a strong advocate of Provincial decentralization. It may be said, as Sir Harvey Adamson did three years ago, that, though such legislation may be passed for the whole country, it may not be extended to a Province without a careful consideration of all its circumstances by the Government of India. How illusory this safeguard is was seen last January, when we woke up one morning to find that the Seditious Meetings Act had been extended indiscriminately to every Province by a single stroke of the pen. My Lord, I assure the Council that there is a very real fear in the minds of even the most thoroughly law-abiding citizens that this Act, when put in force, places them in a position of serious danger, and they further feel that they may be exposed to the danger any moment without their having done anything to deserve it. A few utterances on the part of thoughtless young men or even a single utterance of that character may suffice for a whole district being suddenly proclaimed, and once it is so proclaimed every inhabitant of that district is at once put under what may be termed 'police rule.' No twenty persons can then meet even for the most innocent social purpose without being presumed to have gathered in a public meeting held without the permission of the authorities, and anyone may at any moment find himself accused of having taken part in such a meeting and wrongly punished or otherwise harassed in a variety of ways. And with the kind of the police we have in this country the fear of wanton or malicious harassment is not wholly imaginary. My Lord, I am aware that the question of the character of the Indian police has now assumed a form when it is difficult to discuss it without rousing a certain amount of feeling. There is no doubt, however, that as a class the police are not trusted by the bulk of my countrymen, and that innocent people often go about in dread of what they may do, and the position has grown worse since the formation of what is known as the Criminal Investigation Department. This is largely the result of two causes—first, the quality of the material from which our police-force is drawn; and secondly, the lack of a spirit of self-assertion among the people generally. The Government no doubt have of late done a good deal to secure a better type of recruits for the force, but the improvement in this respect can only be gradual. Moreover, as long as the people themselves do not know how to take better care of themselves as against the police, things are bound to continue pretty much the same as they are at present. What is absolutely necessary, however, is that the Government should not put additional powers into the hands of the police until a substantial improvement has taken place in their character and traditions. My Lord, it has been well said that more depends upon the manner in which a law is administered than upon the law itself. This is true of every law generally, but it applies, I think, in a special degree to repressive measures, and I feel bound to say that our experience in this direction has not been particularly encouraging. Take for instance, the Press Act of last February. If ever there was a measure which should have been administered with the utmost care and tact and restraint, it was the Press Act passed last session at Calcutta. This was necessary to avoid all needless irritation. It was also due to those non-official Members of this Council who, in their desire not to add to the difficulties and anxieties with which the Government were then confronted, tried to go as

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far as they could in support of the measure. I grieve to say, however, that in most Provinces these obvious considerations have not been kept in view in working the Act. I will not now refer to those cases in which security was demanded from old concerns when they presented themselves for a mere formal change in their registration, in spite of distinct pledges to the contrary given both in the Statement of Objects and Reasons and in the speeches of Members of Government in this Council. It was no doubt the result of what must be regarded as defective drafting, and I am glad to note that it has now been set right to a great extent by executive action on the part of Government. But there have been cases in which heavy securities have been demanded from old concerns without specifying what their offence was, and for some time past a regular sedition-hunt has been going on in some of the Provinces. Hardly a day now passes without some obscure sheet or pamphlet or old book being dragged forth from oblivion, and notified first by one Provincial Government and then by another as forfeit to the authorities. Now much of this is, to my mind, altogether futile, and it only tends to keep the Press Act in unnecessary and unpleasant prominence before the country. I think the exceptional powers conferred by the Press Act should be very sparingly drawn upon, and then, too, to meet only serious cases of objectionable and dangerous writing. I do not deny that the Act has exercised a restraining influence in some quarters where such influence was most necessary. But as against this we must place the irritation that is being continuously caused in the country owing to the feeling that the Act is being harshly or unjustly applied. The worst case in which the powers of the Act have been clearly misapplied is, to my mind, that of Mr. Mackarness's pamphlet. Mr. Mackarness had sent me a copy when the pamphlet was issued, and I had also seen the articles as they had at first appeared in the *Nation*. I can understand the objection that Mr. Mackarness had made a one-sided presentment of the case, or that he had not done justice to the efforts which the Government have recently been making in the matter of police reform, but that only means that someone else should have published a pamphlet in reply. Had anybody told me before the pamphlet was proscribed that the Government contemplated applying the provisions of the Press Act to it, I should have declined to believe the statement. And how that the pamphlet has actually been proscribed, I can only regard the action taken with deep humiliation and pain.

"My Lord, it will, I am convinced, be a grave blunder to place the Seditious Meetings Act permanently on the Statute-book or to propose a further lease of life to it after March next, and I earnestly implore the Government to abandon the idea if they have it. In 1907, when the Act was first passed, there was this to be said in its favour, that the situation in the country was daily growing more and more anxious and no one knew where things stood or whither they were drifting. We were then moving on the upward grade of our troubles and the outlook was dark and threatening. Today, however, the situation is far different. The air has been largely cleared, there is a much easier feeling throughout the country, and there is no doubt that the country is now on the downward grade of its anxieties. The change has principally resulted from two causes—first, the Reform Scheme in its final form, which despite obvious imperfections constitutes an important step forward for my countrymen, has eased in no small measure the tension of the situation; and secondly, the criminal excesses of thoughtless young men have shocked the bulk of the people into a greater realization of their own duty to the cause of law and order. I think, my Lord, it is now daily becoming more and more clear that the wild elements which by their reckless careering have been a source of so much anxiety, have now well nigh exhausted themselves, and the return of the country to a normal state of things is therefore now only a question of time; and nothing, I respectfully urge, should be done by the Government which will in any way retard this return. Not the heavy hand of coercion, but the gentle touch of conciliation and sympathy, of forbearance and oblivion—this is what the situation requires; and I earnestly trust these healing influences will be forthcoming in ample measure to obliterate bitter memories and start the country again on a career of prosperity and progress."

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The Hon'ble NAWAB ABDUL MAJID said:—"My Lord, notwithstanding all that has been said by the Hon'ble gentleman who has just spoken, I am one who thinks that the Bill for the continuance of the prevention of Seditious Meetings Act should be passed into law. The object of the said Act, when it was passed in 1907, was to prevent public meetings which were likely to promote sedition or to cause a disturbance of public tranquillity. Now it cannot be denied that the Act had a salutary effect in preventing such meetings. Those orations and addresses which were likely to cause disaffection and to disseminate sedition were checked; while meetings and speeches which had no aim but peace and public good of the country were nowhere stopped. The very provision in the said Act, that the Act was to apply to a proclaimed area, shews that the Act was not to be applied at random or at the mere wish of any officer. The Act was to apply only when an area was proclaimed by the Local Government. It is obvious, my Lord, that no Local Government will proclaim or has proclaimed an area unless after full inquiry and information it came to the conclusion that public good and security of the country demanded an area to be so proclaimed and the Act to be applied. Further, we have a provision in the Act that any notification proclaiming any area was to remain in force for six months. In other words, the people of such a proclaimed area were given an opportunity to reform themselves. If their behaviour were good, then the notification had no effect after six months. My Lord, I reiterate these facts to shew that the Act does not affect those who are peacefully and loyally disposed, but it affects those only who have a guilty intention.

"But, my Lord, it is said that the Act, when it was passed in 1907, was for three years only, and there is no occasion for its continuance now. To decide this question it is necessary to compare the situation in the country in 1907 with that prevailing in 1910. If there is no unrest in the country, if there is a guarantee that no disaffection and no feeling of disloyalty will be spread in the country if the Act were repealed, I for one, my Lord, will at once give my opinion for the repeal of the Act. But can it be said that there is no unrest in the country? Is there a guarantee that public meetings held and public speeches delivered by those who are not well-disposed will not be used as instruments for the spread of the propaganda of evil ideas among the people at large? Restrictions such as the Act provides are checks on the facilities for the spread of such ideas. Remove them, my Lord, and you will find platform orators delivering their noxious sentiments to the people again. My Lord, I think that the state of the country is not such that any safeguards which are for the peace and tranquillity of the country may be removed. It is not more than six months now that we in this Council passed the Press Act; and why? Because the situation demanded it. The Press Act was passed to check the spread of anarchical and rebellious ideas among the people through the medium of the Press, just as the Seditious Meetings Act was passed to prevent those very ideas reaching the people through the instrumentality of public meetings and public addresses. My Lord, both stand on the same footing. If the Press Act was justified then, why is not the continuation of the Seditious Meetings Act justifiable also? The situation in the country in last February was well summed up by the learned the Hon'ble Mr. Gokhale when he said in his eloquent speech on that occasion:—

'It is not merely the assassinations that have taken place, or the conspiracies that have come to light, or the political dacoities that are being committed, that fill me with anxiety. The air in many places is still thick with ideas that are undoubtedly antagonistic to the unquestioned continuance of British rule, with which our hopes of a peaceful evolution are bound up; and this is a feature of the situation quite as serious as anything else.'

"My Lord, has the situation so eloquently and concisely described by the Hon'ble Member ceased to exist or not? I say not. Assassinations of the same atrocious nature we may not have, but dacoities and conspiracies cannot be said to have ceased yet. It was only the other day that *Yuguntar* leaflets were detected. Dacoities have taken place. Suspects said to be members of the terrorist society are still prowling about. I say therefore that the situation existing in February has not changed for the better.

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" I say that the country is not in a fit condition to dispense with the safeguards provided to stop the spread of sedition and anarchy in this country.

" But assuming that the situation has improved in the country, assuming that the people have realized their position and responsibilities, and that the evil-doers have given up their evil intentions, the question arises, why is it so? Could not such results be traced to such preventive measures as the Seditious Meetings Act and the Press Act? In other words, such measures have proved successful, and the success gained by them is a very strong reason by itself that such measures should be continued. My Lord, whichever side of the question one may look to, I think in my humble opinion measures which have the effect of preventing masses and youths of the country from falling into the pernicious influence of those who want to disturb the peace and good government of the country must remain on the Statute-book. My Lord, I vote for the passing of the Bill into law."

The Hon'ble KUNWAR SIR RANBIR SINGH said:—" My Lord, it is with reluctance as well as with pleasure that we have met here today to discuss the advisability of continuance of the Act for the prevention of holding seditious meetings in India—reluctance because such a necessity should ever have arisen in India where sedition was unknown and where loyalty and absolute submission to the throne was the watch-word of every human being; pleasure because it places the civilised and loyal subjects of the British Government out of the reach of the professional agitator and safeguards the interests of the law-abiding people. As has already been explained by the Hon'ble Member in charge of the Bill, certain circumstances in the year 1907 obliged the Government of India to enforce such an Act in the country. Its continuance up to the 31st March next is now advised by Local Governments and considered necessary in the interests of the people.

" I strongly support the Act of the Government in this respect and am confident that my Hon'ble colleagues will join with me in the belief that the prevention of seditious meetings is called for in the interest of the people of India. This is not the time to discuss at any length the harmful consequences of such meetings in the country. I therefore close my remarks with the hope that the continuance of the Act will be agreed to by all Hon'ble Members."

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR: " My Lord, I regard with great regret and disappointment the resolve of Government to bring forward this measure and to obtain its enactment. When the last session terminated without the introduction of a measure to continue the Act of 1907, and when there was nothing said in this Council to give an indication that Government contemplated taking any action in the matter, and especially when we found no announcements made of any legislation in that direction, there was a general feeling of relief and satisfaction in the country.

" My Lord, I most heartily and earnestly wish that Government had allowed that Act to expire by efflux of time and had not taken any steps for the introduction of this Bill. My Lord, I am not behind anyone in this hall, or out of it, in my anxiety to secure the cause of peace and order and law, and I fully recognize that they ought to be maintained above all things. I fully agree with what has been said by my Hon'ble friend the Nawab Sahib here, and my Hon'ble friend the Kour Sahib here, about the necessity of putting down seditious meetings by taking stern measures against all things calculated to disturb public tranquillity. My Lord, we fully recognise that there are occasions when summary powers ought to be given to the executive authorities of prohibiting all meetings likely to promote sedition or likely to bring about a disturbance of the peace. My Lord, what we contend is this, that the ordinary law which exists in the country is quite capable and adequate for this purpose. My Lord, it was pointed out in the debates which took place in 1907 that the Criminal Procedure Code and other general Acts were fully capable of ensuring that tranquillity without which society cannot exist. We have first of all that very powerful section (section 144 of the Criminal Procedure Code) by which

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a District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate, or any Magistrate authorised either by the Local Government or a District Magistrate or Chief Presidency Magistrate can stop and prohibit any meeting which is likely to bring about a disturbance of the public peace and to result in a riot or affray. The order can be passed *ex parte*, cannot be appealed against and is capable of remaining in force for two months *proprio vigore*; and, with the sanction of the Local Government, its period can be extended indefinitely, or it might even be made permanent. My Lord, this is a powerful section.

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"We have then Chapter IX of the Criminal Procedure Code, sections 127 to 132, under which any Magistrate or any officer in charge of a police-station may command an unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse. If they do not disperse the whole lot of them can be taken into custody and marched off to jail, and if the police are not sufficient to cope with a large assembly they can call upon private citizens to help them in their apprehension. If civil force is found not adequate, the Magistrate can requisition the military. My Lord, this is a very ample provision. There are certain Police Acts like the Bombay City Police Act, the Calcutta Police Act, the Calcutta Suburban Police Act, in which power is given to the Commissioner of Police to prevent harangues and prohibit meetings likely to endanger peace or cause contempt of lawful authority. There are then the sections in Chapter VIII, Criminal Procedure Code, which enable Magistrates to take substantial security from propagators of sedition and breakers of peace. My Lord, these are provisions which quite enable Government to preserve order and peace and obedience to law. My Lord, I would beg Your Lordship and this Council to take into consideration just for themselves whether this law has not, as a matter of fact, been found quite sufficient for the purposes of the country. This Act, which was passed in 1907, was preceded by an Ordinance in certain Provinces. We shall omit the Ordinance period, but this Act has been in force for two years and nine months, and during that period there has been no occasion whatsoever in which the Act was required to be put into operation anywhere except in four districts. Throughout the rest of the country the Act, as it were, was merely nominally in existence. It was a dead-letter; and yet, my Lord, the year 1907, as also the year 1908, were years of considerable anxiety, of very great tension and difficulty. And yet the Government and the people have been able to tide over that difficult time without resorting to the armoury supplied by the Act. My Lord, I can speak with considerable knowledge of a Province which was not free from this kind of trouble. We had not in that Province the same tension and the same difficulties that, for instance, existed in 1907 in Eastern Bengal, and exist to some extent there even now. We had nothing of the kind that existed in the Punjab towards the beginning of 1907, but there was a considerable effervescence of what may be considered as undesirable agitation in which advocates of *swarajya* and boycott held forth to large meetings attended by thousands. My Lord, all that has stopped. Both the Central Provinces and Berar are now as quiet as they were previous to 1906 or 1905. Not only that, there are no meetings even for legitimate objects held which are attended by any large section of the public. Now this change, or call it improvement—I am one of those who call it improvement, because undesirable agitation is not good for any one—this improvement, my Lord, has been effected without this Act being drawn upon. In fact, the notification putting the Act into operation was not issued for the Central Provinces till January 1910. There was only one occasion on which the Local Government thought it might be desirable to have the Act put in operation in the Central Provinces; but the Government of India at that time had left Simla and had not assembled in Calcutta, and the head of the Administration then took counsel and he found that the existing law was quite capable of achieving the object which he wanted. There was an assemblage convened to meet at Christmas, which was considered, by the authorities responsible for good government, undesirable, and they wanted to prohibit it. The thing was done by asking the District Magistrate of Nagpur to issue a notice under section 144 of the Code of Criminal Procedure, and the meeting was prohibited.

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" My Lord, there have been certain associations not considered very desirable; these associations have been wound up. There have been institutions which, with proper reason, were considered as more or less suspicious. All these institutions have been closed. All this, my Lord, has been achieved by a few prosecutions instituted under sections 124-A and 183-A of the Indian Penal Code, first of all, by some use, and that not on a very large scale, of the security sections of the Code of Criminal Procedure, and more than all this by the tactful and firm conduct of a police-officer of high standing, who I am glad to see enjoys the confidence of Government and who is present in this hall. My Lord, he knew what was the real significance of the situation; he had moved amongst the people; he had spoken to those whom his information led him to suppose were mixed up with these matters, and his method was to use tact, logic and a firm hand; and with these three weapons, my Lord, we have a restoration of the normal state of things in those Provinces. My Lord, if these methods have succeeded in a Province in which there was considerable agitation of an undesirable kind, and if we find that in other Provinces there has been a return—I shall not say in regard to everything, but in regard to what may be considered the bulk of the people, who were carried away by the visionary doctrines of these people—to a normal state of things without this Act being put into operation, my Lord, the whole case for the Act has been taken away. It proves that the ordinary law is quite capable of preserving the interests of good government and peace and that this measure is utterly unnecessary.

" My Lord, if this Act was directed only against seditious meetings, and if in terms it had referred to meetings which are likely to produce a disturbance of the public tranquillity, or meetings in which seditious language is believed to be likely to be employed, then those who are against this Bill might have seen their way to accord it their support. But, my Lord, the most offensive part of the Act is the total prohibition of all political meetings without a police permit. My Lord, this is undesirable even in the interests of good government, and it is undesirable from the Government point of view. If noxious doctrines are to be properly exposed, if undesirable propaganda are to be exposed in their true colours, this can be done only by a free opportunity being given to those who can explain the true methods to be followed and the true doctrines to be adopted. But, my Lord, those who would hold these meetings also stand in the same position practically as the advocates of *swaraj*. I do not know, if I called a meeting of that kind, a police-officer may not come and show his attentions to me. My Hon'ble friend Mr. Gokhale has spoken of the attentions shown to him. I believe he does not stand single in that; I have also to say the same thing of myself. I was going to Madras for a conference, which His Excellency the Governor of the place was going to attend; I was asked to take the chair on that occasion, and all the way from Berar to Madras I was followed by an inspector of police. My Lord, this is the way in which the police work, and if persons whom Government have been pleased to honour, persons whom the Government are pleased to consult on different occasions, if they are so suspect by the ordinary police sub-inspector, what can be the position of those who do not occupy the same position?

" My Lord, we feel that this law is a slur as much upon the Government as upon us. It proclaims to the world that the British Government in India does not like political meetings, and is afraid of having any discussion on any political question. My Lord, as a matter of fact, the Government has not done this, but unfortunately they have allowed to remain on the Statute-book a law which lends colour to this misapprehension. Is that fair to the Government? Is it just to the Government? It creates irritation in the minds of the people, and it raises an altogether wrong impression about the temper and attitude of the Government of India towards the population. The law is practically a dead-letter; it has not been put in force, and for aught we know it might never be put in force; why then keep it at all on the Statute-book? And, as I have said, if there was the least danger of not maintaining peace and order without

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such a law as that, then we would have been constrained to say yes, such a law should be kept. My Lord, I have, I believe, shown by testimony coming from official records that peace and order can be maintained without such a law, and I therefore submit with due deference, with the utmost respect, that Government were not well advised in asking for the introduction of this measure. My Lord, we have the authority of the Local Governments, but Local Governments have attributed, I am afraid, to this Act a potency which it is not entitled to. The change in the country, the effect which has been produced by various kinds of things, these have been attributed to this Act. My Lord, the improvement in the situation which is seen now is due, as I have said, partly to the enforcement of the ordinary law of the country, but more than that it has been due to the revulsion in the minds of the bulk of the community, and even of that small section of the educated community which was theoretically drawn to the foolish vapourings of certain persons; it has created a revulsion in the minds of these men even against the murderous proceedings of the school of anarchy, that has brought to the side of Government men who were lukewarm. The bulk of the people have been always loyal to Government, and with this revulsion the field for sedition has become very much curtailed. Another powerful influence which has been at work has been the policy of reform and conciliation which Your Lordship's Government has been able to put into operation.

"My Lord, these are the three things which have produced improvement in the present situation, and it is not this Act at all, which is practically a dead-letter, except in one district alone in Eastern Bengal. It has only been recently extended to the Punjab. My Lord, again the futility of such a measure is practically shown by the admission made by Sir Denzil Ibbotson in 1907. When the Act of 1907 was passed he said he did not see any necessity for extending that Act or rather for putting the Act into operation in the Punjab; the condition of the Punjab had quieted down. My Lord, the excitement in 1907 was due to peculiar causes; that excitement has passed away. In the Punjab the excitement was due to well-grounded apprehensions entertained by the agriculturists about the effect of the Colonisation Act and the enhancement of the canal-dues. Immediately Your Lordship's Government vetoed that Act and the people were saved from the threatened enhancement, an improvement in the situation followed. Even in Eastern Bengal I do not think the condition is so bad as it was in 1907. The partition of Bengal was the chief grievance. But the extraordinary state of things which existed in 1907 was in no small measure due also to the temper and attitude of the Local Government at the time. With a change in the personnel, even in Eastern Bengal, a considerable improvement has followed.

"My Lord, I cannot shut my eyes to that gaunt spectre of political assassination which has appeared on the horizon and the conspiracies to subvert the British rule which have recently come to light. My Lord, I would ask Your Lordship and the Hon'ble Members to see whether these murderous deeds and these conspiracies can at all be prevented by an act of this kind. The murderers and conspirators do not hold public meetings and do not hold forth in public; they carry on their nefarious projects in secret conclave, and these deeds and these conspiracies cannot at all be reached by this Act. We are perfectly agreeable that the hands of Government should be strengthened, that the authority of the executive Government should be strengthened, for putting down sedition and putting down lawlessness and disorder. We ask over and over again for the Government to see whether our experience of recent years has not demonstrated that that course can be maintained with the existing law. My Lord, in that case there is no necessity for this thing which casts a slur both upon Government and the people. My Lord, the Government and people constitute one family. With our Hindu ideas we consider that the Government occupies the position of the father of the family. We do admit with great sorrow, with great humiliation, that there are some members of the family who have become wild, turbulent and exceedingly undutiful. My Lord, we appeal to you as head of the Government whether, for the faults of a practically microscopic minority, it would be just, it would be fair, it would be

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politic, to treat all the members of the family equally, and to visit the anger upon all the members of the family. My Lord, Your Lordship's régime has been associated with reform and conciliation, and that same policy should, we humbly submit, be carried on even in regard to this Act."

The Hon'ble LIEUTENANT MALIK UMAR HAYAT KHAN said :—" My Lord, in my speech of the 30th of March last I drew the attention of the Council to the gravity of the present situation and urged the necessity of taking preventive measures to meet it. If I remember right, I had emphasised that point, and I am glad to find now that the Government has made some movement in the direction indicated by me by introducing this Bill.

"The measure is a most necessary one. But I am compelled to call attention to the undesirability of renewing the Act at frequent intervals. This causes unpleasant comment and arouses irritation, and in my opinion it is now time to place the Act permanently on the Statute-book. The law itself can harm no one and does not come into force unless a breach of it is committed. It will be seen that this Act is only applied to a few districts at present, and this is due to its having a great effect as a preventive measure.

"It is plain that extraordinary outbursts of crime require extraordinary remedies, and abnormal political agitation must be checked by abnormal measures. My Lord, I mean to direct my remarks mostly against the anti-Government class of agitators, and I hope my colleagues will not come forward to defend them.

"These meetings against which this Act is directed are of two different kinds :—*Firstly*, they take the form of ordinary gatherings or demonstrations in which no particular speeches are delivered. This form is objectionable because it excites the feelings of certain experienced youths and leads to trouble. *Secondly*, such meetings as are convened to hear the utterances of sharp platform speakers, who with full knowledge of the law use guarded words but manage to convey a meaning which produces undesirable effects on the mind of the public. Frequently enough their less clever followers when trying to reproduce the same ideas are unable to command the same moderated language, they let the 'cat out of the bag' and are caught.

"The consequences are of two sorts :—*Firstly*, if a speaker wants to produce a certain effect and uses guarded language so as to convey his views to his audience without getting into the clutches of the law, he can produce as bad an effect by his guarded words as by an openly seditious speech. *Secondly*, if he makes such a speech unaware of its consequences, though I am not prepared to believe that this can often happen, even then it is objectionable since it produces a bad effect. Some years back, when the Ordinance was not in force, it was noticed that there was a wave of revolt among the students in schools and colleges, a wave which spread from the eastern to western portion of India and was the direct result of such meetings and speeches. The consequence was the occurrence in the Punjab of a series of deplorable riots in certain towns though I am glad to remark that the predominant zamindar class was not much affected. I have said that this law will injure nobody. That is true. But of course it will be objectionable to a class of irresponsible people who have no standing of their own, and have no stake in the land, their only possession being the power of speech and their only ambition being to bring themselves into prominence by pretending to voice the opinions of their small communities and by claiming the right to set forth their own theories, which may be followed by their half-educated audience. They attempt to gain popularity by criticising in season and out of season every reasonable measure of the Government. My Lord, we hear many references made to history, to different nations, countries, times and circumstances, and also hear the quotations from the remarks of great men, which were made under particular circumstances, at particular times and for particular purposes, and thus these references and quotations cannot be applied here. It is said that history repeats itself, but I can positively say that properly speaking there have never been any two identical cases in the world, and when the causes are not exactly the same their effects cannot be possibly the same.

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"I hope when the present measure is opposed with such unsound arguments they will not be considered of any substantial importance.

"I don't profess to say that Government has never made a mistake, but I do find it difficult to believe that these people can prove that everything which Government does is and must invariably be wrong.

"In fact, some people instead of using their discretion and judgment merely take up a line which will please their ignorant and inexperienced audience and thus try to gain authority as popular leaders.

"But, my Lord, what is the invariable result? They arouse disaffection, they stir up alien feelings, and in the trouble which follows who suffers? Not they themselves, but the ordinarily quiet and peace-loving subjects of His Majesty. It is these unfortunate and innocent people who pay the price of the agitation. The agitator, as we have seen from many recent cases, nearly always manages to escape, and those who preach sedition by speaking or writing, if punished at all, receive much milder punishment than the deluded youths whom they use as their tools.

"It is most desirable that this Act should continue in force without interruption until it finally becomes permanent law. Most of us here realise the necessity of this measure, but there are people here as well as in England who cannot negotiate the difference between a party system such as that in England where they have two parties of the same nation who both want to govern their own country to the best of their ability and only have minor differences of opinion, and the state of affairs in India where they have two entirely separate communities with extremely divergent ideas as to the right administration of the country. In the latter case there is something more than a mere difference of views, and no encouragement should be given to the people who make it their business to stir up opposition between the two classes. The people who get the chance of expressing an opinion on the administration of the country are:—*firstly*, the graduates and others who complete their studies here or in England and who have from their childhood been occupied in the study of English literature, etc., in order to pass their examinations and have accordingly lost all touch with the actual state of affairs in India since they have never had the chance of coming into close contact with the real feelings of the people; *secondly*, certain members of Parliament who have either never been to India or have only visited it for short periods, and have got into wrong hands and have thus been misled. The best proof of their being misled is the fact that they persistently oppose the sections of the loyal class and support that other class which, since it has sprung into prominence, has brought with it sedition and unrest, and whose very existence may to some extent be responsible for the cause of disaffection and discontent.

"These classes cannot be said to voice the feelings of the people at large who are politically contented and don't want to be tampered with.

"My Lord, if I be allowed to say so, no sufficient steps have so far been taken to discourage the class I have referred to. The law is capable of the most useful effects, but it can only be really useful if properly applied.

"It is no use to prohibit small meetings of no great significance and leave untouched those which are the real curse of the country. We might as well try to kill an enemy by bruising his leg or cutting his little finger. To do so is only to exasperate him and to render him more dangerous. There is but one course before us—to go at the head and to sever it.

"Most dangerous of all in my opinion are those meetings which have been termed national or in which nationality is preached, and which delude many people into the idea that they comprise all India or are calculated to unite the diverse sections of the community into a nation that may resent being governed by another nation and may have a strained feeling against authority established by law and a fine administration the like of which India has never had before.

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"My Lord, I have made these remarks as I consider it my duty to speak the plain truth. I want to be heard here and also to be overheard in England. I am well aware that my opinions will appear distasteful to certain so-called leaders and orators of some sections and they may try to contradict my views; but truth is great and it will prevail.

"Having had my chance of speaking I think I may be unable to answer the criticisms which may follow my remarks, but I hope there may be Members of my opinion who may answer the critics. My Lord, there is a class in India waiting to see what the Government will do: we expect action, and a firm and resolute one, to stamp out sedition and disaffection from the country. Let Government take decisive steps and all the best elements in India are with it.

"My Lord, I should like to remark at the end, as I had done once before that whenever there is a great opposition, the public generally think that the opposing party is in the right and the Government won't listen to their arguments, and this idea creates a bad effect; but I hope this time they will also see that we, the supporters of the Bill, also represent big classes, and they will form a conclusion after judging the whole debate and not any particular speech of a favourite speaker and will also bear in mind that if we had known that the measure was unnecessary and the Government was wrong we would have been the foremost to oppose it.

"My Lord, with these remarks I strongly support the measure."

The Hon'ble MR. MADGE said:—"My Lord, the limits which have been suggested by the Hon'ble mover of this Bill for the range of our present discussion, with reference to the issues that ought to be raised here, have been so freely transgressed by almost every speaker that I hope I shall not be held to have disregarded the suggestion made if I echo the hope that has been already expressed that, not only will this Bill be passed, but that it will not be very long before the provisions which it extends find their proper and permanent place in the criminal law of the country. Before I give my reasons for this hope, which I shall do very briefly, I should like to say, no doubt to the great astonishment of my Hon'ble friend Mr. Mudholkar, that I share in the disappointment that has been so strongly expressed by him. But the sources of our disappointment are as poles asunder. If I am disappointed, my Lord, it is because the eloquent speakers who have already addressed you have not been careful to trace the relations of cause and effect between this Bill and the Press Act in respect of their influence upon the seditious spirit that was spreading throughout the country. It is all very well to say that the suppression of that spirit is attributable to the ordinary law of the land. I respectfully submit that it is nothing of the sort; and that a Government which came before the people with both its hands full of concessions would not have passed such a law as this if the ordinary law of the land had sufficed to suppress anarchy and sedition. It is because the ordinary law of the land entirely failed that the Government was forced into this position. And to anybody who stands up here and says that this is going too far, and that it is irritating, and all that sort of thing, I wish to say as gently and as respectfully and in as friendly a way as possible that you are like a physician who takes up a dangerous case, who finds that his diagnosis is correct, that his treatment is effective, that the promise of it is not small, and who finds that he is soon arriving at success, but who suddenly stops short and says, 'not because I have failed but because I have succeeded, I shall shut up'. To me action of that sort appears to be wholly unreasonable. If this measure, or rather the combined action of them both, has succeeded in suppressing the evil spirit that was spreading, through the Province to which I belong all over the country, I think the Government is acting with wise prudence, in the interests of the people more than in its own interests, in bringing in legislation of this sort, the effect of which appears to me to be wholesome. It has been said that the powers that are to be entrusted to the Executive are dangerous. But they do not strike me as being more dangerous than the powers that are entrusted to a successful surgeon. The lancet is a

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very dangerous thing; but when employed in skilful hands, it secures life oftener than it produces death; and I have had no reason from the Government's action to suspect either its skilfulness or its gentleness. I am not a blind advocate of the Government at all. I have watched its proceedings for some time past with great care, and I have had no reason from any of its actions to suspect either its skilfulness or its gentleness. Indeed, my Lord, I may say from what I have heard down below of the temperament of the Government, that so far from being thought at all unreasonable and cruel, its action has sometimes been thought to be sentimentally weak. I do not here endorse that sentiment; but I only repeat it here for the purpose of balancing the remarks that have already been made. And now, if I may be allowed in a few words to give my reasons for the hope that I have expressed: they are briefly these. Crime is crime, whatever you may say about it. The differentiations of crime are of degree and not of kind. All law more or less desires to protect society and the public peace, and the breach of any law tends both to the disruption of the public peace and the breaking up of all the best interests of society. It has been said that the murderous hand of the assassin is not the result of public proceedings. I take occasion to deny the accuracy of that remark in the most emphatic manner. The hand of the assassin is often moved by speeches full of *double entendre*. I have made it my business to study some of them. I happen to understand the languages of the country, not perhaps as well as every Indian, but better than most Europeans. I have detected the *double entendre* of many insinuations that have been publicly made with such carefulness as to guard the speaker but to send fire into the hearts of susceptible people. My Lord, that is a public proceeding one end of which may be out of sight but the other end of which is exposed to everybody. Remarks have been made about the action of the police whom it is no business of mine to defend. I have studied the police systems of several countries in the world, and I think it may be laid down generally that the average morality of the police, with a few exaggerations one way or the other, is the morality of the country to which they belong. I do not make this remark offensively, but as a fact of sociology which must be impressed upon the conscience of everybody who observes and thinks. Very well, my Lord, if that is the case, I wish next to refer to some remarks that have been made about patriotism. I think true patriotism ought to be directed, not so exclusively to political advancement as towards raising the moral tone of the people. I speak as a member of a very small community which is flanked on all sides, and I make it my business to abuse their vices privately but to defend their virtues as much as possible in public. I think that is the right attitude for most people who wish to act as patriots to take; and I think that if the great talent and the great energy that have been displayed by so many political speakers had been directed to wiser channels, there is 'a stream of tendencies, not of ourselves, making for righteousness', and if any man throws himself into that stream, he shall be allowed to do things for the uplifting of his people. I have found that in a very humble way and on a small scale, and if on the larger scale which is presented to my Indian friends, many of whom I love and respect exceedingly, they would take that line of action and raise the morale of the country and of its police, as it is open to them to do, I think very little complaint would remain about the conduct of the police. In conclusion, my Lord, I wish to say that I cannot understand on what sound principle of civilized jurisprudence there can be any advocacy of intermittent legislation against crime. If a law is good in itself, it ought to stand recorded always; and I think much less irritation would be caused by the permanence of a law of that sort than by its being continually brought up before the Legislative Council."

The Hon'ble MR. SACHCHIDANANDA SINHA said:—"My Lord, on 1st November 1907—when the Seditious Meetings Act was under the consideration of this Council—the Hon'ble Sir Harvey Adamson, speaking with the authority of a Home Member, propounded a curious theory in regard to the presence of non-official Members of this Council at Simla on the occasions of debates on contentious measures like the one under discussion today. He said:—"If Indian Members considered the matter to be of vital importance, they

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would no doubt have undertaken the journey which would have deposited them at the doors of the Council chamber. Their absence proves that either they approve of the Bill or at least do not so strongly disapprove of it as to consider their presence necessary.' I do not know, my Lord, if Sir Harvey's views are shared, to any extent, by the Hon'ble Mr. Jenkins, but lest my absence should give rise to any such unwarranted presumptions as those formulated by the late Home Member, I have deemed it to be my duty to come up here today, to be able to place before the Council the views of that important section of the people of the Lower Provinces whom I have the honour to represent in this Council.

"My Lord, there can be no two opinions that the measure under consideration is one of an exceptional character, and I submit that an extraordinary law, meant for special exigencies, should not be allowed to remain on the Statute-book when the circumstances that justified it no longer demand it. It cannot be doubted that the Seditious Meetings Act—the operation of which we are asked to renew today for a period of five months, after its becoming inoperative by efflux of time—is a measure of exceptional and extraordinary character, as it seriously curtails the liberty of public discussion and vests, in the hands of our police, powers of interference with the public, which, even when exercised with the greatest tact, are bound to produce irritation, annoyance and inconvenience. Under the Act as it stands, power is given to the police to interfere with all kinds of gatherings of twenty or more persons, whether they be in a public place or a private house. Religious and social gatherings are not excepted, so far as the powers of the police are concerned. It is obvious that such extensive, discretionary powers vested in a body of men like our police—who of whom the most charitably-disposed persons cannot draw a flattering picture—can only result in constant conflicts between them and large and important sections of the people. And for one seditious meeting that the police may be able to suppress, acting under the powers conferred upon them by this Act, there are sure to be several instances when, owing to misdirected zeal on their part for ferretting out sedition, respectable and law-abiding subjects of His Majesty, the King-Emperor, are likely to be subjected to unnecessary and unjustifiable annoyances, in their efforts to carry on perfectly peaceful and legitimate, constitutional agitation for political reform and which we claim as one of the indefensible and most cherished rights of all British subjects. Such, my Lord, has actually been the case in East Bengal, where conferences, as to the peaceful and constitutional character of which guarantees had been given by the organizers to the District-officers, were not allowed to be held.

"The Seditious Meetings Act was passed to put down—to quote the words of Sir Harvey Adamson—the 'acute disorder that prevailed in the Punjab and in Eastern Bengal', and it was admitted by the Government that it was 'a repressive measure of considerable potency'. The question, to my mind, is that, even assuming that such a measure was necessary at the time it was enacted, in the interests of law and order, whether the present situation is not so improved as no longer to require the continuance of the Act, which is a serious menace to the exercise on the part of the people of one of their most valued rights as British subjects, namely, the right of public association for purposes of free and open discussion of public questions on constitutional lines. Now, unless, my Lord, I have misappreciated the significance of the assurances given by Your Lordship on the occasion of inaugurating the last session in Calcutta of this Council, as also the statements made recently by the Under-Secretary of State for India in the House of Commons, it is clear that the situation in the country has materially improved of late, and if things are allowed to proceed as they are, without the application of fresh irritants in the shape of such legislation as the one before us today, the chances are that matters will take an even yet more favourable turn and the apprehension of any widespread or serious trouble, as the result of allowing liberty of public discussion, does not seem to me to be well-founded. The Punjab—one of the two unfortunate Provinces the state of affairs in which was made to justify this exceptional enactment at the time—has been, so far as I can see, quite tranquil,

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and the better mind of East Bengal, on the occasions of the conferences which were unfortunately suppressed, gave evidence of a sincere desire to co-operate with the public authorities. As for the other Provinces—they have all been peaceful and quiet all these years, and even when this Act was passed no reference was made to their condition as justifying any such extraordinary legislation, in derogation of popular rights. I submit, therefore, my Lord, that the very special circumstances which might have justified so stringent and drastic a measure having fortunately very largely disappeared, there is no justification now for the Executive to ask the assistance of this Council to sanction the continuance of this 'repressive measure of considerable potency'. As a matter of fact there is ample provision made in the Code of Criminal Procedure, in section 144, for the suppression of mischievous or seditious public meetings, and it was while purporting to act under the terms of this section that the authorities at Barisal dispersed the session of, in my opinion, an innocent gathering, viz., the Bengal Provincial Conference, in March 1907, months before the present Act was passed. I venture to say, therefore, that in section 144 of the Criminal Procedure Code, the executive authorities have vested in them ample powers for meeting all cases where public assemblies are likely to resort to mischievous or inflammatory propaganda.

"It is alleged in the Statement of Objects and Reasons of the present Bill that the Act 'where put into actual operation has been effective in stopping several meetings which, it was feared, if held, would have given rise to disturbances; and even where it has not been enforced its moral effect as a preventive measure has been invaluable.' Now, as to the first part of the allegation, I confess it is a mystery to me as to how it could have been known that meetings, which never were allowed to be held, could have resulted in disturbances. Possibly the alleged fact was ascertained through some occult process, unknown to the non-official Members and familiar only to our omniscient official colleagues. But in regard to the second part of the allegation, namely that the Act, even where it has not been enforced, has had 'invaluable moral effect' as a preventive measure, I think it my duty to inform the Council that in the Provinces of Behar and Agra and Oudh—with which I may claim to be in intimate touch—the only effect of the Act has been that of demoralising public life and practically paralysing all healthy and legitimate public activities. Its existence on the Statute-book and its subsequent extension in January last to all the Provinces which were till then exempt from its operation, has materially and seriously affected constitutional public work needing joint effort and co-operation, and, as such, it has been fruitful in engendering in the public mind a feeling of deep dissatisfaction amongst those who, during the recent period of storm and stress, tension and excitement, have been unswerving friends of law and order. That after the sincerely loyal support we have given to the Government in Behar and the United Provinces, and thus strengthened their hands in combatting undesirable and unhealthy unrest in some other parts of the country, we should find ourselves so distrusted as to be placed under the veritable sword of Damocles, in the shape of this frankly repressive legislation, has caused us, I beg to assure Your Lordship, the deepest humiliation as casting an unmerited stigma on our loyalty and on our unswerving adherence to peaceful, constitutional public work. What I have said above of the character of public work in Behar and the United Provinces will, I have no doubt, be endorsed by the Hon'ble Mr. Earle—who was our Commissioner at Patna till recently—and by the Hon'ble Mr. Meston, who, though he left the United Provinces of Agra and Oudh some years back, is nevertheless in close touch with the affairs of his old Province. If it be said, however, that it is impossible to make exceptions in a measure meant to affect the whole country, I submit that in matters of such legislation as the one before us today, it seems to me a wrong principle to proceed on the lines we are asked to do. It was pointed out by that great and distinguished jurist, Sir Henry Maine, that the true principle of Indian legislation should be to enact measures for particular tracts and Provinces and then to extend their operation to other parts of the country, in the light of the experience gained of their actual working in the smaller area. Whether

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this principle be feasible or not in other departments of legislation, I venture to say that it is a most desirable course to follow in the matter of enacting repressive measures. Almost all our Provinces are now supplied with the requisite machinery for legislation, in the shape of Provincial Councils, and I confess I cannot understand why it should not have been left open to the Provincial Governments to enact in their Councils such measures of exceptional legislation as may be required by the special exigencies and requirements of their territorial jurisdiction, in place of having an all-India measure like the one before us, which in its broad sweep grinds all—the guilty few and the innocent many.

“ In conclusion, my Lord, I desire to express my view that in coming before the Legislature for assistance in enacting this measure, it was not right, it seems to me, for the Executive to rely only ‘ on the unanimous advice of Local Governments ’. Far be it from me to say one word in derogation of the value or importance of the opinions of our Local Governments, but nevertheless the fact remains that to accept the views of the Local Governments only and to act upon them is to proceed upon purely *ex parte* lines. Surely, my Lord, there are other people to be considered, other interests to be taken into account—the interests, views and opinions of the great educated Indian community—great not necessarily in numbers but in their influence and importance—whose healthy public activities are seriously menaced and jeopardised by this measure. I fear I cannot honestly say that the Government have considered the question—as they should have done—from *our* standpoint, the standpoint of the people. If they had done so, I am sure they would not have felt so ‘ convinced ’, as they are alleged to be in the Statement of Objects and Reasons, as to the continuance of the Act. That the Local Governments should have recommended the continuance of a measure which offers them the shortest cut to the accomplishment of what they desire is what we can all understand, but that the Government of India should have failed to weigh the *pros* and *cons* of the question; from the popular standpoint, is something which I can not but sincerely regret. I fear that the continuance of this Act will act as an irritant instead of an emollient, and that it is likely to engender discontent where it does not at present exist, and I cannot, therefore, see my way to give my support to the proposal before the Council.”

The Hon'ble BABU BHUPENDRA NATH BASU: “ My Lord, I must say that I rise to speak in this Council with a feeling of considerable diffidence. My Lord, I do not conceal from myself that I exhibit in my person all the defects of the race from which I come. I am a Bengali of Bengalis, and I have taken a very prominent and active part in opposing that measure which Bengal has taken so deeply to heart. Therefore, my Lord, in addressing this assembly I have to combat some amount of prejudice at least against me personally. But laying aside those personal considerations which I appeal to this Council to do, they may for the moment forget and treat me not as a Bengali but as the advocate of the cause which I am trying to place before this Council on this occasion, I shall venture to place my views on the proposed legislation of today. My Lord, having regard to the statement made by the Hon'ble Mr. Jenkins that this Bill is intended for a period of five months only, and that the question as regards its renewal is as yet undecided, I probably should have seen my way not to enter into a detailed examination of the merits of the measure before us. But, my Lord, I feel a sort of strong presentiment which I cannot, I honestly say, resist, that what is sought to be continued today may soon be made permanent. If, my Lord, with Your Lordship's experience of five years' administration in India we have been unable to give the quietus to this measure of 1907, it is hardly to be expected that a Viceroy who will be new to the conditions of India with an Executive Council which also has been recently recruited will be able to withstand the pressure of the Local Governments and to resist this measure being put permanently on the Statute-book. My Lord, a question has been asked in this Council as well as outside: do the circumstances of today resemble those which led to the introduction of this measure in 1907? That is a question to which a frank, a decisive, a clear and an exhaustive answer was expected. If it is the fact, my Lord, that there is

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no intention of renewing this Act after five months are over, then probably no answer was needed; but having regard to the absence of a declaration to that effect, I should have expected—the public in India expected—that there should have been an exhaustive statement of the grounds which led the Government to continue or to renew this measure. My Lord, it is never pleasant to go back to the history of old times in connection with repressive legislation. My Lord, if it were open to me, if I thought it was necessary, I could place before this Council facts and circumstances which were deemed sufficient by Government to justify the passing of the Act in 1907—facts and circumstances which, if properly stated, would put a very different complexion upon the responsibility of the parties concerned in the passing of that measure. But, my Lord, since I came to this meeting I have decided not to rake up old memories. I shall assume for the purposes of my argument—it is not necessary to go further—I shall assume for the purposes of my argument that a state of things did exist, whoever may have been responsible, in 1907 which justified the passing of this measure. I shall fully place myself, if it is possible for a humble citizen to do so, in the position of the Executive Government in 1907. We feel, all the members of the public appreciate, the difficulties, and, my Lord, we also appreciated the studied moderation of the speeches which Sir Harvey Adamson made on that occasion in this assembly. My Lord, as I have said, I shall assume that conditions existed which necessitated the passing of this measure in 1907.

“My Lord, does not the question strike one that before reproducing or continuing this measure there should be an inquiry as to whether the circumstances of today are similar to the circumstances of 1907? That is a most necessary inquiry in this matter. My friend, the Hon'ble Mr. Madge, has been pleased to give *carte blanche* to Government in passing any criminal law which it likes if it thinks it is for the benefit of the community which it governs. I do not dissent from that proposition, but I shall show later on what is the objection of the people to the Government passing a measure of criminal law, in which it places itself in the position of a judge of its own action. I do not think my friend, the Hon'ble Mr. Madge, will for a moment defend the Lynch Law of America, where an infuriated populace seeks speedy justice against an offender and where no form of trial is gone through or allowed to be gone through. Nor do I think, if he had carefully considered that prospect, he would lay down the proposition that the Government is at liberty to pass any measure such as that before us today, and to constitute itself sole judge in carrying that measure through in practice.”

The Hon'ble MR. MADGE : “I did not say so, my Lord.”

The Hon'ble BABU BHUPENDRA NATH BASU : “That is the effect of the legislation which we are considering today, and that, my Lord, is our chief ground for opposition to the measure.

“My Lord, since 1907 the atmosphere has been considerably cleared. We hope and trust that the murderous conspiracies which had blackened the good name of our country, which had made us hang down our heads in shame and humiliation, have been hunted down and thoroughly extirpated. My Lord, the whole moral sense of the community has been roused against the perpetrators of crimes like these. There unhappily—I say so with shame and sorrow—has arisen in Bengal a new class of crimes. We have seen recently young men and boys of respectable families taking to dacoities which are considered in many instances to be political. My Lord, nothing more cowardly can be conceived, than the making of raids upon defenceless homes, than the torturing of innocent women and children and aged householders in order to make them divulge their hoards, their ornaments and their jewellery.

“My Lord, I belong to the middle classes of Bengal, classes which have been honourably known from time immemorial for their strict adherence to the principles of morality and religion; and I say, my Lord, that I have no words to express how deeply I feel the sense of shame and sorrow for the conduct of these young men. If it were possible to lay bare my heart-strings to this

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assembly, they would see upon them the impress of the deepest humiliation. But, though I frankly confess that these crimes, which have tarnished the fair fame of the Province from which I come, must be suppressed, I respectfully venture to join issue with Your Lordship's Government as to whether the means that you are adopting today is the best means, or in any way a desirable means, by which this form of crime can be suppressed. My Lord, does anybody really think that crimes like these or crimes which were unhappily the result of the insane band of conspirators who assembled at Manicktolla, are perpetrated on house-tops or in the bazars of India for the people to see and hear? Would the suppression of public meetings in any way conduce to the suppression of this class of crimes? I do not think, my Lord, that this Act would have that effect. Then, my Lord, when introducing this measure into the Supreme Council, Sir Harvey Adamson was pleased to complain of the want of co-operation with the police of the loyal and law-abiding portion of the Indian community. My Lord, people in India often wonder how our rulers spending a lifetime in India manage to remain so ignorant of the real state of affairs in the country and the people they are sent out to govern. I am afraid that this feeling of wonder is not wholly justified. From the very nature of things those who come out here to govern, though they live in India, mostly live a life apart from the Indian. My Lord, if Sir Harvey Adamson had ever occasion to be cited as a witness in a criminal case—to dance attendance on the inquiring or trying Magistrate from day to day and from place to place, to enter into recognizance bonds for due appearance, to be harassed by the police if his statements did not bear out their theory, to be sometimes browbeaten by the Magistrate who was imperfectly acquainted with his language and seldom aware of his position in life, to neglect his field if he was an agriculturist, to neglect his work if he was a labourer, to neglect his business if he was a professional man, and not to be paid anything for all this trouble, for all this annoyance, then I am sure he would not have made the observation that he made on that occasion. No one rejoices more than his many friends in Bengal at the well-deserved promotion which has been bestowed upon Sir Harvey Adamson; but I may take the liberty to say that if it were possible for Sir Harvey Adamson as a private citizen in Burma to start a criminal case—to institute a case when he next loses a coat or a ring—and after he has done so I would ask him his opinion about co-operation with the police. But, my Lord, apart from this, before we have recourse to a repressive measure described by Sir Harvey Adamson as one of 'considerable potency', is it not fair to us, the Indian communities, to consider whether the existing law is sufficient or not for the purpose which is sought to be attained by this legislation? My Lord, there are two stages in dealing with crime: first of all the preventive stage, and then the punitive stage. Let us see, my Lord, what are the powers that the Executive possesses under the preventive provisions of the ordinary criminal law. I shall not go into details which can only interest a lawyer, but I shall take the broader features of the case. There are provisions in the criminal law by which a Magistrate may bind down any obnoxious person to keep the peace or be of good behaviour. My Lord, recently, while considering the provisions of the Press Act, my Hon'ble friend, the Law Member, with his usual ability, pointed out that those provisions were of no avail; that the writer of a seditious pamphlet might be bound down to keep the peace and be of good behaviour, but at the very next moment he would set up some other person through whom he would spread his poison. That may be or may not be so; but, my Lord, in the case of seditious speeches I do not think my learned friend would suggest that it is possible for a seditious speaker to speak through a dummy. My Lord, all the effect of the speech depends upon the personality of the man; it is his voice, it is his magnetism, which move audiences, and *benami* speeches will have no effect in spreading sedition or poison. Then, my Lord, my friend was pleased to say that, in undertaking cases for prosecution, Government had to allow a large margin. I may point out to my friend that these are safeguards which the law and the wisdom of ages have provided for the safety of the citizen. The laws provide that in matters of sedition, where the action of Government is challenged, Government should not act in a hurry. My

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Lord, I do not wish to labour that point, but I have said, and I wish to repeat it with some degree of assurance, that the preventive powers given to Magistrates under the present law are sufficient. Added to those which I have already placed before this Council are the powers which have been referred to by some previous speakers of stopping meetings under section 144 of the Criminal Procedure Code. Everybody knows here that those provisions—the provisions of section 144—have been liberally exercised in the past, sometimes, alas, punctuated by regulation *lathis* as in Barisal. My Lord, meetings have been stopped which were considered by only those who were not in touch with the public to contain in them elements of disorder and sedition. I may instance as an example that the great commemoration meeting which was intended to be held in Calcutta on the Partition Day in 1908 was stopped under this very section on the eve of its being held. The orders issued at about 4 o'clock, when nearly 50,000 men had assembled to hold the meeting, and after the orders were promulgated all this vast crowd quietly dispersed. So also meetings in various other places in Bengal and East Bengal have been stopped under section 144. What more then is wanted?

“ I have dealt with the preventive provisions of the Act of the ordinary criminal law as it now stands. I will now proceed, my Lord, to another branch of my argument—the punitive provisions. I do not think that the most reactionary member of any Government in India would for a moment deny that the punitive provisions which the Penal Code lays down are sufficiently hard. My Lord, the lot of the political offender in India is different from that of a political offender probably in any other civilised country. He is treated as an ordinary felon; he is set to do hard work which to him, unaccustomed as he is to this work, is much harder than the work allotted to the ordinary criminal drawn from the criminal classes of India. He is sometimes flogged, and it has not been unknown that he has been dragged in chains through crowded streets. I suppose, my Lord, that this mode of punishment is resorted to to humiliate the man in public esteem. My Lord, from Your Lordship's place in Council may I appeal to those who inflict punishments like these to consider as to whether heavy punishments do not sometimes, do not oftentimes, make men overlook the heinousness of the offence and rouse the sympathy of the populace towards the unhappy offenders. And if, my Lord, it is not a profanation in this assembly to refer to the incident, they should not forget that One, whom the larger part of the civilised world adores today, was made to carry His own cross through the streets of Jerusalem.

“ My Lord, I have ventured to labour the point that the preventive and the punitive provisions of the law are quite sufficient; to ordinary men they would appear to be more than sufficient. Why then have recourse to exceptional and dangerous legislation? That the legislation is exceptional has been admitted by the Government itself; that it is dangerous will probably also be admitted. I take the opportunity of quoting from one of the recognised writers in England on subjects dealing with the political administration of the country. I shall not quote from German or French or Italian authors, but I will quote from an Englishman of undisputed authority. Mr. Sidgwick says:—

‘ It is an important practical security for freedom of political utterance that man shall not be prevented from writing and publishing what he likes by any interference before the act, of an executive official—but only restrained by the dread of punishment. It is indeed indispensable to maintain this security if we are to get the advantage of free criticism of the acts of the executive; since the question, whether such criticism has kept within the legal limits laid down for it, is too delicate a one to be left to the judgment of the persons criticised.’

“ My Lord, if a provision like this—if a law like this—is considered dangerous in European countries, where at least they have a homogeneous Government, it is much more dangerous under the system of Government under which we live. My Lord, we have our ruling class mostly recruited from outside and for a considerable time necessarily ignorant of the feelings, the sentiments, the habits, the usages and the customs of the people they are called upon to govern. In the meantime they have got to gather their knowledge from sources available to them. I will not repeat the commonplace of sitting on the safety

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valve. The Government of India is too firmly established to care that 'sedition should be driven underground'. My Lord, that may be so, but is it too much to say that the heart-beat of the nation can only be audible to Government through the mouth of its public speakers? And is it proper, is it necessary, that this channel of information should be closed? My Lord, that I am not speaking as a mere theorist, that I am not speaking as a mere idealist, as a mere sentimentalist, as one who is bound to oppose the Government in season and out of season, I say, my Lord, for the delectation of my friend, the Hon'ble Malik Umar Hyat Tiwana, that on many occasions I have manfully supported the Government notwithstanding the severe disapprobation of my own countrymen where I have felt it right to do so. I say so not as a mere theorist. I appeal to the experience of Hon'ble Members here as to what has been the effect of the recent legislation regarding the Press and the platform in Bengal. Notwithstanding the high authority of Sir Edward Baker, I may be permitted to speak with some degree of knowledge. In Bengal public meetings have ceased to be and the voice of the people has ceased to be heard, due to the fact that no body of men professing to represent the voice of the people would care to hold a public meeting with the sanction of the District Magistrate, with the names of the speakers approved, with the language of the resolutions to be passed settled, with the lines of the speeches to be made laid down. And do you think that if anybody could be found to hold such a meeting many people would care to attend it? And would such a meeting be helpful to Government? Would it be any index of the public sentiments in the country, or would it be merely a repetition of what the District Magistrate wants to be said? My Lord, let us take the case of newspapers. I am not a pressman myself, and Members of Council need not fear me as such; but I have been in close touch with many pressmen in my part of the country. I find, my Lord, that effective criticism of Government and of public measures has been stopped since the recent legislation; and papers, which were keen critics of public events, are now given to discussing affairs in Timbuctoo and in Kamtschatka, or discussing the agricultural conditions in Brazil or Mexico. That certainly is not a desirable state of things. My Lord, what is it that is wanted? Does the Executive—does Mr. Jenkins—want that we shall have a silent India, an India, so to say, in a deep swoon, an India where you do not feel the heart-beat, an India in which you do not feel the throbbing of the pulse, an India buried in some subterranean vault and seen only through the coloured slides of the Criminal Investigation Department? Is it wanted, my Lord, that the Government should live in some pleasure, secluded from public opinion and public view like Prince Siddharta, from whom it was sought to exclude a knowledge of the world until he became the Buddha? Or is it, my Lord, that the Government wants to be in touch with the people it governs through the Press and the platform which are the only channels open to them?

"My Lord, I have spoken with some degree of warmth. I belong to the tropics and the effects of the recent legislation have been too potent for me to keep silent. If the suppression of the Press and the platform could bring the millennium to India, I certainly would support it with my friends opposite. But, my Lord, Your Lordship should bear in mind that you cannot overtake the heels of time; you cannot harness the thoughts of men; you should bear in mind that you can no more suppress the surging forces rising around you than did the old English King suppress the swelling billows of the sea.

"My Lord, is it too late to appeal to Your Lordship's Government to follow the right path? Your Lordship has shown what the right path is. Your Lordship has inaugurated reforms which are destined at no distant date to bring about a better understanding between the people and their rulers. You have, my Lord, after the lapse of a century and a half, first made us realise that there is a knocking on the wall with which the bureaucracy has delighted to shut itself round. Why, my Lord, should not Your Lordship go on courageously on the path on which Your Lordship has set the journey? My Lord, why should we not trust to natural remedies; why have recourse to remedies of exceptional potency which may as well kill as cure, and which more often kill than cure?

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" My Lord, I am coming to the end of my observations. I am speaking, as I frankly confessed, under a deep sense of despair—despair because, my Lord, I feel that whatever I may say the Bill will pass into law, and I feel, my Lord, that at no distant date what is sought to be continued today will be made permanent. My Lord, 'coming events cast their shadows before'. But, my Lord, I am not absolutely without hope. I feel, I believe, my Lord,

' that good shall fall,
At last—far off—at last to all,
And every winter change to spring.'

" Would it be, my Lord, permissible for me to quote in this assembly the famous passage of St. Paul in his second epistle to the Corinthians: ' We look not at the things which are seen, but at the things which are not seen; for the things which are seen are temporal, but the things which are not seen are eternal'. We Hindus, my Lord, cradled in the religion of the Vedanta and Upanishads, we also look at things which are not seen. In the beautiful language of my country, used more than 2,000 years ago, the measure that is sought to be passed today is but a ripple on the wave of time, and will pass away. If I were not inspired by that hope and that belief, knowing how weak and ineffectual our voices were, I should not have come a thousand miles and more to record my humble protest. But, my Lord, for the day the defeat may be ours, but—

' The races rise and cluster,
The evils fade and fall,
Till chaos blooms to beauty,
God's purpose crowning all. "

The Hon'ble SIR VITHALDAS THACKERSEY said:—" My Lord, whatever may be the fate of this motion, whether the Government chose to accept the advice that the country may be given an opportunity to prove that no coercive measures are necessary for the ordinary purposes of Government, or stick to their opinion and continue this Act for five months, I hope the principles enunciated by the Hon'ble Malik Saheb will not receive acceptance. My Lord, our religion has taught us, we have been taught from the very beginning in our own homes, to consider the relation between the Government and the people as between parents and children, and not as enemies. The principles may be quite acceptable in Turkey or in Persia, but I am sure that they cannot be accepted by the most conservative of the conservatives in the British Government. Now with regard to this Bill, I may say that if I were satisfied that it is necessary for the preservation of law and order, I would be the first to support it.

" When the original Bill was before the Council in 1907 the Home Member then in charge of the Bill said: ' We were unwilling to legislate until we had seen whether the Council reforms that were laid before the public would meet any response in allaying seditious agitation'. He further went on to say: ' I beg that this condition may be taken as qualifying every word that I say today, namely, that the Bill is designed to operate only in exceptional circumstances, exceptional cases and exceptional times of insecurity'. Now, my Lord, is the condition of India such as to justify the continuance of a measure which was, according to the quotation I have read, introduced and passed to meet exceptional circumstances? The reforms, as has been already said here, so wisely and courageously initiated by Your Lordship and carried through with all the courage of a statesman in spite of enormous difficulties, have, I may say, enormously improved the situation in the country. This fact is not denied. Even the Under Secretary of State in the House of Commons declared the other day that the situation had improved and that reformers have been drawn to the side of Government owing to these reforms. I submit, my Lord, therefore, that to my mind it is not necessary to continue the operations of this Act any longer. Again, my Lord, in opening the first Council under the new Reform Scheme in January last, Your Lordship feelingly declared—' No one

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has longed more earnestly than I have to allow bygones to be bygones, and to commence a new administrative era with a clean slate'. My Lord, I appeal to Your Lordship that it would be quite in keeping with the spirit of that observation to allow the present motion to drop and to give an opportunity to the people to prove that the Act is not necessary. And, after all, my Lord, what risk is incurred by Government in following that course? As has been pointed out, the present Act expires on the 31st of October. In all probability the next session of this Council will commence about the 10th or 15th of December. There is an interval of only five or six weeks during which this coercive Act shall not be in existence, and this is certainly a very short time, during which an opportunity, as I have suggested, may be given to the people. If after putting confidence in the people, the confidence is abused or misused, it is quite open to Government to come forward and introduce the Bill, which is proposed to be continued from the 31st of October; and in that case I am sure Government will get the support of all reasonable men for the preservation of law and order as they got support at the time of the Press Act. That position will be considerably stronger than the position of Government today when it is proposed to carry this Act in spite of opposition. As I have said, the risk is very small indeed. My Lord, the action that I have suggested will give a personal gratification to Your Lordship that you will leave this country peaceful and contented. It will also deepen the sense of gratitude in the minds of my countrymen, in whose hearts Your Lordship has secured a permanent place of respect and love, and will also be a crowning finish to Your Excellency's glorious régime which has been so successful in spite of enormous difficulties. Your Lordship may justly take pride in handing over the government of the country to your illustrious successor brighter and more hopeful."

The Hon'ble MR. MAZHARUL HAQUE said:—"My Lord, I have given my most earnest and anxious consideration to the Bill before the Council, and I have come to the conclusion, though rather reluctantly, that both in the interests of the Government and the country no fresh lease of life should be given to the Seditious Meetings Act of 1907. With every desire to support the Government in their efforts to weed out sedition and anarchy from the land, I feel that I cannot conscientiously support this measure. There may have been some justification for passing this Act in 1907, when some parts of the country at any rate were in a disturbed state and required rather severe handling, but now the country has quieted down and there is no longer any reason why the Statute-book should be disfigured by retaining a measure which is looked upon by a vast majority of the people with strong feelings of bitterness and resentment. I do not wish to be misunderstood. I believe that the Government of India, when they passed this Act, were actuated by the sole motive of grappling with a situation which had well-nigh become intolerable, and possibly the Act has been instrumental in clearing the atmosphere and relieving the tension to a certain extent. But I also believe that the necessity for its continuance no longer exists, and that it should now be consigned to a well-merited oblivion. The little good that it is supposed to have done hardly compensates for the evils and the soreness of feeling that it has brought in its train. Last February, in Calcutta, while announcing the release of the deportees, Your Lordship was pleased to remark that the agitation which till then had been carried on had degenerated into an anarchical conspiracy and that there was no longer any necessity for keeping these men in detention. Thenceforward it was the duty of the civil authorities to find out the criminals and bring them to justice. How truly had Your Excellency gauged the situation then, and has Your Excellency ever regretted the step taken at that time? Is it not a fact that the peaceful condition of the country for the past six months has conclusively proved that those wisacenes who mournfully shook their heads at this graceful act of clemency and conciliation were false prophets and that Your Excellency was entirely in the right? Why not follow a similar policy as regards the present measure? I do not believe that the people of India are so degenerate and lost to all sense of gratitude that they would not appreciate and respond to a great kindness such as this. My opposition to this measure is also based on the

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principle that if the ordinary laws of the land be sufficient to cope with a certain class of crimes, it is highly impolitic to enact special laws. These only magnify and bring into prominence offences which should never be given any undue and mischievous publicity. Trials under special Acts attract the attention of the public to the personality of the offenders, who are at once raised to the position of martyrs to the cause, while if they were tried under the common procedure by the ordinary Courts of Law they would be treated as ordinary offenders, and what is more to the point they would get their proper deserts. At any rate there would not be any very great sensation about these trials. What I object to is the unnecessary and objectionable advertisement that a certain class of offenders receive by trials under special laws. In my humble opinion, the provisions of the present Code of Criminal Procedure are more than sufficient to prevent and suppress any meeting which had the propagation of sedition as its object. I am speaking in the presence of some eminent lawyers and especially of the towering personality of my learned friend the Hon'ble Mr. Sinha—the pride of all India—and of course, my Lord, I speak with great diffidence. But I may confidently say that all lawyers will agree with me that Chapters IX and XI of the Code of Criminal Procedure abundantly provide for the cases contemplated by the Seditious Meetings Act. As a matter of fact, there have been cases in which these provisions were enforced and successfully too. If my reading of the law is correct, then the question arises, why not utilize the common law of the land and thereby give a quietus to this perpetual agitation against repressive measures? The present Bill has the virtue of shutting the mouth of a few—a very few—of the seditionists, but has, at the same time, the fault of muzzling the vast majority of the loyal subjects of the Crown. Why punish the innocent many for the sins of the guilty few? Is that noble principle of British justice that it is better that ten guilty men should escape than that one innocent man should suffer to be reversed in this instance? A few youthful lunatics have taken it into their head to subvert the peace of the country by committing murders and outrages, and the whole country has to pay the penalty. Take the case of my own Province of Behar. I am alluding to my own Province by way of illustration. Otherwise the argument holds good for most parts of India. Behar is, as it has always been, free—singularly free—from the taint of these revolting crimes. Ask the Hon'ble Mr. Earle, who was so long in Behar that we Beharees consider him as one of ourselves, whether the soil of Behar is congenial for the propagation of the seeds of treason and sedition. Ask the Hon'ble Mr. Carlyle, another European Beharee in this Council, whether I am wrong in my description of Behar. If we Beharees have not offended and are not likely to offend against the law, then why should we be made to suffer along with the criminals of some other parts of the country? It is no use telling us that so long as we do not play with sedition we need not fear anything. The law is there and we are living under a sense of insecurity. Any day a foolish act on the part of a misguided youth may bring the whole Province into the clutches of the law. My Lord, it is neither sound statesmanship nor good policy to alienate the feelings of a warm-hearted and generous but sensitive people by enacting repressive and irritating measures. In the long run it can do no good either to the people or the Government. It has been truly said, where repression fails, conciliation can do wonders. And after all what has been the sum-total of the achievements under the Act which has been now in force for the last three years? Three or four districts only have been proclaimed and perhaps the same number of meetings suppressed. What a ridiculously paltry and insignificant result when compared to the abnormal and unhealthy excitement and irritation which is kept up throughout the country by the continuance of this obnoxious law. The ostensible object of enacting this law is to suppress agitation, but it defeats its own object by keeping that agitation alive, and very much alive.

“My Lord, I also strongly oppose this Bill on the ground that it effectually prevents the co-operation of the people with the Government. I am one of those who believe that the salvation of India lies in sincere and honest co-operation between the Government and the people and also between the different

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communities and races of India. The recent alarming and mischievous growth of numerous sectional and sectarian movements cannot but retard the progress of the country and must make the task of governing it a very difficult one. If the Hindus and Mussalmans quarrel among themselves, then there is no hope for India. If the officials and non-officials look askance at each other, then the cause of our country is lost. Let us have done with this policy of suspicion and distrust. Let us have toleration and sympathy for each other's views. Then and then alone we can hope, in the fulness of time, to place India in its proper place among the civilised nations of the world.

"My Lord, this law has killed the public life of my country by taking away the right of public speaking—one of the most cherished privileges granted to us by the British Government. In place of meetings for the discussion of problems affecting the vital interests of India, we have now meetings for collecting subscriptions and voting addresses of welcome to the officials. This is a consummation which even the framers of the law could hardly contemplate with any degree of satisfaction.

"My Lord, India has just stepped into the field of modern civilisation. She is a young but a growing nation, with aspirations and ideals of her own. For her children it is an up-hill work to reach the summit. Mistakes are liable to be committed at the commencement of their career. It is the noble task of British statesmanship to correct these mistakes and to guide the activities of the people into proper channels. The difficulties are many and numerous, but surely tact and sympathy can surmount them. Of course, it is much easier to destroy than to build. The aspirations of a young nation can be nipped in the bud and the public life of a country like India be given a blow such as this Act contemplates which would kill it without any hope of resurrection. All this is extremely easy. But such a catastrophe could hardly redound to the credit and glory of England, in whose hands an all-wise and merciful Providence has put the destinies of India. I for my own part have an undying faith in the statesmanship of the British people and refuse to take any pessimistic view of the situation.

"Your Lordship has inaugurated a new era in this country—an era of conciliation and goodwill. The signs of a mighty change are already visible in the distant horizon, and if my countrymen would only keep to the path opened out for them by Your Excellency, their future is assured. My only regret is that the last act of Your Excellency's Government has been of a repressive nature. It could have been of a different description, but the fates had decreed otherwise."

The Hon'ble KHAN ZULFIKAR ALI KHAN said :—"My Lord, I think the proper time to pronounce a definite opinion about the Prevention of Seditious Meetings Act will be in March next, when its fate will be finally determined. At present it is proposed to let it live for five months more than its allotted period; but a brief review of the paramount necessity which compelled the Legislature to resort to extraordinary measures in order to cope with a novel and alarming situation would not, I believe, be inappropriate. My Lord, we all remember so well the time when sedition in India made its first unwelcome appearance. It was then supposed to be a negligible quantity and no serious attention was paid to its mischievous activity while it rapidly assumed alarming proportions. Platform speakers lost no time in promoting insurrectionary spirit of disorder and hostility to the English Government. Riots and disturbances of very serious nature imperilled peace all over India and the forbearance of the authorities was construed into weakness.

"It soon became manifest that an organised system of assassination and widespread network of intimidation received their sustenance from the subtle intellects of speakers who did not shrink from any falsehood which was industriously propagated concerning the intentions of Government. Young men committed outrages of a most atrocious character which caused desolation and misery in many a happy home, and there can be no doubt that these crimes were the simple translation into fact of the strange theories which had been so complacently propounded in public meetings.

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"My Lord, it was openly preached and dinned into the willing ears of callow students that the Government established by law in India was a relic of a hateful history and a symbol of an unjust domination.

"These and many other theories had the most disastrous effect on the morale of the people. But at last the exigencies of public justice and the claims of humanity awakened the Government to the sense of its responsibility; and the Prevention of Seditious Meetings Act was at once produced from the armoury of the Legislative Department.

"The effect was very salutary—the atmosphere which was surcharged with anarchical ideas was partially cleared of its impurities, and no better proof of its efficacy and indisputable necessity could be imagined than the comparative security of life and property which has resulted from its operations; still every now and then we are reminded of the contrast between the reality and semblance of things, and we cannot by any means conclude that the political barometer in India yet points to set fair. India is traversing a period of untimely and painful transition and a single false step at a juncture like this may produce grave political crises; and I would say that, in the interests of this country, it would be very unwise to let loose those tongues which almost succeeded in subverting the reign of law and order which happily prevails in India.

"My Lord, experience has shown that those of my countrymen who use all legitimate and peaceful means of demanding rights have nothing to fear from the application of the Prevention of Seditious Meetings Act and it hits only those who have evil intentions. My Lord, to my mind the Press Act and the Prevention of Seditious Meetings Act are virtually interdependent and the one without the other will be a perfectly futile measure. I would therefore suggest that they should run concurrently.

"In concluding these remarks I feel confident that all law-abiding people will be always only too happy to support the Government in the proper discharge of its primary duties to maintain law and order, vouchsafe justice and fair play, and uphold the sanctity of life and property in India."

The Hon'ble Mr. N. SUBBA RAO said:—"My Lord, I hoped that, if Your Excellency's Government wished to take power to continue the Act for some time longer, it might arrange to go down to Calcutta, say, a fortnight earlier than usual and submit the Bill for the consideration of the full Council in accordance with the established practice and the intentions of the Secretary of State in the transaction of important legislative business. Further, by October next it would have become clear to the Government, if it has not already become so, that there would be no necessity for continuing this 'repressive measure of considerable potency,' to quote the words of the Hon'ble Sir Harvey Adamson. Or, if Your Excellency's Government did not wish to put itself to this inconvenience, it might have allowed the Act to expire in the ordinary course of things, and leave it to Your Lordship's successor's Government to determine whether the then situation would demand the re-enactment of this exceptional legislation. This course would have the advantage of testing whether 'during the interregnum,' when the Act ceases to be in force, the so called 'moral effect' of this measure would in any way be lessened.

"But vain are these hopes, my Lord, when we consider the peculiar conditions in which the Government is placed. It has become evident that the Government feels that it cannot get on without this Act on the Statute-book and it does not feel comfortable if this measure is held in abeyance even for a month or two.

"I have felt compelled, therefore, my Lord, to attend this meeting, though at short notice and with much personal inconvenience, to enter my humble protest against the view that the Government has unfortunately taken of the political situation of the country and submit that the circumstances of the country do not call for this legislation at this juncture. The more so, my Lord, as I did not wish to leave any room for the responsible members of the Government

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to draw the presumption, as the Hon'ble Sir Harvey Adamson erroneously did when this Act was passed in 1907, that 'the Hon'ble Members who are not present either approve of the Bill or at least do not so strongly disapprove of it as to consider their presence necessary'.

"I am sorry, my Lord, that the course which the Government has chosen to adopt is likely to mislead the public in England and lend color to the wrong impression that this country is so dangerously insecure that this exceptional legislation should be continued. My Lord, I must confess I that am obtuse enough not to see the necessity for this Bill. Since the Act was passed in November 1907, it was extended immediately on the 1st November to the Province of Eastern Bengal, where it was enforced on the 7th idem in the district of Bakarganj and latterly on the 14th March last in the districts of Bakarganj, Faridpur and Mymensing. I understand that the only use made of the Act in those districts was to prohibit the holding of District Conferences which might equally have been done under the Criminal Procedure Code. On the 13th of January last the Government was pleased to extend the Act under one and the same notification to all the other Provinces—Madras, Bombay, Bengal, the Punjab, the United Provinces and the Central Provinces. What is the reason for this wholesale extension of the Act? None is assigned in the notification. I should like to be enlightened by the Hon'ble Member in charge of the Bill as to the special circumstances in these several Provinces that necessitated the extension of the Act. If, as suggested, the object of the Legislature were to produce an 'invaluable moral effect' as a preventive measure in these Provinces, though there might be no occasion to enforce its provisions therein, it would not have invested the Governor General in Council with discretionary power to extend the Act from time to time to different Provinces. In justifying the extraordinary powers conferred by the Bill, the Hon'ble Sir Harvey Adamson assured the Council that 'that the Bill is designed to operate only in exceptional circumstances, exceptional places and exceptional times of insecurity.' 'As to the range of the operation of the Bill, the Government of India have retained it entirely in their own hands, and I can assure the Hon'ble Members that the whole circumstances will be well weighed before the Bill is extended to any Province.' Your Lordship in bringing the proceedings to a close observed 'it seems to have been generally assumed that, because it is applicable to the whole of India, it is to be universally enforced. That has never been the intention of the Government of India.' Thus it is clear that the intention of the Act is that each Province has to be judged on its own merits and the discretionary power has to be exercised with reference to the circumstances of each Province. I regret, therefore, that the discretion given to the Executive by the Legislature was not properly exercised for the benefit of the subject. Take the case of the Province of Madras. There were two cases of disturbance before the Act was passed. One was the defiance of authority on the part of the students of the Rajahmundry Government Arts College in April 1907, in connection with the wearing of the 'Vande Mataram' medal. It was a freak of the moment repented amply at leisure. This was the only disturbance at Rajahmundry, and it was due to the advent of Babu Bepin Chandra Pal from Bengal, the exponent of the cult of *swaraj*, who is now in England. The other was the smashing of the European Club at Coconada by some among the lower orders of the people in May 1907, the immediate cause of which was the severe thrashing given to a boy by Dr. Kemp, the District Surgeon, for shouting 'Vande Mataram'. The leading townsmen of Coconada immediately held a public meeting deploring the occurrence and strongly condemning the conduct of these people. These two cases were before the Act. After the Act was passed, there was a riot at Tinnevely in March 1908, when the municipal office was attacked by the mob. The District Magistrate had to give orders to fire and punitive police was quartered on the town. Yet it was not found necessary to put the Act into force in that district. What then was the necessity to extend the Act to Madras in January last? The Province was absolutely quiet and no sense of insecurity was felt anywhere. I believe that what is true of Madras might with equal reason be

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said of the other Provinces. I shall leave that matter to be dealt with by my Hon'ble Colleagues—who have more intimate acquaintance with those Provinces.

"My Lord, I shall now refer to the general political situation of the country. If there is one thing more than another which is striking with regard to the present situation of the country, it is the returning faith of the people in the beneficent intentions of the Government and their recognition of its earnest desire to meet their just aspirations and enlist their co-operation by giving them a larger share in the administration of the country consistent with their self-respect and capacity. There is no doubt that during the last few years an anti-British propaganda aiming at absolute *swaraj* was preached by a few visionaries, driven to despair, among other causes, by the seeming failure of the methods of constitutional agitation. The impressionable and unbalanced minds of some young men were unlinged by this new doctrine of *swaraj*, and their misguided vision was dazed by the prospect of a short cut to independence. But soon they have come to learn from bitter experience that in adopting western anarchical methods they have been playing with fire and wrecking their own lives, with no good to any one. We can safely say that this wave of artificial discontent has well nigh passed away and spent its force, I hope, no more to return and retard the peaceful evolution of this ancient land. But one lesson is writ large on the face of the country, and that is, that there is no other royal road to progress, in whatever direction it may be, whether social, religious or political, than the path of constitutional advance, though slow and arduous. The gospel of revolt for attaining freedom, though new on the political arena, is not new to India. It has been continually preached these several years from religious and social reform platforms with the sympathy and encouragement of Europeans also, and the Hindu society, disorganised as it is, has in its own way been pointing to the path of constitutional reform for its future evolution and defending itself against attacks inspired by a spirit of 'random rebellion' by having nothing to do with those who revolt against its ideals, traditions and usages. So far, my Lord, the air has been cleared of misapprehensions in ideals and methods of work.

"I submit, therefore, my Lord, that, as testified to by the Under Secretary of State for India at the recent discussion of the Indian Budget, there has certainly been a revulsion of feeling in favour of the British Raj. The improvement in the situation is entirely due to the courageous steps taken by Your Lordship in the direction of reforming the administration of the country and to the abhorrence of the people to the anarchical methods adopted in some places. I submit that true statesmanship requires at this juncture that this tide of feeling in favour of the Government should be fully taken advantage of and nothing done to rouse the suspicions and resentment of the people and retard the good work that is in progress.

"Your Lordship has well observed that the success of the future development of the country must be based 'upon the united efforts and co-operation of British and Indian administrators' and that 'the fellow service of British and Indian administrators under a supreme British Government is the key to the future political happiness of this country'. We appeal to the Government to steadily persevere towards this noble goal for which, I may take the liberty to say, Your Lordship has worked so hard. I have no doubt that when the Indian is accorded a status of equality with his British administrator and feels that he is a real unit in the administration of the country, he will realise that the Government is as much his as that of his British fellow-subject. We can then hope to see the fruition of the united efforts and co-operation of British and Indian administrators in the future development of the country.

"But, my Lord, I feel bound to mention in this connection that there is a serious obstacle in the way, and that is the persistence with which anti-Indian propaganda is preached by a certain section of the Anglo-Indian Press which finds favour with a certain class of Europeans in this country and abroad. I submit that so long as this attitude of hostility and contempt towards the legitimate aspirations of Indians continues, so long will the beneficial effects of reform undertaken by the Government from time to time be

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delayed and the efforts of the Government to draw the people to its side and inspire them with confidence in its good intentions and acts be frustrated. This attitude of hostility is an important factor which has contributed to the present situation and which has to be seriously reckoned with in the future development of the country. Action and reaction are equal, and unless this attitude of hostility is replaced by one of goodwill and sympathy, the rapprochement between the people and the Government will be seriously interfered with. My Lord, measures directed to bring about the happy results contemplated by Your Lordship are at present needed, but not this 'repressive measure of considerable potency'.

"I am told, my Lord, that there is still a revolutionary party in some parts of the country and there are also conspiracies of young men hatched in secret and finding vent in murders and dacoities. It is hardly necessary to say that this Act does not pretend to touch them and cannot hope to suppress them as it deals only with public meetings convened openly in broad daylight. But the Government has taken full powers to deal with secret societies and is strong enough to wipe them out.

"It is said, my Lord, that Local Governments want these powers to be held in reserve. Power is sweet, no doubt, and every Government, where the people have no voice, would like to have not only these powers but powers much more drastic. The question is whether each Province is so insecure that the Provincial Government should be armed with such powers. I submit that, as suggested by the Hon'ble Mr. Gokhale, each Provincial Government should be asked to take power through its Legislative Council, where local conditions could be well considered and local knowledge brought to bear on the subject, and it should not take shelter under the discretionary power of the Government of India.

"In this connection I am tempted to draw the attention of the Council to the present condition of Ireland and the recent debate in the House of Lords on the subject. My Lord, I may submit that the present condition of this country is nothing so dangerous as the condition in certain parts of Ireland, where boycotting, cattle-driving and shooting are carried to a degree which is described as 'scandalous and intolerable' by Lord Lansdowne. It was pointed out that the number of shooting outrages had increased from 60 in 1906 to 520 in 1909. Unionist peers urged on the Liberal Government the paramount necessity for putting the Crimes Act in operation. The answer to this is noteworthy. 'Coercion is no cure. Remove the cause of discontent and you remove the trouble in Ireland.' The Earl of Crewe pointed out that it had not been proved that the application of the Act had ever put down crime. Thus the Liberal Government steadily refused to listen to the counsels of repression so freely offered, and I hope Your Excellency's Government would equally refuse to be moved by alarmists who cannot gauge correctly the present situation and who would welcome any drastic measure because they themselves would not be affected by it.

"I should have been happy, my Lord, if I could have seen my way to support this legislation. But, my Lord, we feel that this Act has a deadening effect on the legitimate activities of the people. We feel the demoralising tendency of this exceptional legislation which would do more harm than good to the country. We feel that it is an undeserved slur on the loyalty of the people. We feel that the ordinary law is sufficient to meet the exigencies of the situation. We feel that the present improved political situation of the country does not call for this repressive measure. For reasons such as these, my Lord, I feel bound to oppose the Bill."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA said:—"My Lord, the measure before the Council is of exceptional importance, and perhaps it is due both to the Government and to the public, a portion of whom at least I claim to represent, to state the reasons why I think it my duty to oppose the motion that the Act for the Prevention of Seditious Meetings should be continued for another five months. My Lord, after the many able and elaborate speeches that have been made against the motion, it will not be necessary for me to take

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up much of the time of the Council. But I must complain at the outset of the action of the Hon'ble Member who has moved for leave to introduce the Bill in having thrown the burden of making out a case for not continuing this Act upon the non-official Members. My Lord, I understand that it has been the rule in respect of all legislative business which comes before the Government of India, that the Hon'ble Member who introduces a Bill should state clearly the reasons upon which his motion is based, and should set out before the Council the facts and circumstances which would enable Members, non-official as well as official, to decide whether to vote in favour of the Bill or against it. The Hon'ble Member has told us very briefly that all that the Bill aimed at was the continuance of the Seditious Meetings Act for only five months. He has also told us that the Local Governments have unanimously demanded it. So far as he was concerned, he was no doubt free, as he was willing, to surrender his judgment to the judgments of the Local Governments, particularly of one which is presided over by a gentleman of the experience and large views of Sir Edward Baker. But he seemed to forget that there were other Members in the Council who were not in the confidence of these Local Governments as he evidently happens to be; who did not know what the circumstances were which had led Sir Edward Baker and other Local Governors to ask for a continuance of this Act. My Lord, there is a certain responsibility resting upon the non-official Members of this Council as well as upon the official Members. It is also given to us to think, and we have to satisfy the still small voice that even we feel within us that there is some justification for supporting a motion to saddle the Statute-book of the country with a measure which was described by Sir Harvey Adamson, as many speakers have reminded the Council, as a repressive measure of considerable potency. This exceptional measure, intended for exceptional times and exceptional places, has now been on the Statute-book for nearly three years. The Government of India when they passed it almost offered apologies for introducing it, and for asking that it should be continued for three years—such was the state of the country at the time. Sir Harvey Adamson repeatedly said that the measure was intended for exceptional times and exceptional circumstances only, and he took the greatest care to point out that in order that the measure might lack the element of permanency, the life of every notification which was to be issued by a Local Government to declare an area to be a proclaimed area was confined to a period of six months.

“My Lord, the assurances given by Sir Harvey Adamson and the remarks which fell from Your Excellency in concluding the debate, had led the people to believe that unless some very special circumstances which would justify the continuance of that measure were shown to exist, it would be dead on the 31st of October 1910. It was with much surprise and regret therefore that we learnt that, while the Government was at Simla, a Bill would be introduced to give a new life to this repressive measure even before it is dead. I submit, my Lord, that in the circumstances of the case it lay heavily upon the Hon'ble the Home Member to place before the Council facts and circumstances which would enable the non-official Members to decide whether they should give their support to the measure or oppose it. I may be permitted to say, and I am sure Your Excellency will accept the statement, that it is not a pleasure to non-official Members to oppose Government measures. We feel the very reverse of pleasure in opposing them. But we feel, my Lord, that we are here to express opinions which we can justify first to ourselves and then to the public. We feel that we are to be judged not by this Council only but also by the much larger and far more important body of our countrymen who are keenly watching the conduct of non-official Members as well as that of Members of the Government in dealing with any legislation which affects them.

“Now, my Lord, we might all of us agree in the view that when the circumstances which gave rise to this legislation ceased to exist, this measure should have been allowed to die a natural death. Let us see therefore what those circumstances were and whether they exist in the country today. When the Regulation of Meetings Ordinance of 1907, which was a prototype of the Act

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which is now under consideration, was issued, it was stated in the Statement of Objects and Reasons which accompanied it that the 'acute disorder' which prevailed in the Punjab and in parts of Eastern Bengal had led to the passing of the Ordinance. My Lord, that acute disorder had almost died before that Ordinance was issued; it certainly did not exist when in November 1907 the Government decided to pass the present Act. But even assuming that there were circumstances in 1907 which justified the passing of the Act, or at any rate satisfied the members of the Government that it was necessary in the interests of good government, in the interests of the preservation of the public peace, that a strong measure like that should be continued or be placed on the Statute-book, the Hon'ble Member who has put forward the motion under consideration before the Council was bound to satisfy this Council that these circumstances or conditions similar to them exist today when he seeks to give a new life to the measure. When piloting the measure through the Council, the Hon'ble Sir Harvey Adamson said that he had no desire to disguise the fact that the measure was one of considerable potency. He justified it however on the ground that in his opinion in the then condition of India such a measure was necessary. My Lord, what are the conditions which exist now? Do they make even the faintest approach to the conditions which existed in 1907? Sir Harvey Adamson complained at that time that the scheme of constitutional reforms which the Government had formulated had not brought about such a change in the public mind as had been expected, and that the Government felt that they had to deal with a section of irreconcilables. But we know that the scheme of reforms originally put forward has, after undergoing many important changes, been carried out since; and notwithstanding the fact that there have been some serious complaints about the regulations framed under the new Councils Act, no one can deny that the reforms as a whole have been received with a feeling of gratitude and have greatly improved the political situation. I believe that there has been a consensus of official and non-official opinion that the reforms carried out have brought about a marked change for the better in the attitude of the general public towards the Government. Is that change to count for nothing in determining whether a repressive measure should be allowed to die its natural death or should be kept alive by fresh legislation?

"We have been told that the Local Governments have asked for the Act. With due respect to the Local Governments we cannot blindly substitute the judgments of Local Governments for our own. My Lord, it is difficult for us to understand why, while all that is open and visible to the public eye indicates an absence of those conditions in the country which should justify the re-enacting of a repressive measure like the one before us, while it is undeniable that there is a world of difference between the conditions which obtain in some Provinces and those which prevail in others, all the Local Governments are unanimous in recommending that such a measure should be brought on the Statute-book for the whole of this vast Indian Empire.

"My Lord, the political situation in India was carefully summed up not long ago in the letter which the Government of India addressed on the 14th March last to the Government of Bengal and to the other Local Governments. In that letter Your Lordship in Council was pleased to recognise that nowhere in India was any considerable proportion of the population imbued with the spirit of disaffection towards the British rule; that there was a party, small in numbers, though of considerable influence, in the opinion of the Government, which was opposed to the continuance of British rule; that among this small party also there was a class which was opposed to a resort to violence; that the other class which advocated and practised the methods of terrorism consisted 'for the most part of youths who are still at school or college, and of young men who have not long passed that period of their life'. The letter went on to say that these active revolutionaries were most prominent in parts of Bengal and Eastern Bengal and Bombay; that their movement had spread to the Central Provinces and Berar, and to the Punjab; but that it had made little headway in Madras and in the United Provinces; and that the Government of India had received no information of its existence in Burma and in the North-West Frontier Province. That being so, I

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appeal to Your Lordship, I appeal to every Member of the Council, to judge what change has been brought about since March last which should justify the saddling of my Province, the United Provinces, or of Madras, or of Burma or the North-West Frontier Province with this repressive measure. My Lord, one event has no doubt happened, and that a very sad one too, namely, the death of our beloved King-Emperor. But the demonstrations of grief which that event called forth should have satisfied even the most sceptical mind that the heart of the people is sound; that they mourned the loss of the King-Emperor with as much sincerity as their fellow-subjects in any other part of the Empire; that they would not have done so if they did not appreciate the British connection and did not want the British rule to continue. What else, my Lord, could be the meaning of the great demonstration that took place in Calcutta, where a hundred thousand Hindus walked a long distance in a burning sun, bare-headed and bare-footed, in order to give united and public expression to their grief? My Lord, there have been manifestations of similar grief all over the country, and there are movements going on at present in all Provinces to raise suitable memorials to the revered memory of Edward the Peacemaker. With these evidences of a strengthening of the feeling of loyal allegiance to the Crown that has long existed in the minds of the people, is this the time for the Government of India and for the Local Governments to ask for a continuance of a repressive measure the life of which is to expire by efflux of time in October next? One should have thought, my Lord, that the Government would at such a time have welcomed the removal by natural death of a measure which it has seldom, if ever, found it necessary to use, but which must always be a source of irritation and complaint to the great body of the loyal and law-abiding population of the country, particularly as there is nothing special in the existing circumstances which would justify an opposite course.

"It may be said, my Lord, that the Government cannot ignore the existence of the band of terrorists and anarchists. Your Lordship was pleased, in that same letter to which I have referred, to deal also with the case of these misguided enemies of their country and of its Government. I need not repeat, what several other Members have said before me, that every sensible man who has the interests of this country at heart must deeply deplore all anarchical outrages and all unconstitutional action. But it cannot be said with any reason that the prevention of public meetings of twenty persons and more will exercise any restraining influence upon evil conspiracies, on the action of those who hatch their plots in secret, and who must, by the very nature of things, always endeavour to carry out their diabolical designs without all avoidable publicity. It is important to remember in this connection that the existence of the Act in question has not evidently hampered terrorists in their action during the last three years. This Act cannot therefore be claimed to be a remedy for that disease.

"Your Lordship's Government was pleased in the letter of March last not only to analyse the political situation but also to suggest some suitable remedies, if I may say so, with the eye of a statesman. The Government expressed its belief that the seditious movement is in the main due to ignorance and misapprehension of the natural consequences of British rule in India; that though there existed in the ranks of those who were hostile to that rule a residue of implacable hatred of all alien intrusion, 'all the information which has been placed before the Governor General in Council supports the view that the majority of the advocates of nationalism have been misled by shallow arguments and prejudiced statements'. The obvious remedy for this state of things was that the other side of the case should be put before these young men. Your Excellency therefore wisely called upon all officers of Government, and indeed all supporters of law and order, 'to do his best, each in his own sphere, to combat misrepresentation and to remove misapprehension regarding the character and results of British rule'. The officers of the Education Department were rightly asked to check the spread of seditious views among their wards by sympathetic discussion and kindly guidance; the attention of all District-officers was directed to the necessity of taking leading men in each

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district into their confidence, and of cultivating a courteous and considerate demeanour towards all with whom they are brought in contact. The concluding portion of the letter stated :—

'The Governor General in Council believes that there is every reason to expect success for a policy on the lines described in the foregoing paragraphs. There is much ignorance and misunderstanding on the subject of British rule in India, and thence has arisen a spirit of disaffection. That spirit has not spread far, and the wrong impressions on which it rests are capable of removal by conciliatory discussion and earnest remonstrance. Many supporters of this so-called nationalist programme have taken alarm at the development of what they regarded as a permissible political movement into the fanatical outrages of the terrorist section. The moment is favourable for detaching them from the party of disaffection and for convincing all but the most extreme of the danger to the general welfare of persistent attacks upon the foundations of the established Government. The great body of the people are entirely loyal and prepared to join with the officers of Government in this mission against disaffection.'

"I submit, my Lord, that that was a clear and statesman like pronouncement on the policy which the Government should pursue at the present time. It supplied the true remedy for the disease from which the country has in parts suffered and is unfortunately still suffering. But these methods of conciliation require that a free and public discussion of grievances and views should be encouraged rather than discouraged, cases of any serious abuse of the liberty of speech or meeting being left to be punished by the ordinary laws of the land. At any rate the policy of sympathetic guidance and conciliation which the Government of India deliberately decided upon but a few months ago will be to a large extent stultified if this fetter on the freedom of speech and action is continued, if this repressive measure is given a fresh lease of life. This being my view of the situation, I submit with great respect that the Government should not go on with the proposed legislation. I fully realise how vain it would be to hope that the Hon'ble Member in charge of the Bill will drop the motion. But, my Lord, I consider it my duty to say that it is very unfortunate that he should not be able to do so. There is nothing more important at this juncture for the good government of this country than that there should be a feeling abroad among the people that the Government are willing more than ever to listen with sympathy to the representations of Indians to give due consideration to the wishes and opinions of representative Indians, who are quite as much anxious to uphold law and order, as being the *sine qua non* of peaceful progress, as any official member can be. Your Lordship has seen that there is a large body of unofficial opinion almost begging that the Government should not proceed with this measure. In these circumstances, unless the Hon'ble Member can lay before the Council the opinions of the Local Governments that he has received and relied on, unless he can disclose facts and circumstances which show that there is a danger that, if meetings are allowed to be held freely as they used to be held before this Act was passed, this circumstance will tend to disturb the public tranquillity or lead to some other crime which cannot be dealt with by the existing enactments, I submit, it cannot but be deplored that the Bill should be proceeded with and passed.

"I do not wish to dwell at length upon the existence of other provisions in the law which place ample power in the hands of the Government to suppress meetings which are likely to promote sedition or to lead to a disturbance of the public tranquillity. Some speakers who have spoken before me, including the Hon'ble Mr. Madge, have said that the existing law is not sufficient. My Lord, it is not necessary for me to enter into a discussion with these gentlemen as to whether that is so or otherwise. My lawyer friends have presented the correct view of the situation. Besides, an ounce of fact is better than a ton of argument. The Council has had a few such facts placed before it, facts which go to show that meetings of 50,000 persons and more in Calcutta, and other large meetings in Nagpur and Eastern Bengal, have been dispersed quietly under section 144 of the Criminal Procedure Code. It may be said that if it is a fact that both in that section and in the section relating to unlawful assemblies there is ample power given to the Executive to disperse any assembly which it considers to be objectionable, then why should we object to a measure of this character, which merely gives the same power to Government which it already

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possesses under other Acts? The reason for this is this. We submit that while the powers which the Government possesses under the other Acts are amply sufficient to deal with every individual case or cases of the abuse of the right of meeting that may arise, the conferring of this general power of proclaiming an area, by which the voice of the whole population there may be silenced, is most dangerous and unjust. My Lord, what is it that may happen under such an Act? As some of my friends have pointed out, some mischievous miscreant or some misguided young man talks a little nonsense in a place, the police send up long reports of danger to the State or to the public peace, and the whole district is proclaimed. I do not say that the Lieutenant-Governors and Governors of provinces do not fully weigh the situation; but they are after all human, and therefore liable to err. They have to act upon the reports of the man on the spot, who in his turn must act upon the reports of the police or of the Criminal Investigation Department. And we have had sufficient instances of the abuse of the powers given under the Act.

"We have seen how for the faults, more imaginary than real, of a few men or a small coterie of men, the population of a whole district, the great bulk of whom must, as the letter quoted before has told us, be regarded as undoubtedly loyal to the Government, have been deprived of the right, which they enjoy under the British Government, of free public meeting and of giving free expression to their opinions and their sentiments, to their grievances and desires in relation to public questions which affect or interest them. It cannot but be regarded as a serious public grievance that, for the misconduct of a few individuals, the whole community in a locality should be prevented from freely exercising a privilege which they have never abused.

"My Lord, not only has no necessity been shown for the measure before us, but there is also the fear, as my friend the Hon'ble Mr. Gokhale has pointed out, that a repressive measure may itself, by being abused in its working, lead to promoting the evil which it was intended to cure. The Seditious Meetings Act and the Press Act have both already given illustrations of the truth of the old adage that the sight of means to do ill deeds often makes ill deeds done. Look for instance at the action of the authorities in Eastern Bengal in suppressing three district conferences and the meeting which sought to help the depressed classes. I venture to doubt if the said conferences or the said meeting would have been stopped if the Seditious Meetings Act had not been in existence. Look again at the action taken in several places under the Press Act in contravention of the pledge given by the Government when it was going through the Council, and think of the irritation which the abuse of its provisions must cause in the public mind. So long as the Government will keep these two measures on the Statute-book, I regret to say, but I feel it my duty to say it, so long will all efforts to conciliate public opinion generally be beset with unnecessary difficulties, will continue to be unnecessarily difficult of accomplishment.

"I do not wish to detain the Council any longer. But I cannot help referring in this connection to the action taken under the Press Act with regard to Mr. Mackarness' pamphlet. I know that several Local Governments have thought it wise to suppress that pamphlet. I have no doubt that they believe that they have acted rightly in the matter. But with due deference to these Governments, I venture to think that if the new Press Act had not given them the indefinitely wide powers which it has given them, not one of them would have ever thought of suppressing the pamphlet. None of them perhaps would even now think of prosecuting Mr. Mackarness for it. The pamphlet might not have done full justice to the efforts of the Government to improve the police. But what did it aim at except a suppression of the evil practice which it exposed? It has been said, my Lord, that the Government of India have been denouncing the practice of torturing accused persons with a view to extort confessions from them, at least ever since they enacted the Indian Penal Code, which has laid down that any person who would so put people to torture would be liable to be punished with imprisonment which may extend to seven years. But the existence of such a provision has

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not evidently proved to be a sufficient deterrent, and in view of the facts brought to light in some recent cases, it was clearly necessary in the public interests to draw public attention to the evil with a view to have special measures taken to effectually discourage it."

His Excellency THE PRESIDENT: "I am afraid that I must interrupt the Hon'ble Member. Mr. Mackarness' pamphlet has got nothing whatever to do with the present discussion."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "I bow to your Lordship's ruling. I wished to point out how easily a repressive measure may be abused, and may give rise to great irritation, when the object of the Government is that cause for irritation should not be given.

"I will now conclude. I think I have said enough to show that no justification has been made for proposing an extension of the life of the Seditious Meetings Act; that the powers which the Government possess under the existing provision of the law are amply sufficient to effectively prevent as well as to punish any attempt to promote sedition or to disturb the public tranquillity, which might be made by persons who are hostile to Government and whose number is small; that the great bulk of the people are loyal to the core, and are more than ever inclined to co-operate with Government in maintaining law and order; that the policy of conciliation is in these circumstances the only safe and wise policy; that it should be steadily and earnestly pursued; that unless some overpowering causes intervene, nothing should be done which is likely to interfere with the success of that policy. I believe that no such causes demand a continuation of an Act of an abnormal character, which must operate against the return of normal relations between the Government and the people. For these reasons I beg humbly to oppose the motion which is now before the Council."

His Honour THE LIEUTENANT-GOVERNOR OF THE PUNJAB: "My Lord, it was not my intention to have spoken upon this measure, since in the capacity of Head of one of the Local Governments I had urged the continuance of the Act, at any rate until next spring. And I am very sorry indeed to trench at so late an hour upon the time of the Council. But I feel that some non-official Members have put rather a strong case for some explanation of the reasons for the continuance of the Act, and also as I shall not probably have the opportunity of explaining my own position in the matter next spring, it appeared to me that, with your permission, I might say a few words on the present occasion. We have heard that Local Governments are very stiff-necked, and there is no doubt that we are very stiff-necked when any measure or any action is put forward which we believe to be inimical to the prosperity and the tranquillity of the Provinces in which we are so much interested. I am, however, glad to recognise that two non-official Hon'ble Members have also called us human, and I hope we are most thoroughly human and most thoroughly in touch with the aspirations and the wishes of the communities which are temporarily placed under our charge.

"Now nothing would give a Local Government greater pleasure than to be able to dispense with any of these measures; but circumstances, however, frequently render the introduction and the enforcement of such measures necessary. It is perfectly true, as Hon'ble Members have said, that the condition of the Punjab at present is happily very different to what it was in the spring of 1907; and nobody recognises that fact more fully than myself. I believe that the present condition of the Punjab is largely due to the introduction by Your Excellency's Government of the reformed Councils, and generally to the policy of conciliation which has been followed for a considerable time. At any rate, it has been my own practice, and I have enjoined that practice upon all my subordinates, that they should take every opportunity of putting themselves in the closest touch with all persons who can put forward any reasonable claim to represent any important section or sub-section.

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of the communities with which they have to deal, and that they should ascertain the wishes and views of these people informally in every way, and should put the case of Government before them so that they may move them by logic and not by repression. That policy, I am happy to say, has in most cases been very successful; but we cannot rely upon that policy entirely. One Hon'ble Member has referred to the old legend of the Danish King in whose proceedings I may be supposed to take a certain amount of personal interest, and he has pointed out that it was impossible to suppress the billows of the sea. I do not quite think that that was exactly what King Canute attempted. I believe that all he was asked to do was to order the tide not to rise beyond a certain point, and he wished to show to his somewhat sycophantic advisers how very impossible it was to do such a thing merely by the expression of a polite wish or even by the utterance of an order to which there was no ultimate sanction. But we can do a good deal, not to suppress the billows of the sea but to regulate their action and even to control the tides. A good many ships have been saved by pouring oil upon the troubled waters. That Your Excellency's Government has done with the greatest success, by pouring the oil of conciliation upon the troubled waters of India. But other measures are sometimes necessary.

"I belong to a Province which is blessed with the possession of a great many somewhat turbulent rivers which, if allowed to pursue their own irregular courses, would do infinite damage for want of proper training. Therefore, we construct training works founded upon experience as to the best way of carrying out such works, and the result is that these training works prevent these rivers from doing damage, widespread and serious, and divert them into more profitable courses to the great benefit of the country and all that it contains. I venture to think that the Press Act and this Bill for the Prevention of Seditious Meetings are works akin to these physical training works by which we guide the forces of our great rivers on proper lines. They operate to divert public actions and public movements from channels which can only result in widespread disaster and misfortune.

"The trouble in 1907 in the Punjab was very largely due to the perverse and pestilent teachings of a very small clique of persons some of whom did not belong to the Punjab. In fact, some came from that Province which we are called upon to admire as a perfect Eden in India—the United Provinces. These persons used their natural intelligence to operate upon the minds of the Punjab peasants and tried to make out to them that they were being badly used by a base and tyrannical Government, and by misrepresenting in the most serious way the actions and the intentions of that Government. Now, the Punjab peasant is a person with whom it is rather difficult to deal. As a rule he is prosperous, loyal and faithful, and nobody has a greater admiration for the peasant of the Punjab than I have myself. But he is liable, when worked upon in a clever way, especially when his religious feelings are approached, to sudden ebullitions of violent temper which, in the case of the Punjab, are particularly dangerous. I have pointed out on several occasions that the Punjab furnishes the whole frame of the Indian army—this means that an enormous number of soldiers upon the active list, upon the retired list, and in the reserves are scattered throughout the Punjab villages; and these men are very liable to have their feelings worked upon; and if their feelings are worked upon they form a nucleus and leaders whom the rest of the people following may often get into serious trouble. Now, happily, all that particular gang of persons who were so energetic in the beginning of 1907 in misleading the people have left the Punjab for the Punjab's good, or else have been temporarily detained in prison. That, I believe, has also very largely conduced to the present quiet of the Punjab. Unfortunately, during the winter and spring of this year it was reported to me by local officers that a similar campaign of misrepresentation, directed not only against the British Government as by law established in this country, but also against other important sections of the community, was being carried on by a similar set of men to those who had given us so much trouble in 1907. It was done very cleverly. Meetings were

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got up for purely social purposes or for purely religious purposes, but those meetings were diverted to totally different objects, and a great deal of racial and religious odium was thereby being excited. At the same time it so happened that some of the Punjab soldiery whose minds had been perverted and contaminated outside the province had had to be dismissed from the Army and had returned to their homes. The presence of these men was utilised by the leaders of this agitation to get up a movement condemning, on religious and racial grounds, all service under the British Government in the Indian Army. Such a movement could only have had the most serious and disastrous results if it had spread in the Punjab, and it would have been the ruin of the peasantry, who have honourable careers open to them at present in the Army from which they derive respectable incomes.

"It is alleged that it is quite easy for the Local Government, under the provisions of the ordinary law, to stop such meetings. Of course it is perfectly easy for the District Magistrate to suppress a meeting when he knows that the conditions under which that meeting is held and the circumstances in which it is held are so electrical as to render it almost certain that the holding of the meeting will produce a breach of the peace. But that is not always the case. To have a breach of the peace you must have two sides, and at a great many of these meetings the people were practically all of the same class and were brought together for what they supposed to be a common object of their own class; and consequently it was open to the agitators to pervert and contaminate their minds without there being any immediate prospect of a breach of the peace. It is quite possible that the action which the men were taking might have led to more than a breach of the peace—to general disturbance of order; but such disturbances would not have been an immediate consequence of those meetings, and it would hardly have been possible, so my local officers have represented, for the District Magistrate to take action for the immediate suppression of those meetings. Besides, we have heard a good deal of that much-abused force, the police. It is not my business on the present occasion to take up any brief on behalf of the police; but, assuming for the sake of argument that the police-force is as black as it is painted, surely it is not a satisfactory thing that we should have the police perpetually interfering for the suppression of meetings. It appeared to me, therefore, that it was very much better to act in an open and straightforward way and to apply this Act to the Rohtak District where these meetings were most frequent, and where some very large meetings were contemplated which I was assured would probably lead to very serious disturbances between the Hindus and Muhammadans of that district as well as to active discontent and sedition towards the British Government. I ought to say at first that we had done all that we could to get hold of the persons interested in these meetings and to try to persuade them that the action they were taking was most undesirable not only in the interests of Government and the public peace but in the interests of the national cause which they professed to have at stake. We did all we could by private means and private persuasion to get them to drop the campaign which they were conducting, and it was only when all these measures failed that this final measure was taken and that we applied a firm and well-considered training work to train the minds of the people in the direction in which it was most suitable for them to go.

"Well, the result of the extension of the Act was that the meetings were all dropped. We did not in the least prohibit the meetings. We were perfectly content that they should take place provided we knew who were the persons who would attend the meetings, because a great many of these agitators were people from outside the district altogether. They came and disappeared in the course of a night, and it would have been impossible to have bound them over as has been suggested as a suitable way of dealing with such cases. Now I can only say that the result of the extension of the Act to the Rohtak District has been, according to the opinion of the local officers, satisfactory. I may say that one of these local officers is an officer who has been in the district for some six years and is intimately acquainted with every

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portion of that district and is quite an expert in the particular dialect which is spoken in that district, and therefore he is a man whose word may be taken in a matter of this kind as specially reliable. He was an officer who was most unwilling that these *panchayats* should be interfered with in any way, and it was only after seeing the injury which was being caused that he was forced to ask for what he termed special ultra-legal powers in order to enable him to stop what he believed to be most dangerous. Well, he and the Commissioner both tell me that nothing but good has resulted from the application of this Act. The people have quietly settled down, and all this seditious talk which was going on, abuse of their Muhammadan brethren, abuse of Government and its officers, and the knife-killing agitation has ceased, and the Rohtak District is now as happy and peaceful as it was before the agitation commenced.

"There was a special reason for operating in this district, and that was that Rohtak is a curious district. In fact, on one or two previous occasions, as I suppose is not known to many Hon'ble Members present, very serious Hindu-Muhammadan riots have occurred which have led to a great deal of bloodshed and a great deal of damage to the property and prosperity of the district. The people there are bucolic and quiet as a rule, but intensely excitable, and it is excessively dangerous to allow matters to come to such a head that there should be any danger of an outbreak of religious strife or of sedition against Government.

"My Lord, I have ventured to take up the time of the Council to this extent in order to show that Local Governments, human though they be, and stiff-necked though they are called, do not ordinarily take action in a matter of this kind, which is entirely opposed to their feelings and desires, unless they have the very strongest possible grounds for doing it. I also venture to think that it is highly desirable that Local Governments, when such circumstances arise as to render it necessary that something should be done to divert people's attention from a perverse and pestilent agitation, should have at their hand a weapon which would enable them to give immediate and instant legal effect to those measures which they think are absolutely necessary for the preservation of public order and peace."

The Hon'ble MR. EARLE: "My Lord, before I comment upon this Bill I would like to refer to a point that has been raised by the Hon'ble Mr. Gokhale, who complained that the opinions of Local Governments had not been furnished to him. It was yesterday that he made this demand. We were only too anxious to comply with his request because we thought that it was desirable that all Members should be furnished with the opinions of Local Governments on a measure on which they were going to speak the very next day. Therefore, both the Hon'ble Home Member and myself endeavoured to arrange to give him copies of those papers. Unfortunately, the letters that have been received from Local Governments were all of a strictly confidential character. In the ordinary course of business, when a legislative measure comes up for consideration, we call for opinions from Local Governments, and in many cases the letters which we issue and receive are of a confidential nature, and in this case that was what happened. As a rule, after these confidential letters have been received, we frame a Bill, then it is introduced in Council, then the Bill is published and opinions of Local Governments are called for. These opinions of Local Governments are invariably placed in the hands of Hon'ble Members. It is only in those exceptional cases such as the present, where we have to introduce a Bill and pass it on the same day, that a difficulty arises. We quite recognise that Hon'ble Members are at a disadvantage, and we shall try and arrange that in future some means shall be adopted so that they shall have this information before them. It is quite as much to our advantage as to theirs that Hon'ble Members should be supplied with full information. In the present case we think that the opinions of the Local Governments would have decidedly strengthened our case.

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" I now, with Your Excellency's permission, will make a few remarks as regards the Bill itself. The chief note struck, as far as I can see, by Hon'ble Members who have opposed the Bill is that as the political situation has improved—and this is admitted—therefore the extension of this measure is unnecessary, and an act of supererogation. I must say that I think that if Hon'ble Members who have opposed the Bill lay under the obligation, which rests upon the Home Department, of reading numerous reports and digesting a large mass of literature dealing with seditious subjects, they would speedily change their point of view and agree that it is better to nip sedition in the bud than to allow it to come to a head and then have to initiate prosecutions against offenders. My Lord, sedition is not dead; it is not even merely dormant; it is wakefully alive and it is merely waiting for its opportunity when it finds the authorities are off their guard. There is not a doubt that if they had the chance, the revolutionary party would make speedy use of the weapon of inflammatory oratory. If a speech such as my Hon'ble friend Babu Bhupendra Nath Basu has made today is possible in the Imperial Legislative Council, Hon'ble Members may easily gather what the extremists and revolutionaries will do in out-of-the-way districts where there is no authority to watch them.

" It has been argued that a sparing use has been made of the Act, and that therefore its extension and its retention upon the Statute-book is unnecessary. It seems to be forgotten that the whole object of this Act is to meet exceptional circumstances of danger. As the Hon'ble Sir Harvey Adamson, the late Home Member, said in 1907 when this Bill was before the Council, this measure is designed to operate in exceptional circumstances, in exceptional places and in exceptional times of insecurity. The fact that very sparing use has been made of it seems to me to be proof that the intentions of the Act have been very faithfully carried out.

" Then it is argued that the authorities have sufficient powers under the existing laws. Now, it is undoubtedly true that under the Calcutta and Suburban Police Acts, and the Bombay City Police Act, the authorities are armed with considerable powers which enable them to deal with seditious meetings. These Acts, however, of course, are purely local in their application and they have no reference to the mufassal, and yet it is in the mufassal rather than in the town areas that the greatest harm can be done. Now, the Mufassal Police Acts are notoriously deficient, with the exception of the Bombay District Police Act, in giving the requisite powers for dealing with these meetings. No doubt use can be made of section 144 of the Criminal Procedure Code. That section enables the authorities to prohibit any individual or the public generally from taking action which is likely to cause a breach of the peace. There are, however, legal difficulties in connection with this section, into the details of which it is not necessary for me to enter, which render this section not entirely suitable, and it is not desirable that the authorities should be tied down to the use of that section only as a means of general prevention.

" As in 1907, I think there has been considerable exaggeration and misapprehension as to the scope of the Act. Even in the very few areas which are proclaimed from time to time, public meetings can be held, provided that they are not held for the furtherance and discussion of subjects likely to create a breach of the peace or any political subject or for the exhibition or discussion or distribution of written or printed matter relating to such subjects. Moreover, the notifications which are issued from time to time by the Local Governments hold good only for six months, and even during that short period of six months they can withdraw a notification if they find that the circumstances of any particular area have improved so as to render the retention of the notification unnecessary. Similarly, in regard to Provinces, should any Local Government come up to the Government of India and say that the extension of the Act which was made in January 1910 is unnecessary, I cannot imagine for one moment that the Government of India would insist upon these provisions remaining in force. It rests with the Local Governments to make representations, and in this way the view held by several Hon'ble Members that Local Governments should have some say in this matter would be met.

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[Mr. Earle ; Mr. Jenkins.]

"Then it is said that the Seditious Meetings Act has a tendency to drive sedition underground. In regard to this matter, I thoroughly agree with what His Honour Sir Edward Baker said in 1907. His Honour said on that occasion that publicity and self-advertisement were the very breath of the nostrils of seditionists and revolutionaries, and that, if these were taken away, half the attraction of the game would go with them. There the question is put in a nutshell. Again it is said that public meetings act as a safety valve. I think that this statement certainly requires qualification. We know only too well that meetings are frequently held in this country not so much for the purpose of giving vent to discontent which actually exists as to create discontent where none previously existed. I had personal experience of this only two years ago in the Patna District. There we had a contented and peaceful peasantry, but agitators came amongst them and tried to create trouble. I am glad to say that the agitators were not successful, but that was chiefly because the peasantry would have nothing to say to them. The criminality of the agitators was not the less on that account, however, but was rather the greater. In this connection gladly do I testify, as suggested by my Hon'ble friends Mr. Sachchidananda Sinha and Mr. Mazharul Haque, to the general good character and splendid loyalty of the people of Behar. I have served in that Division as an Assistant Magistrate, as a Magistrate and Collector, and lastly as a Commissioner of a Division, and my experience of the people of Behar merely coincides with that of every other officer who has served in what is well and properly known as the 'Garden of India'.

"I notice that in 1907 the Hon'ble Mr. Gokhale observed that if the Bill which was then before the Council became law, social parties would be raided upon and broken up, and that even the host and guests would be hauled up for having held political or public meetings without having given previous notice. My friend Dr. Rash Behari Ghose also said that if the Bill were passed, the police would become absolute masters of the people and that their domiciliary visits, which would not be few and far between, would be certain to create disturbances. I have had very careful inquiries made, and am glad to say that I can find no trace of any such acts of oppression. I notice that my friend Mr. Gokhale referred to trouble created by the authorities under the Press Act. It is particularly noticeable that he referred to nothing of the kind under the Seditious Meetings Act.

"Lastly, as regards the temporary extension which is now before the Council, I think that it is amply justified by the circumstances which compelled the Government of Eastern Bengal and Assam to proclaim three districts in March last, and more recently by the circumstances which, as pointed out by His Honour the Lieutenant-Governor, compelled the Punjab Government to proclaim the Rohtak District. Sober-minded and sober-speaking politicians in the few areas which are proclaimed must, I fear, suffer temporary inconvenience, but they must ascribe that temporary loss of privilege to those firebrands and those who are avowedly disloyal to the British Government."

The Hon'ble MR. JENKINS moved that the Bill be passed. He said: "Your Excellency, I am a newcomer on this Council and I must admit that my head is not sufficiently inured to the stream of oratory which has been poured upon it today, but it has at least given me a very lively idea of what Sydney Smith means by the punishment of being preached to death by wild curates. I hope, however, that in course of time I may become a hardened toper at the fountain of this eloquence. Now I hope the Hon'ble Members who have spoken in opposition to the Bill will take this as an excuse for my not following them into the innermost recesses of their arguments or upon their high flights of oratory. I will endeavour as soon as possible to return to solid ground, which at this time of the afternoon is perhaps what the Council will desire.

"The question, therefore, as it appears to me, is this: is this Bill necessary? Even some of those Hon'ble Members who have spoken in opposition to the

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Bill would, I think, support it if they were convinced that it was necessary. Now the argument that it is not necessary is generally based upon the opinion that the state of the country is very much improved. I am aware, and very gladly admit, that the state of the country has improved; but that is not all. We still have with us the party whom I prefer to call the Revolutionary Party, because their aim is revolutionary and nothing else, and they attempt to attain their object by plans of campaign which are very carefully laid and by every device which can be suggested by their not small ingenuity. If Hon'ble Members would wish to have a complete list of all the atrocities that have been committed, of the conspiracies that have been formed, of the secret societies that have been set on foot, of all the means which this revolutionary party has used, and is still using, to overthrow the British Government and to introduce lawlessness and disorder—if they would wish that, then I say they are very bad friends of the country. Such a list could be produced. I do not wish to produce it unless I am compelled to do so. Well, my Lord, I wish to put a very simple question to the Council. When these people use every device within their power to attain their aims, is it in the least degree probable that they will refrain from using the weapon of inflammatory oratory if it should be placed within their reach? It seems to me that upon that question the decision should depend. My Lord, I submit that it is not in the least degree probable that they would refrain from making use of that weapon, and therefore I submit that it is necessary that we should have this Bill; and those who are convinced that the Bill is necessary and that we ought to have it, should, I think, come over to our side. My Lord, I think I might be content to base my case upon that ground, but there are a few things which have been mentioned to which perhaps I should give some attention. It is said to us that it would be a most conciliatory measure to abandon this Bill. Even my friend Sir Vithaldas, I believe, said that we should conciliate the people. Let us think for a moment who the people are whom we are to conciliate. I consider that the idea that we should conciliate honest and loyal people by allowing mischief-makers a free hand is very little removed from an insane delusion. Then, as to the band of revolutionaries; why, one might as well attempt to conciliate a band of dacoits by throwing one's doors open to them. It is said also that any legislation of this kind—it is even hinted that this Bill, if it becomes law—may cause a great deal of discontent, that it may in fact produce sedition.

“At one time I was in charge of a town where there had been an outbreak of cholera, and as we do in such cases we disinfected the wells and other sources of water-supply by putting permanganate of potash into them. Some persons, who ought to have known better, went about amongst the ignorant people and told them that the permanganate of potash was the cause of the cholera. The result was that our people who were engaged in the work had a very bad time of it, as some of our officers in the districts have at present a very bad time. The parallel is exact. The permanganate of potash was the cause of the cholera, and our protective measures are the cause of sedition. Then it is said that we already have in the existing laws sufficient means for dealing with matters of this kind. The state of the case has been explained by His Honour the Lieutenant-Governor and the Hon'ble Mr. Earle. Now, Sir, I have had the misfortune to deal with matters of this kind for some years past, and I have had to consider how far the ordinary law could be enforced. The Hon'ble Members who say that the ordinary law is sufficient look upon it from the outside; but I have had personal experience of it, and I can assure the Hon'ble Members that, with the utmost exercise of ingenuity, we could not make the existing law suffice. And is it probable that, if the ordinary law had been sufficient, we should go through all this trouble in order to provide ourselves with this perfectly useless weapon?

“My Lord, if anything has been said which leads to the conclusion that this Act ought to be placed permanently on the Statute-book, the fault is not mine; it is of those who have forced this discussion upon us. Some Hon'ble Members are firmly convinced that the permanency of the Act during the next cold weather is a foregone conclusion. Well, they know more than I do; but if they will have it so, let it be so, only let it be clearly understood that

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the prediction is theirs and not ours. My Lord, I submit that nothing has been urged which should deter us from proceeding with the Bill. I move that the Bill be passed."

The motion was put and agreed to.

The Hon'ble MR. G. K. GOKHALE: "My Lord, the question has been put to the meeting, but this should have been a separate motion. The speeches up to now have been on the motion that the Bill should be taken into consideration, and there is an official motion that the Bill should be passed. I wanted to say a few words as to that."

The Hon'ble MR. JENKINS: "My motion was that I introduced the Bill, and I moved that it be passed."

The Hon'ble MR. GOKHALE: "I do not wish to take more than a minute, but I do think I must complain of the tone of the opening remarks of the Hon'ble Mr. Jenkins. I do not think that any officer of Government has any reason to be bored to death or anything else if he wants to discharge his duties properly here, because we have also to discharge our duties here, and I do not think anything is gained by introducing such a tone into the debates in this Council. My Lord, you have done so much to introduce a new tone into this Council; you have watched over this Council with the care with which a parent watches over the interests of her child. I do not think that the Hon'ble Mr. Jenkins is justified in introducing such a tone here."

The Hon'ble BABU BHUPENDRA NATH BASU: "My Lord, with Your Lordship's leave I wish to make one observation. A point was made by the Hon'ble Mr. Earle that if a speech like mine could be made in this Council, it was no wonder that speeches of a very grave character might be made in the meetings which are now to be suppressed. I am very sorry, my Lord, that that observation was made, because in my speech that I made here today I studiously avoided any subject which might cause needless offence, and I hope I was strictly within the constitution in offering the few remarks that I ventured to offer to this Council."

The Hon'ble MR. JENKINS: "My Lord, may I explain that I had not the slightest intention of hurting the feelings of the Hon'ble Member, but I perceive that it is not perhaps desirable to indulge in what I considered to be a witticism."

The Hon'ble MR. EARLE: "My Lord, as regards what the Hon'ble Babu Bhupendra Nath Basu has said, I merely meant to convey that his speech was certainly strongly worded in some respects and highly coloured perhaps, and it is perfectly legitimate to speak like that in a Legislative Council. What I meant to infer was that if that was done in a Council like this, subject to all restraint, what must we expect in out-of-the-way places; but I did not intend to convey any imputation whatever as regards the speech of the Hon'ble Member."

His Excellency THE PRESIDENT said:—"I will only add a very few remarks to what the Hon'ble Mr. Jenkins has said to this meeting of Council and on the matter which he has so very ably put before you. I am sorry to say we cannot, none of us can, disregard the existence of a revolutionary party. No one has welcomed with greater pleasure than I have the remarks which have universally fallen from unofficial Members of this Council today, to the effect that the state of the country is infinitely better than it was and that things are improving politically. These views, expressed as they have been by the opponents of the Act, I know to be thoroughly sound and true, and they have been very welcome words to listen to. But, gentlemen, I cannot help telling you that, to myself, there is a personal factor in our proceedings today which I cannot disregard. I cannot but feel that I am at the end of my administration and I do not think it would be right, either by the repeal of the Seditious Meetings Act or by its re-enactment in perpetuity, to commit my successor to a policy of which he had not had sufficient opportunity of judging

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and of which he might not approve. I feel very strongly that this Act is one of such enormous importance that it cannot be fittingly considered during a Simla session. The unofficial Members who opposed the Act have done so perfectly legitimately and have expressed their views perfectly straightforwardly and very much to the point. I do not say that I agree with all of them, but they have spoken their views fearlessly, and, I think, generally, with sound commonsense; but I believe they will agree with me that in a very important piece of legislation such as this is, it would not be satisfactory for the country, it would not be satisfactory for India, that we should embark upon a very decided line of policy at Simla and that our action can only be put in effect legitimately in full Council in Calcutta, where every detail of necessary legislation will be fully considered, and where, we may rest assured, that it will be considered carefully and with full and ample knowledge of the state of the country. I do not attempt to foreshadow what that legislation may be, but I am perfectly convinced, and I am sure we may all feel satisfied, that the Act will receive at Calcutta the consideration which it deserves and that my successor will be guided by the opinions he forms of the state of India."

The Council adjourned *sine die*.

SIMLA ;
The 19th August 1910. }

R. SHEEPSHANKS,
Offg. Secy. to the Govt. of India,
Legislative Department.