

*Monday,
20th March, 1911*

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., C. 87, 55 & 56 VICT., C. 14,
AND 9 EDW. VII, C. 4).

The Council met at Government House, Calcutta, on Monday, the 20th
March 1911.

PRESENT :

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.O.M.G., G.C.V.O.,
G.M.S.I., G.M.L.E., Viceroy and Governor General of India, *presiding*,
and 65 Members, of whom 57 were Additional Members.

INCOME-TAX (FACTORIES).

The Hon'ble SIR GUY FLEETWOOD WILSON laid on the table a statement* shewing the percentage allowed in different provinces for depreciation on machinery and buildings in ascertaining the net profits of factories for income-tax purposes, and the method by which the capital cost is estimated in each case, which was asked for by the Hon'ble Sir Sassoon David at the meeting held on the 31st January 1911.

The Hon'ble SIR SASSOON DAVID: "My Lord, may I ask leave to put a supplementary question on the statement laid on the table?"

His Excellency: "Yes."

The Hon'ble SIR SASSOON DAVID: "In view of the disparity shown by the percentages allowed in different provinces, will Government be pleased to consider the desirability of adopting uniform rates for depreciation on machinery and buildings in ascertaining the net profits of factories for income-tax purposes and a uniform method of estimating capital cost in all provinces."

The Hon'ble SIR GUY FLEETWOOD WILSON: "I should like to have notice of that question."

QUESTIONS AND ANSWERS.

The Hon'ble Pandit Madan Mohan Malaviya asked :—

"Has the attention of Government been drawn to the following passage in the Presidential address of Mr. R. N. Mukerji at the last session of the Indian Industrial Conference:—

'The Government of India issued on the 29th of October last a revised rule for the supply of articles for public service. It says:—"When serious

* *Vide* Appendix A.

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inconvenience to the public service would be caused by waiting to obtain an article from England through the Director General of Stores, or when, owing to the greater promptitude of supply, an economy can be effected by purchasing in India articles which, under the foregoing rule, should be obtained through the Stores Department, the purchase may be made in India, subject to rule 13; provided that the articles are already in India at the time of order; but in such cases, if the value of the article exceed Rs. 50, the sanctioning officer should place on record the reasons which make the local purchase desirable. This record shall be available for the inspection of the Examiner of Accounts or the Supervising Officer when required." When we read through the above order carefully, we note that it begins with the qualification, that when a *serious* inconvenience (the word serious is important) would be caused; and it goes on to say that when an *economy* can be effected by purchasing in India, and concludes by saying that when the value of the articles exceeds Rs. 50, the sanctioning officer should place on record the reasons which make the local purchase desirable.

"Is the Government disposed to make a suitable revision of the said rule in the interests of manufacturers and merchants in India?"

The Hon'ble Mr. Clark replied :—

"The Government of India have seen a report of Mr. Mukerji's Presidential address to which the Hon'ble Member refers.

"The revised rules for the supply of articles for the public service were issued in July 1909, with a Resolution of the Government of India fully explaining their application. Rule 5 was merely corrected in October last so as to remove a possible ambiguity in its wording. But this correction did not affect the application of the rule in any way.

"The rule permits the relaxation of the general prescription that imported stores should be obtained through the agency of the Director General of Stores in England. It has no reference to articles manufactured in India, which are governed by rules 1 and 2 of the Stores Rules, providing that preference shall always be given to articles of Indian manufacture when the quality is satisfactory and the price not unfavourable. The interests of the Indian manufacturer are not therefore affected.

"As regards the interests of merchants who deal in imported stores, the new Stores Rules are more liberal than the rules they replaced. Economy on the ground of greater promptitude of supply is allowed as an additional reason for purchasing in India. And rule 3 (a) permits articles to be bought in the local market when they are in India at the time of the order and when the cost of supply does not exceed the limits prescribed by rule 13."

The Hon'ble Pandit Madan Mohan Malaviya asked :—

"(a) Has the attention of Government been drawn to the remarks of Mr. R. N. Mukerji in his Presidential address at the last Indian Industrial Conference in regard to the competition of Indian and Russian manganese ore in the European markets, and the decline of the exports of manganese from India and increase of the same from Russia owing to the reduced transport charges sanctioned by the Russian Government with the object of fostering and helping the trade?"

"Are the facts as stated by Mr. Mukerji correct? If so, will the Government be pleased to say whether they will consider if India may be enabled to retain some portion of the trade by reduction of the railway freight from the mines to the port? Is it a fact that such a reduction would not involve any loss to the Railway concerned inasmuch as a large portion of the wagons now returning empty, particularly on the Bengal-Nagpur Railway, would then be carrying manganese?"

The Hon'ble Sir T. R. Wynne replied :—

"The attention of Government has been drawn to the remarks made by Mr. R. N. Mukerji, in his Presidential address at the last Indian Industrial

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Conference, in regard to the competition of Indian and Russian manganese ore in the European markets.

“ Mr. Mukerji's statement that Indian exports of manganese have declined and that Russian manganese exports have increased, owing to reduced charges sanctioned by the Russian Government for railway transport, is not borne out by the official returns of Indian and Russian export trade. These show that there has been a very large increase in the export of Indian as well as of Russian manganese since 1908, which was a year of very marked depression in the steel trade. The average quantities exported each month during the last three years are as follows :—

Year.	MONTHLY AVERAGE EXPORT IN TONS.	
	India.	Russia.
1908	35,021	36,522
1909	38,940	50,740
1910 (first ten months)	51,002	58,704

Both the Indian and Russian ores have now recovered from the depression of 1908. Russian ore, being high in phosphorus, is largely in demand for the German market, as steel manufacturers there largely employ the basic process, whereas in the United Kingdom and United States, where the acid process is more largely used, the purer ores of Brazil and India are preferred. The German steel trade recovered more quickly from the depression of 1908 than did the trade of the United States, which is still somewhat depressed, or the trade of the United Kingdom, where recovery was retarded by the strikes which occurred during 1909. Consequently the recovery of the Russian manganese trade has been more rapid than in the case of the Indian industry. There is no evidence to show that up to the end of 1910 any reduction in rates had been made for the carriage of manganese on Russian railways.

“ As regards the latter part of the question, I may point out that the railway rate at which manganese is carried is the lowest permissible for any commodity, except coal, and that at this rate the export of manganese from India has risen from 134,000 tons in 1900 to 600,000 tons in 1910. I would further point out that there are many transactions, besides railway transport, connected with the manganese export trade, such as the quarrying of the ore, the carting to the railway, handling at the port and sea freight, which would seem to offer a field within which economy in cost of production and transport might be exercised.

“ As at present advised, the Government of India do not consider that a case has been made out which would justify them in endeavouring to secure the concurrence of the railways concerned to a reduction in the rates they are now charging.”

The Hon'ble Mr. Gokhale asked :—

“(a) Has the Government received any information regarding the new proposals of the Union Ministry in South Africa for dealing with the question of British Indians in that sub-continent, and specially in the Transvaal?

“(b) If so, will Government be pleased to lay such information on the table?”

The Hon'ble Mr. Clark replied :—

“ The Government of India have received the draft of a Bill for regulating immigration into South Africa. The Bill* is laid upon the table.

“ The Government of India have further been informed that clause 5 of the Bill, which defines persons not deemed to be prohibited immigrants, is intended to apply only to immigrants and not to persons domiciled or legally resident in

* Not printed.

[*Mr. Clark ; Mr. Chitnavis ; Mr. Carlyle ; Nawab Saiyid Muhammad Sahib Bahadur ; Mr. Jenkins ; Maung Bah Too ; Sir Guy Fleetwood Wilson.*] [20TH MARCH 1911.]

the Union of South Africa, whose rights in the case of Asiatics are regulated by other laws which have not been repealed in the Bill. "

The Hon'ble Mr. Chitnavis asked :—

"Has the recommendation for the consolidation of land-revenue and cesses in the Punjab, contained in paragraph 10 of the Settlement Commissioner Mr. J. Wilson's note of 30th November 1900, on Mr. R. O. Dutt's letters on the Indian Land-revenue System, been considered by Government, and what decision, if any, has been come to ?"

The Hon'ble Mr. Carlyle replied :—

"The recommendation in question was that the demand for land-revenue and cesses in the Punjab should be lumped together and assessed on the land-revenue in one sum, the total proceeds for each district being allotted in fixed proportions by one annual calculation at headquarters to the different heads of expenditure. The proposal was carried out in a slightly modified form on the Jhelum Canal, but there are account difficulties connected with the scheme, and the Local Government has not proposed its extension elsewhere. Further complications have since been introduced by the remission of the famine and patwari cesses, and by the proposal of the Decentralization Commission that district boards should have power to alter the district cess from time to time. The Government of India have accordingly taken no further steps in connection with the recommendation made by Sir James Wilson."

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur asked :—

"(a) Will the Government be pleased to state whether a report of the administration of the Muhammadan charitable and religious endowments now under Government management in the different Provinces was published at any time ?

"(b) Will the Government be pleased to state whether they intend to direct the Local Governments concerned to publish annual reports of the management of such institutions regularly for general information ?"

The Hon'ble Mr. Jenkins replied :—

"The Hon'ble Member is no doubt aware that some Muhammadan charitable endowments have been vested in the Treasurers of Charitable Endowments, and that in these cases the Treasurers concerned are required by section 9 of Act VI of 1890 to publish annually lists of the properties vested in them and abstracts of accounts.

"The Hon'ble Member is also no doubt aware that, generally speaking Government is debarred by the provisions of Act XX of 1863 from the management of religious endowments. The Government of India have no information as to whether any reports on Muhammadan religious and charitable endowments under Government management are published by, or under the orders of, the Local Governments, but they will make enquiry on the subject, and ask the Local Governments to consider whether it is or is not desirable that annual reports should be published in future, in cases in which they are not published at present."

The Hon'ble Maung Bah Too asked :—

"Will the Government be pleased to give the details of the calculations of the Accountant General of Burma upon which Sir Hugh Barnes in a speech delivered in February 1905 based his statement that the year 1904-1905 was the first in which Burma paid its own way."

The Hon'ble Sir Guy Fleetwood Wilson replied :—

"I will lay the return asked for."

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PREVENTION OF SEDITIOUS MEETINGS BILL.

The Hon'ble Mr. JENKINS : " I present the Report of the Select Committee on the Bill to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity.

" The only change of importance made in the Select Committee is in clause 1, sub-clause (2). It was recognised that many of the provinces are not homogeneous and consist of parts in which sometimes conditions differ very widely. It was therefore thought proper that Government should be able to extend the Act to any part of a province and not be compelled, if the Act were extended at all, to apply it to the whole of a province. I think it will generally be admitted that this amendment is a very proper one.

" The other amendments are of no great importance. In clause 4, sub-clause (2), we have limited the grade of police-officers who may be directed to attend public meetings, to police-officers not below the rank of head constables ; and in clause 8 we have provided that offences under the proposed Act should be triable only by a Presidency Magistrate, Magistrate of the First Class, or Sub-Divisional Magistrate.

" I move Your Lordship to suspend the Rules of Business."

His Excellency THE PRESIDENT : " I declare the Rules suspended."

The Hon'ble MR. JENKINS : " I now move that the Report be taken into consideration."

The Hon'ble MR. MUDHOLKAR : " My Lord, I regret the resolve of Government to place the Seditious Meetings Act permanently on the Statute-book of the country. My regret is all the greater because the form in which the measure is now brought shows beyond question the desire and the anxiety of Your Lordship and of the Members of the Government to conciliate public opinion. I recognise that the new Bill leaves out two of the most objectionable and generally assailed provisions of the Act of 1907. It was round the presumption contained in clause 3 of section 3 of that Act and the words ' political subject ' in section 4 that the battle raged most fiercely. Dr. Rash Behari Ghose and Mr. Gokhale urged that it was contrary to the principles of sound jurisprudence and opposed to the genius of British law to presume that a meeting of more than twenty persons was a public meeting, and that the burden of proving the contrary lay on those who asserted it. Sir Harvey Adamson said that the Government refused to yield on the point, for the presumption was vital to the measure. Your Lordship's Government have abandoned that position and conceded the principle, which Dr. Rash Behari Ghose contended for, that the Crown must make out all the elements necessary to establish an offence and ought not to be permitted to start with a presumption. Similarly, section 4 and the subsequent sections laid a ban on every meeting for the discussion of a political subject, similar to that devised for those likely to promote sedition or to lead to a breach of the peace. Against that principle a vigorous stand was made, but the Government would not yield. In removing these two provisions, so strongly opposed, Your Lordship's Government has made a graceful concession to public opinion. The power given to the police has also been taken away. A fourth very important change is that, before proclaiming an area, it is not only the judgment of a Local Government that will be applied but that of the Government of India also will have to be brought under requisition. I quite see that, before moving the Government of India, a Local Government will carefully consider whether it has got a case which would stand the close scrutiny which the Governor General and Members of the Council will bring to bear upon it. This is not a small improvement—no trivial change. It supplies an additional check upon hasty action and local prejudices. My Lord, I have set out at some length the nature of the large concessions made by the new Bill. I have done so from two reasons : one, to make it clear to Government and to Hon'ble

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Members who hold views different from mine, that my inability to approve of the proposed legislation is not due to an imperfect knowledge of its provisions or insufficient realization of its good points. The other reason is to show to my own countrymen that even if the Bill is passed into law, this new law will be a considerably milder measure than the one which it replaces. I do not understand, my Lord, that disposition shown in some quarters to belittle and minimise the value and importance of the alterations made by the Government. This belittling comes from the supporters of the Bill. If it had come from persons who disapprove of it, it would have been perfectly intelligible. Be the reason what it may and let others say what they may, to me and to many persons with whom I had discussions—and there have been numerous discussions, my Lord, carried on with the sole object of arriving at a proper judgment on a matter surrounded with difficulties—it has appeared to me and to the numerous informed and thoughtful Indians with whom I have discussed that in preparing this Bill the Government have gone a great way to remove the most objectionable features of the old law.

“ We appreciate the solid nature of the concessions and gladly and gratefully acknowledge the conciliatory spirit which actuates Your Lordship’s Government.

“ Having admitted all that can be said about the Bill being an improvement on the old law which is about to expire, I still am unable to assent to its principle, to the policy, that is, of placing a law of the kind permanently on the Statute-book. It is admittedly and avowedly a measure of an exceptional character. The enactment of the now expiring law was demanded on the ground that an utterly unlooked for, exceptional state of things had arisen which could not be met by the ordinary law of the land but could only be met by exceptionally strong measures. Some of the Local Governments explicitly admit that with the disappearance and cessation of the spirit of turbulence and hostility to Government which has manifested itself in certain quarters in some provinces, the need for keeping the Act in operation will also cease. There seems to me therefore an inconsistency between the grounds on which legislation like the present, avowedly of an exceptional character, is asked and the demand for giving it a permanent place in our legal enactments.

“ Admitting (what I never denied) that there had arisen a most deplorable state of things in several areas and towns, the very fact that it was unlike anything which had been known justified at the best the enactment of a temporary measure if the powers conferred by the Penal Code, the Criminal Procedure Code and the Police Laws were shown inadequate to put down this state of things. A permanent law was even then not called for and was not enacted. It is now conceded on all hands that during the last two years an immense improvement has taken place. Under these circumstances it is clearly a case of *non sequitur* to demand that the exceptional law should now become a permanent feature of our legal system.

“ There is, my Lord, another consideration which I would urge. The law of 1907 was at first demanded as a permanent addition to the Government’s legal armoury. It was on the representation of the public enacted for three years only. The wisdom of that course is amply justified by the important alterations that have been made. My Lord, there is the strongest necessity for not giving this exceptional legislation a permanent form. Things which were considered vital have been abandoned. Indeed, we are told that they were not of any importance, and that it mattered little whether they were or were not in the Act. Police interference has been cut down and a powerful check imposed on the action of the Local Government. Is it likely that these great changes would have been made but for the obligation which lay on Government to reconsider and weigh the whole situation? If Your Lordship’s Government—and the personnel of the present Government is entirely different from that of 1907—felt it their duty to revise the action of their predecessors, will Your Lordship and the Members of your Council take it

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upon themselves to render the task of your successors less easy? Of those who took part in the deliberations of that memorable day, the 1st of November 1907, there are in this Council only His Honour Sir Edward Baker and the Hon'ble Mr. Gokhale. The present measure has come before an almost entirely new Legislative Council. This fact in no small measure accounts for the facility with which improvements have been made and accepted. The same opportunity that we had may well be accorded to our successors. There is considerable likelihood that they will as freely revise our Act as we are doing that of our predecessors.

"Assuming that exceptional legislation is needed to meet the exceptional circumstances which have arisen, both *a priori* considerations and our own experience counsel only a temporary measure.

"I would, however, seriously urge it upon Government and the Council whether any legislation of an exceptional character was and is demanded. I am in complete accord with the view of Government that the maintenance of law and order is the first duty of a Government, and when these became jeopardised in some parts of the country it was necessary to take vigorous action for the suppression and removal of sedition and turbulence. Now, my Lord, that this has been accomplished to a great extent, we are in a position to find out how much of this improvement was due to the Seditious Meetings Act of 1907 and the Ordinance which preceded it. Now, the Ordinance had operation only in Eastern Bengal and the Punjab, while till the 14th of January 1910 the Act never came into operation in any province except Eastern Bengal and Assam and the District of Backergunge was the only area proclaimed. My Lord, though on account of that deplorable occurrence, the murder of Mr. Jackson (a man for whom the people of Nasik entertained respect and personal regard), a notification extending the operation of the Seditious Meetings Act was issued on the date just mentioned, the general state of the country—aye, even of Eastern Bengal and Assam—had greatly improved. Speaking 11 days later on that greatly historic occasion when the newly constituted Imperial Council met for the first time, Lord Minto, towards the close of his speech welcoming them, said: 'But, gentlemen, though I have no wish to disguise from you the anxieties of the moment, I do not for an instant admit that the necessity of ruthlessly eradicating a great evil from our midst should throw more than a passing shadow over the general political situation in India. I believe that situation to be better than it was five years ago.'

"Except a few districts in Eastern Bengal and Assam and one district in the Punjab, no area was proclaimed. In Bombay the notification putting the Act into operation has been withdrawn. It is allowed on all hands that the general situation during the last twelve months has greatly improved still further. But this result cannot be claimed to be due to the Act as it existed only on paper in all except four or five districts. The Local Governments had to take action for checking sedition and unruliness; but this was done by putting in force the powers which exist under the Criminal Procedure Code, the Police Laws and the Penal Code. I do not wish to state over again what I pointed out to this Council in some detail in August last when the Continuing Bill was under consideration. I then showed how by instituting proceedings under these laws not only were offenders brought to punishment, but meetings considered improper were prohibited and associations deemed undesirable dissolved. In other words, the condition of things which this measure and its predecessor the Act of 1907 aim to establish was established in most provinces and districts with the help of the general law only. This result was in no small measure facilitated by the action of the Government in introducing its beneficent measures of reform. In the case of numerous persons the apparent proneness to listen to the extremist propaganda was due to the despair they felt of obtaining a consideration of the legitimate demands of the people. This attitude of mind is of course not defensible. But the point to note is that immediately the reform proposals came within sight of fruition the bulk of the persons whose attitude had

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generated doubts in the minds of the authorities about their loyalty resumed their normal relations with the Government and local officers.

" My Lord, it is not fair to the Government or to the people as a whole to attribute to the Act of 1907 a merit and efficacy which cannot be justly claimed for it. We want peace and quiet and order. We want that the relations between the people and the representatives of Government—Imperial, Provincial and Local—should be not only smooth but cordial and animated by mutual respect and confidence. Abnormal developments did threaten these at one time. Fortunately the disturbing factors have to a large extent been brought under control. My honest conviction is that the restoration of normal relations is due not to the special law of 1907 but to a number of causes not the least potent of which are the Reform measure and the gradual development of a sympathetic policy during the last four years.

" My Lord, this Bill, to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of the public tranquillity, is, after all the work that England has done in India, a slur as much upon the Government as upon the people. Even as a temporary measure it would have created an entirely wrong and unjustifiable impression about both. As a permanent addition to our Statute-book it must be ever a source of pain and humiliation to us. I deprecate this legislation and would ask Government to desist even at this hour and to let the world know that the British Government can maintain its faith in the ordinary law even though a few mad men may be causing disturbance.

" My Lord, this is how I feel on the question of principle. I recognise, however, the peculiar position of the British Government in India. I also realise that the activities of the revolutionary party, though largely suppressed, have not completely ceased. We cannot shut out from ourselves the possibility of the flame blazing up again. And though I think that the ordinary law is quite powerful enough to put it down, I would acquiesce in the maintenance of a law like that proposed for a few years as a further precautionary measure. In three or four years, my Lord, even such tension as exists may have disappeared, and nobody will then feel the need of a Seditious Meetings Act."

The Hon'ble Mr. DADABHOJ: " My Lord, the Bill before us is a considerable improvement upon the existing Act. Important modifications have been made in the language, with the result that most of the arguments advanced against it in 1907 and 1910 have become pointless. Almost all the objectionable features have been removed, we all believe, under the beneficent influence of Your Excellency. I for one do not doubt that, were it advantageous, the measure would have undergone still greater change for the better. The Bill, as it now stands, is much milder than the Act it is intended to replace. Substantial concessions have been made to popular opinion ; safeguards against oppressive enforcement of the Act have been provided. These facts compel our support to the Bill. The deference shown to public opinion by Government now is an earnest of that policy of conciliation and sympathy which Your Excellency has so generously promised to follow in the administration of this country.

" These are considerations which have influenced my decision on this occasion, and have induced me to support the Bill. My Lord, it is not with a light heart that I have approached the subject. The possibility of Government bringing forward a fresh Seditious Meetings Bill during this session has inspired in me many an anxious thought as to the course I should adopt in the emergency. The Act, as it now stands, has very little to recommend it. It gives to the police arbitrary and unlimited powers of interference with the freedom of speech which is one of the elementary rights of British citizenship, and which we all value. Had I therefore been in Council in 1907 and had not sickness prevented me from attending the session at Simla in 1910, I could not but have opposed it. But the transformation it has undergone in Your Excellency's careful hands has agreeably surprised the country, and I do not feel myself free to persist in an opposition which, bating the question of

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permanency, has become groundless in the altered circumstances, and which, to my mind, will be an ungenerous response to the Government's spirit of conciliation.

"My Lord, notwithstanding commendable improvement, the Bill has one disagreeable feature absent from the existing Act. There is much to be said for the view that such a restrictive measure should not have a permanent place on the Statute-book. I am not sure that the proposal will command the support of many people otherwise willing to co-operate with Government even in the matter of repressive legislation. I myself have accepted the change with some hesitation. The necessity is not obvious. But two considerations have persuaded me to support the proposal. I have been impressed with the fact that legislation, meant only for a small section of irreconcilable citizens, should not be allowed to shock periodically the susceptibilities of that large body of loyal Indians who, with their tropical emotionalism, are apt to take a wrong perspective of the situation and to suspect that their cherished rights are being filched by an unsympathetic Government. It has been pointed out repeatedly that the very existence of even such a stringent Act as the Seditious Meetings Act of 1907 has been a matter of historical research to the few and of blissful ignorance to many. The proposed law is still less likely to be brought into prominence by frequent use. Far better therefore it should be enacted once for all and be relegated to its deserved obscurity than that the reminiscence of an unpleasant severity should be kept alive among law-abiding people by repeated debates on it in Council. Another consideration, not less weighty, is that Government appears to be in possession of information, of which reasons of State preclude publication, which counsels the course Government has taken. Would it be prudent to treat the assurance cavalierly? I do not think there is any occasion for suspecting the motives of Government or for impeaching the soundness of their conclusions. The atmosphere is not entirely free from electricity, and a Government headed by a Proconsul of Your Excellency's broad sympathies and unfaltering liberalism may be trusted with some extraordinary powers.

"My Lord, one other point demands examination. It may be frankly admitted that the Bill is not defensible on principle. It does restrict, in however small a degree, the liberty of the subject; it militates against theoretical ideas of free citizenship inseparably associated with British rule. It cannot therefore evoke enthusiastic support even from the most indiscriminating admirer of Government. But the exigencies of the situation make even the theoretical abandonment of a valued right desirable. It is eminently a question of administrative convenience—a balancing of advantages and disadvantages. The work of administration leaves no room for legislation in pursuit of principle without regard to facts. The end has at times to be allowed to justify the means. Government cannot be expected to subordinate legislation to an abstract principle, and in face of danger to surrender their judgment to it. Principle, all-important on ordinary occasions, loses much of its force in extraordinary emergencies. Whether the present is an emergency of that imperative kind, is a question of fact on which opinion is undoubtedly divided; and, personally speaking, I am disposed to accept Government statement on trust. I accordingly support the Bill, but not without sorrow, which must be shared by the whole Council, that the very first important legislation after a change in the personnel of Government should be of a restrictive character.

"My Lord, I wish to make my position clear. I support this Bill because Government have modified and softened it; I support it because Government have endeavoured to conciliate the public and respect public opinion; I support it because it will to some extent mitigate the evil which we are all anxious to guard against; I support it because the Bill in its present form does not arbitrarily restrict an important public right; I support it because it does not unduly interfere with public liberty or with the valued privilege of constitutional agitation; and finally, I support it as I feel that our co-operation at the commencement of Your Excellency's rule will materially help the great work of conciliation and good and sympathetic government which Your Excellency has so nobly undertaken."

[*Sir Sassoon David ; Mr. Chitnavis ; Sir Ranbir Singh of Patiala.*] [20TH MARCH 1911.]

The Hon'ble SIR SASSOON DAVID : " My Lord, I have no hesitation in according my support to this Bill. The decision of Government of not continuing or making permanent the existing Act which was passed in 1907 and in introducing the Bill in its present form is very wise. No doubt, there was some heartburning over the old Act, and Government have acted in consonance with public wishes in dispensing with it. I do not wish to take up the time of the Council with any lengthy remarks on the subject, as the Hon'ble Mover has explained fully the modifications made in this Bill when introducing the Bill. In my opinion the new Bill is entirely harmless and will not tend to cause any inconvenience to speak of to the general public. All the objectionable features of the old Act about which there was so much discussion in the old Council have been wisely removed from this Bill, and I do not think anybody could have any serious opposition to the Bill as it is now framed. I think it is right and proper that all the unofficial Members of this Council should give their unqualified support to Government to place the Bill in its present modified form on the Statute-book. I feel quite sure that anybody giving a small thought to the Bill will come to the conclusion that there is nothing in the Bill which an honest citizen may fear, or there is anything formidable in the Bill which might be put into operation at the cost of any loyal subject. I shall therefore give my whole-hearted support to this Bill, and trust that this new measure once for all will set at rest criticism and discussion which have been so numerous during the last four years. My Lord, I support the Bill because I firmly believe that dacoities, assassinations and mischievous machinations of secret societies will be prevented by this Bill without in any way interfering with our healthy political activities. The new Act when it comes in operation will not interfere with honest, well-conducted meetings. It will have the effect of preventing and suppressing only such meetings whose main object is to cause breach of public peace and tranquillity."

The Hon'ble MR. CHITNAVIS : " My Lord, I feel I should not give a silent vote on an important measure like this. The situation appears to be delicate. The Local Governments are unanimously of opinion that the present Act should be maintained. We can understand it is difficult for the Supreme Government to brush aside such weighty opinions and to drop the law altogether. It is a great thing that they have, of their own motion and practically against the wishes of Provincial Governments, recast the Act in such a way as to make it harmless. We appreciate and admire the action, and I think Government can fairly expect support from us after all they have done to conciliate public opinion. I feel further that a non-official Member incurs a serious responsibility in moving for the repeal of a measure demanded by all the Local Governments. The Government of India have evinced a genuine desire for the advancement of the political interests of the people ; they have been responsive to their wishes. After all that it would not question their judgment. The majority of the non-official Members too appear to admit the necessity of the measure. The Select Committee's Report makes this clear. The principal controversial point is the length of time during which the law should be in operation ; but that is after all a matter of detail. If the situation improves, judging from their conciliatory spirit, I have fervent hope Government will themselves rescind the law."

" Every State has its laws against treason as distinguished from ordinary crime, and Government will be failing in their duty if, on the reports of their own responsible officers and their own knowledge of the past, they do not take time by the forelock and take steps to prevent a repetition of the disgraceful scenes of 1907 with all their dangerous consequences."

The Hon'ble SIR RANBIR SINGH OF PATIALA : " My Lord, it is nearly after eight months that the Bill for the prevention of holding seditious meetings in India has again been brought up before the Council for a discussion as it was then announced by the Home Member in charge of the Bill."

" The object of the Bill is simply to preserve law and order in the country, and I believe that this object has been gained to a certain extent. It is, as was justly said by the Lieutenant-Governor of the Punjab in August last, only to

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divert public actions and public movements from channels which can only result in widespread disaster and misfortune. Such an Act under the circumstances which have of late prevailed in the country should be taken as wholesome by all the law-abiding people. It is an admitted fact that this Bill has greatly improved the condition of the country since 1907, and I am rather afraid to hold that such a successful measure should be dropped at a time when it is just possible that by dropping it the same unpleasant things may happen again. Let us hope that this will never happen again, but prevention is always better than cure. This is an administrative question, and not a question of imposing fresh taxes the inadvisability of which could be proved by quoting figures of the past years. This is a question on which depends the future peace of the country and I think it should be differently considered. The above is a general view of the situation ; but I am strongly of opinion that the case of each province should be separately dealt with and that the Imperial Government may be mainly guided by the proposals of the heads of the Local Governments on the subject as they alone can realise the position prevailing in their respective provinces.

"As a whole, I support the Bill with such alterations as the Imperial Government may, in consultation with the Local Governments, find necessary for the prevention of the spread of the malady in future."

The Hon'ble SARDAR PARTAB SINGH : "My Lord, the Bill which is to-day before the Council is an administrative measure of importance and I am sure that Government, in bringing this Bill up before the Council, feel it also that this measure they would rather not have passed but circumstances are such that the existence of such a measure became absolutely necessary. The new law which is to-day before the Council is deprived of all the objectionable features that the old Act contained, and I think it only right on the part of the non-official Members of this Council that when Your Excellency's Government has done so much in deference to public opinion in modifying this Act, we should give our loyal support to the measure. The difference of opinion only seems to be on the point that on one side it is urged that the measure should be passed for a certain period, while it is urged on the side of Government that the measure should be permanently brought on to the Statute-book. My Lord, expressing my humble opinion as a private individual, I would say that Government are in a better position than we are to judge what is necessary in this case ; but I cannot refrain from expressing one wish, and that is that I sincerely and earnestly hope that, as it has been urged in this Council to-day that the situation in this country is improving, that it may go on improving and that a few years hence (a Government which can pass an Act can also repeal it) we may be able to prove to Your Excellency that the situation is such that the existence of such an Act is no longer necessary, and I am sure that Government will then only be too glad to meet us half way. With these few words, my Lord, I support it."

The Hon'ble Lieutenant MALIK UMAR HYAT KHAN : "My Lord, I particularly want to speak on this Bill, as I am not only a supporter of it now, but have often impressed upon Government the urgent necessity of measures like the Seditious Meetings and Press Acts.

"It is now more than four years since I first spoke to Lord Minto about the immediate necessity of such an Act. And it is a curious coincidence that the time when I first urged the necessity of such legislation is the same as the present. His Honour the Lieutenant-Governor of Bengal has pointed out in his letter to the Government of India, dated 9th January last, in which he says that 'there is no doubt that the growth of violence and the spread of sedition in Bengal would have been very different if the various measures that have been passed in the last four years, culminating in the Press Act, I of 1910, had been in force in 1905 and 1906.' But, my Lord, as at that time no anarchical crime had been actually committed and it was difficult to make out a case to justify such legislation, it was only after the lives of many public servants had been sacrificed on the altar of hesitation that Government at length was persuaded to bring in the Seditious Meetings Act and Press Act. Unfortunately, however, the Seditious Meetings Act was not a permanent legislative

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measure, but was limited by a period of time, so that when that period expired and anarchy was still found to be rampant, it had to be renewed in the face of much hostile criticism and irritation. On the last occasion on which this Seditious Meetings Act was discussed at Simla, I again pressed that it should be given a permanent place in the Statute-book, pointing out the undesirability of renewing such an Act at frequent intervals, and urging, as others besides myself had so often urged before, that it oppresses and hits no one except the enemies of law and order. I am glad to find now that all Governors, Lieutenant-Governors and others who have expressed their opinions in their letters to the Government of India on the subject are unanimously of the same opinion.

" My principal object in thinking of speaking on this Bill at its introduction was to emphasise the point that if it was attempted to check violent and seditious evil-doing by methods of weakness and a policy of conciliation, it would fail. Evil-doing, my Lord, will not be checked by weak and spasmodic efforts or by methods of reconciliation. A firm policy, and no vacillation in carrying it out, is necessary to kill the evil and keep it dead. It is useless to pass an Act dealing with sedition at one moment, and at the next to release men deported out of India for this very crime, in the hope that it will conciliate. No one is reconciled, but Government suffers in prestige and its action is ascribed to weakness or fear. My Lord, exactly the same thing has happened to this Bill, which has been rendered weak simply with a view to bring about a compromise.

" I assure you, my Lord, that the vast majority of His Majesty's Indian subjects are loyal and would have welcomed a stronger legislation steadily pursued. But I am glad that, though weak, it will find a permanent place in the Statute-book. Indians will have no fear for a law which passes by the loyal and law-abiding but strikes at the murderer and anarchist and at those who are worse than they—that minute section of the public which, through the Press and seditious meetings, instigate murder and anarchy.

" Let me here state my hope, my Lord, that this Council no longer holds those who believe or, at any rate, who will argue in public that such legislation is unjust and unjustifiable; for whatever their intentions may be, their action in resisting such a measure cannot but be interpreted by the masses as an indication towards encouragement.

" My Lord, as my province has got a martial spirit and a large portion of the army is recruited from it, a preventive measure like this may be needed for it, though actually there is very little sedition in the Punjab owing to the loyalty of the general population.

" Lastly, I would like one most vital point made perfectly clear, and that is this. Supposing a wandering seditious speaker visits a proclaimed area and some of the residents of the locality convene a meeting of the kind mentioned in section 4 of this Bill with a view to enable him to speak; but before he has been able to attend the meeting, it is dispersed by the police as an unlawful assembly. Shall such a man be liable to the penalty provided in section 6 (1) of this Bill, or not? I have asked this question because such a man will not be punishable under section 7 of this Bill, so far as that particular meeting is concerned, nor apparently under section 6, unless a separate provision is made for such cases. But if such a man, who is the whole and sole cause of the trouble, cannot be punished under this Bill, it will be concluded that such a case has not been considered.

" My Lord, if my suggestion may not be accepted, I am so anxious for the passing of this Bill that I give it my whole-hearted support and urge that it may be passed into law."

The Hon'ble MAHARAJADHIRAJA BAHADUR of Burdwan: " As I do not wish to give a silent support to the Bill about to be passed into law to-day, I rise to make a few observations. The other day the Hon'ble the Home Member when introducing this Bill, as well as in the Select Committee the Hon'ble Law

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Member in discussing it, tried to impress on our minds that one of the chief reasons for retaining this piece of legislation was that during the past three years, though only a few areas had been proclaimed under the Seditious Meetings Act, the anarchical movement had continued to exist and that only the other day two abhorring incidents had taken place in Calcutta. Now, my Lord, if I thought that this enactment was intended to combat with anarchism directly, I would have opposed it on the ground that it did not, in fact could not, touch those misguided men who had taken recourse to violence and lawlessness in advocating sedition in the country and in trying to bring British rule into contempt in India, and that, therefore, to say that because anarchism was still rampant we should have this Bill, would have been an argument which certainly would not have appeared convincing to me. But the reasons that enable me to lend my support to this measure are chiefly two.

"Firstly, as there are and will always be highly imaginative and emotional minds in this country, who might, if allowed too much liberty of speech, within proclaimed areas, create disturbances or ill-feeling, it is desirable to keep a healthy check over them, and I admit that the Bill will certainly do this.

"Secondly, I agree with the much-maligned Eastern Bengal and Assam Government in thinking 'that the better the public feeling becomes and the less likely the people are to be influenced by the malicious speeches of mischievous persons, the less necessary it is to impose a check; but whilst the power to control meetings should be used as sparingly as possible, the power itself should be retained both as a warning to the seditious-minded and as a check ready to be applied should the occasion again arise.'

"Admitting all these, however, my Lord, I feel I would be failing in my duty as a well-wisher of the State and a Member of this Council if I did not point out to Your Lordship that the Government could have had the solid vote of the non-official Members of this Council had the measure been proposed as a temporary one for five or seven years.

"I entirely agree with my esteemed friends Mr. Slacke and Rai Bahadur Kisori Lal Goswami, Members of the Bengal Executive Council, when they say that 'the educated classes would at present regard the permanent imposition of the Act as a perpetual stigma which would tend to estrange from Government the feelings of the moderately inclined.' What I further feel is that the real moderate constitutional agitators whose opinions are healthy and of value to the Government and the people alone will be the real sufferers in a proclaimed area under the provisions of this Bill, and not those seditious minds who always by their craftiness can meet and discuss their wicked doctrines without coming into the clutches of the law.

"My Lord, if Your Excellency agrees with the Bombay Government in thinking that 'on general grounds it is better to retain on the Statute-book an Act of this kind which is already there rather than in times of emergency or excitement to resort to exceptional legislation,' and if Your Lordship is pleased to graciously assure in a few kind words that the Governor General in Council will enforce the provisions of this Act with the utmost caution and consideration, I for one, on general grounds, will not oppose its becoming a permanent enactment, though I feel, and will continue to do so, that the Act will be a stigma to the moderates who have in recent times so markedly rallied round the Government in the cause of law and order and general advancement of the mother land, and that they are resenting it only for the above reason, and will continue to feel deeply the humiliation which will be theirs and theirs alone by an Act of this kind remaining permanently on the Statute-book.

"With these remarks, my Lord, I beg to support the motion now before the Council."

The Hon'ble MR. MAZHARUL HAQUE: "When the present Act came on for discussion last August in Simla, I opposed it strongly but was careful to tell the Council that I did so reluctantly. If I rise to-day to offer some observations on the principle of the present Bill, I do so still more reluctantly. I am anxious

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that not one sentence, not one word, should pass my lips which could in any way be construed into a desire on my part to embarrass Your Excellency's Government in any way. Your Excellency has just assumed the reigns of your high office, and it would be disastrous to the best interests of India if a hopeful and sympathetic administration was in the very beginning handicapped by hostile and fruitless criticism. The duties of the non-official Members of this Council lie not in obstructing and embarrassing the Government but in impressing upon them the views, opinions and feelings of the people, in helping them with advice and in offering them their hearty and sincere co-operation. Sometimes we are compelled by a sense of duty to disagree with Government proposals, but no offence need be taken at this, as none is meant.

" My Lord, the Seditious Meetings Act was passed at a time when the country was in a state of unhealthy excitement, sedition was being openly preached in some parts of the country, and we were not sure what turn all this agitation would take and where it would land the people and the Government. The circumstances were exceptional and abnormal and required exceptional and abnormal treatment. The Government could not allow the campaign of calumny and sedition to go on unchecked, and the present Act was placed on the Statute-book of the country. There may be differences of opinion as to the unnecessary severity of this particular measure, but there could hardly be any disagreement as to the necessity of controlling the wild and mischievous utterances of some people. I personally believe that if the powers given to the police and the magistracy by the Code of Criminal Procedure were vigorously and vigilantly applied, sedition would have been nipped in the bud and resort to repressive legislation would have been avoided. However, there is no use in regretting over lost opportunities. The Act was passed in all its rigor, but its operation was limited to a period of three years only. Later on a new lease of life was given which will expire on the 31st of this month. If we compare the condition of the country at the time when this Act was passed with the present, it cannot be denied that there is no resemblance between the two. Now the country has settled down to its normal conditions and assumed its usual peaceful aspect. The Hon'ble the Home Member has assured us that there is still a revolutionary party working in secret and trying to do incalculable mischief to the country. Well, we have to regretfully admit that there are some miscreants still left who are plotting murders and assassinations, but to describe them as a revolutionary party is to give them an entirely fictitious importance and at the same time to alarm the people unnecessarily. They are a class apart—a class of criminals who should be dealt with separately as such. I do not think that it will be seriously contended that the present Bill will at all touch this class. Murderers and dacoits do not hatch their plots at public meetings.

" My Lord, it is claimed by the Local Governments and the supporters of this Bill that the Seditious Meetings Act has been largely instrumental in bringing the country to its present normal condition. Well, I have my own doubts about it. I do not say that it has done no good at all. No, perhaps, it has to a certain extent contributed to the peace and quiet which now prevails; but I firmly believe that it is the good sense of the people themselves which has been the chief cause of these desirable results. The horror and indignation felt at the so-called political assassinations, dacoities committed by the youths of gentle blood and good position, outrages perpetrated by fanatics and lunatics, have brought about the inevitable reaction and opened the eyes of the community to the baneful consequences of a mischievous propaganda. Nobody can deny the deterrent effect of a penal law, but to ascribe to it the general tranquillity of a whole people is rather going too far. However mild a repressive measure may be, it cannot but affect the legitimate activities of the people. The strongest objection that is taken, and rightly taken, to such legislation is that for the sins of a few guilty men many innocent persons are made to suffer. The natural result is that discontent enlarges its army, new adherents are recruited, seditionists are jubilant, loyalists are disheartened and the law defeats its own object. The discontent may not be loud and vociferous, but it is there, silently brooding and cogitating, and therefore much more dangerous than ever

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"My Lord, it must have struck many people as it has struck me that the anarchists and the seditionists do not like these repressive measures to be repealed. They know that the moment repression ceases their game is up and they cannot play upon the feelings of those who get into their meshes and become their tools. Otherwise there is no accounting for certain incidents that have recently occurred in this country. Last year a distinguished Police-officer was murdered on the very eve of the opening of this reformed Council. This year two outrages have been committed just when it was known that certain concessions were in contemplation on this very subject that we are discussing to-day. I cannot help thinking that such psychological moments were selected with the deliberate intention of withdrawing the sympathy of the Government from the people, and I submit that the Government ought not to have considered this aspect of the question before embarking on this repressive legislation.

"My Lord, it is said that this law may not touch the anarchists, but it will prevent further recruitment to their ranks. Apparently the argument seems to be plausible and of some cogency, but it is difficult to believe that law-abiding citizens can be converted into criminals at public meetings. Such conversions can only be effected in great secrecy and with great caution and care so that the conspirators may not be found out. Youths of immature intelligence and weak intellect are got hold of in out-of-the-way places and made the tools of the anarchists in carrying out their nefarious designs. Proscribing public meetings could hardly achieve the object in view.

"My Lord, it has become a fashion in these days to laugh and sneer at the great principles of liberal politics. The moment we refer to the natural rights of man and the privilege of public speaking, we are dubbed as doctrinaires, idealists, sentimentalists and what not. Well, to escape these epithets—although I myself do not mind them much—I will refrain from alluding to these noble principles of liberty and justice; but I would request the Government to remember that it is the British nation which has initiated us in these ideas. They are now ingrained in our nature and due regard should be paid to them in all legislation which is proposed for the country. Sentiments play a most important part in the economy of human life and to ignore them in the solution of political problems is not sound statesmanship. I doubt whether we would be entitled to call ourselves human beings if we had no sentiments.

"My Lord, such repressive laws are apt to interfere with and paralyze the lawful and legitimate activities of a growing nation, the fostering and advancement of which should be the special care of the Government. They deaden public life and bring about an inertia which seriously retards the progress of the country. The unmerited slur and indignity of living under special penal legislation is another factor which ought not to be lost sight of.

"These are some of my objections to the principle of this Bill, but in spite of them I would not have opposed the introduction of the present measure if the Government had seen their way to accept our suggestion and following the former precedent restricted the operation of the Act to a limited period. This would have been the basis of a very fair compromise. But the Government have refused to accede to our request and we are compelled to record our disagreement. The reason given for this law to be made permanent is, that it is undesirable to run the gauntlet of agitation at short intervals and at every time when it is considered necessary to renew it. I am afraid that the Government have not yet properly measured the strength of the feeling in the country against this measure. In my humble opinion they are adding one more string to the bow of the agitator. Instead of periodic agitation they are inviting perennial and perpetual agitation. I am convinced that no section of the Indian people is going to relapse any more into undesirable agitation. They have done with that sort of thing for good, and the present Bill ought not to be extended to a period greater than what is considered to be absolutely necessary. It would be a graceful concession to public opinion and would reconcile the people to the enactment of a law which they do not like.

"My Lord, before I sit down I should like to correct certain misrepresentations that are being sedulously spread in some quarters to the effect that the

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alterations made in the Bill are of no consequence. The other day I read in the columns of an Anglo-Indian journal that the concessions were of no great importance. My Lord, such writings create much greater mischief than the law itself. The general public take the law not from the provisions of the Act but from the comments and criticisms of the daily Press. Who cares to compare the sections of the existing Act with the clauses of the proposed Bill? My Lord, it is not true to say that the alterations are of no great importance. Indeed, they are so radically different in their scope and nature that the present Bill has become comparatively harmless in its effect. A large majority of the most objectionable features of the law has been entirely eliminated. What is left, apart from the general objections to the principle of the Bill, is of the mildest possible character. My Lord, it is unjust to Your Excellency and Your Excellency's Government to say that the Bill before this Council is as objectionable as the Act in force. Who can after a comparison of the two measures honestly deny that the Bill discloses a sincere anxiety on the part of Your Lordship's Government to present the law in the least unpalatable and most acceptable form and to restore and safeguard many of the lost liberties of the people? I have considered it necessary to expose this irresponsible and mischievous criticism at the earliest opportunity so that it may not have sufficient time to spread and embitter the minds of the people against the Government. My Lord, I gratefully acknowledge that the Bill which has been presented to the Council by the Hon'ble the Home Member is very mild in nature, and I also vouch for those whom I have the honour to represent here that they are extremely thankful to Your Lordship for this generous concession.

"My Lord, I conclude with the hope that the Government will never find any occasion for using this weapon which they have forged for themselves and that it will rust and be forgotten in their armoury. To my own countrymen I say, do not give an opportunity to the Government to use it; I have an undying faith in the policy of conciliation and co-operation, so that all classes and communities of my country, united and strong, in comradeship and under the guidance of a great British nation, may march forward on the high road of civilisation and fulfil their great destiny."

The Hon'ble Babu BHUPENDRA NATH BASU : "My Lord, I ask Your Lordship's indulgence on this occasion to address a few words on the Bill now for consideration before us, and in doing so, having regard to the seriousness of the situation and the difficulty of my position as a representative of the middle classes of Bengal, which province unhappily, I am afraid, to some extent at least contributed to the enactment of the measure originally, I shall not say a word which may be productive of the slightest mischief. I do not propose on the present occasion to offer any detailed criticism on the Bill before the Council. All that could be urged against the measure has been very forcibly urged on the two occasions that the Bill came up for discussion. It was at one time thought desirable to place before Your Lordship a *resumé* of the arguments that had been put forward against the provisions of the enactment that is now expiring; but I take it, my Lord, that in a question of such great moment, everything that can be said for or against the Bill has been carefully weighed by Your Lordship, and it would be an unnecessary task on my part to go over ground which has already been traversed. Speaking from my place in Your Lordship's Council, not only to the Council itself, but to my countrymen outside, I believe my countrymen will understand me when, for reasons so obvious, I abstain on the present occasion from entering into a discussion which after all would be fruitless and would revive memories which are expiring. I acknowledge very readily that some of the more objectionable features of the present law have been removed. There has been provided a check that no area shall be placed under proclamation without the sanction of the Supreme Government. My Lord, I do not think I should be justified in saying that much value is not attached to that check, but at the same time the Government of India will pardon me if I say that that check may not be after all a very effective check. A strong Local Administration either in a moment of panic or under pressure puts forward a request before the Supreme Government of placing a small area or a particular area under it under proclamation

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under this Act. It would be, I take it, assuming a very onerous responsibility on the part of the Supreme Government to refuse this request, and therefore, though we feel that the Local Government will hesitate until it is satisfied in its own mind that it can make out a strong case to place a request before the Supreme Government, and to that extent the Supreme Government will be a check upon the action of the Local Government, I do not think that that check will be of any further use except as an indirect weight upon the mind of the Local Government not to go up to the Supreme Government unless it was in a position to make out a good case. Then, my Lord, another objectionable feature has been removed. Under the law as it stands any assembly of twenty men for the discussion of a political subject would be deemed to be a public meeting under the Act. Much controversy centred round that provision and we are glad that that has been taken away. Rumour has been busy as to the hand which has removed that obnoxious provision, and we, my Lord, the non-official Members of Your Excellency's Council, beg to offer Your Excellency our humble but sincere thanks for the removal of that clause by Your Excellency. But though the Bill has been deprived of its objectionable features,—some of them, not all,—the question yet remains—the question of questions in a consideration of a measure like this: 'Is the law necessary?' That, my Lord, I think should be carefully considered free from passion and from prejudice. The Hon'ble Home Member in a speech of studied moderation has himself admitted that a great change for the better has come over the country. My Lord, during the last few days the sympathetic attitude which the official Members of the Supreme Governments have taken towards many of the grievances which we have placed before the Government is a sure indication that there is even in Government circles a sincere desire to meet the people as far as it may. It shows, my Lord, that the Government is prepared, is ready and willing to concede what is just and fair; that it is ready and willing to re-examine, if necessary, the conditions of the creed upon which the government of the country rests; and we, on our part, my Lord, have not been slow in appreciating this immense change in the attitude of Government officials towards us and our aspirations, because this change to us means so much. We trust, my Lord, officials and non-officials alike, that the sharp line of division which has hitherto separated us is rapidly losing its distinctive features, and that British rule in India will be consonant to national ideals and will be consistent—and therein I lay some stress, that it will be consistent—with the national self-respect of the Indian people. Therefore, my Lord, we feel specially grieved, having regard to the improvement in the situation of the country and having regard to the well-defined and well-expressed attitude of Government towards us, that a measure fraught with bitter memories should be revived, and not only revived, but placed on a permanent footing on the Statute-book.

"My Hon'ble friend the Home Member has referred to the seditious propaganda of 1905 and the years following in the province of Bengal and elsewhere. I can speak of Bengal with some degree of knowledge; none more than we, my Lord, the great mass of the Bengali people who, though put to the severest strain, have stood resolutely firm by our Indian ideals of loyalty to British rule in India as the only means of India's salvation, as the only guarantee of India's progress in order and peace; none more than we have regretted the mad and criminal enterprise of those who have led youths into error and to ruin. But, my Lord, it may be permissible on this occasion to say—and I say so with great respect—that circumstances had arisen, for which the Government and its officials may be held in some degree at least responsible, to create a state of feeling in the country which made the work of the seditious and anarchists easy. To-day, my Lord, when we have agreed to bury the hatchet, I shall not refer to those circumstances. They will only revive painful memories. No Bengali, my Lord, can speak of them with sufficient self-control, and I shall not try the experiment. No Bengali can look back upon them except with the deepest emotion. The memory of those bitter days which hung like a cloud upon my province, the fairest in all India, is slowly fading, and though Bengal will nurse a sorrow too deep for tears, she hopes that her lot will be less hard in time to come than in days gone by. My Lord, it will not be altogether amiss

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if, with Your Lordship's permission, I crave leave to say that the Act, such as it is—it will be an Act very soon—will not serve the purpose for which it is intended, *viz.*, to stop the spread of seditious propaganda. No doubt, it will stop the spread of such propaganda through public meetings, but that object can be as easily and effectively secured under the existing criminal law of the country which can both prevent the offence and punish the offender. I am speaking, my Lord, in the presence of the learned Advocate General of my province and also of one who was until lately its Standing Counsel, and I speak with a great degree of caution on this subject. You have ample powers under section 107 of the Criminal Procedure Code of India to bind down any obnoxious persons, and those madmen—I shall not call them by any harsher name—who with unparalleled considerateness have been referred to by the Hon'ble the Home Member as 'gentlemen who had gone down to East Bengal in 1906 to open a seditious campaign'—could have been easily and effectively dealt with under this section. We, who have been through all these troublous and unfortunate times on the side of Government notwithstanding our differences, have often times wondered as to why Government did not at the time take proceedings under the law as it then was. This section 107—I am sorry that I am going into technical details, but, my Lord, there may be Members in this Council who are unacquainted with the technical details of criminal administration in this country—gives you the power to bind down any person who has proved by his past conduct that he is dangerous to the community. This is a preventive measure. There is another preventive measure—section 144 of the Criminal Procedure Code—which gives to a Magistrate full powers to prohibit public meetings in any particular area for a certain definite period. The Magistrate only exercises judicial discretion upon information laid before him by responsible executive officers, and people are content, so long as it is not an executive order that they have got to obey.

"So far as I am concerned, my Lord, and I have read the provisions of the Bill very carefully, what more is sought to be attained, to be achieved by the present legislation, I fail to see. Secret organisations, the most ardent supporters of this measure, including my friend the Hon'ble Mr. Dadabhoy, will admit that it cannot touch. In fact, our greatest trouble has arisen since the Ordinance and Act of 1907. The Act has been in operation for the last three years and more. If the Act, my Lord, had helped in arresting the hand of a single assassin, if the Act had helped in the remotest degree in enabling the authorities to trace the anarchists to their lairs, then certainly, my Lord, I would have been the first and foremost to welcome the measure. But in this it has failed, as it was bound to fail; it has only given one more weapon to the irreconcilable, adding to his armoury a fresh indictment against the Government. It has only rendered the path of the anarchist easier, for his victims—those unhappy youths who know not what they do—will no longer be attracted to public meetings, where everything has to be conducted before the public gaze and in the light of day, for public meetings will cease to be; and while it has done all this, it has not forwarded the cause of justice. So far as it has helped in any way towards the maintenance of peace and order, it has achieved nothing which the ordinary law could not have done, and it was admittedly put into operation only in four or five districts though the improvement in the situation is general throughout the country; and while its efficacy is so questionable, its potency for mischief is unquestionable. In Eastern Bengal and Assam the annual District Conferences were stopped, though every guarantee was offered for their peaceful character, and a largely organised meeting in Tangail in the Mymensingh District for the elevation of the depressed classes was stopped, leading to a stoppage of similar meetings in the rest of the province. Is it, my Lord—I am dwelling on the potential mischief of the measure, I have shown that mischief has actually resulted in some instances—is it too much to assume, or rather is it impossible to assume, that the Government may introduce an unpopular measure in any particular area, and it may—I do not for a moment say that it will—put that area under proclamation? My Lord, a strong Lieutenant-Governor of Bengal, with the support of the Government of Lord Lansdowne, without any previous intimation to the public so far as we knew, published a notification curtailing

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the right of trial by jury in Bengal. There was a tremendous agitation in which happily the European and the Indian joined, with the result that that notification was very promptly withdrawn. Would it be too much to suppose that if the Lieutenant-Governor of Bengal at the time who was noted to be a very strong man, with very strong likes and dislikes, and who had issued a circular, because he was dissatisfied with acquittals in criminal cases, to his subordinate magistracy that somebody must be punished for the day's work, whether he was guilty or not (that is my own interpretation that I put; the language was that somebody must be punished for the day's work) would it be too much to assume that he might have put Bengal under the operation of this Act at that time, getting over on his side the assent of the Supreme Government, which was not then unhappily a very strong Government in the country? And sometimes, my Lord, may it not happen that the Supreme Government would itself introduce a measure into a province which would be unpopular, and what would be the check on the action of the Local Government in getting the sanction of the Supreme Government to put such an area under proclamation? Would it be a very large assumption to say that in 1905, when the partition of Bengal was carried out, a similar proclamation might not have been issued, and the public would have remained in ignorance of the feeling of Bengal on that question? But that is a point which I shall not dwell upon at greater length. I shall assume, readily concede, that it will not be easy for any Government, Supreme or Local, to pass a measure and at the same time to stop the expression of public opinion until that opinion has run into channels which may lead it to danger. But although I say, my Lord, humbly and respectfully, that, hedged in as the law is, it is not without its dangers—danger to the people that it may prevent the expression of popular opinion, and danger to Government itself that it may remain in ignorance of popular feeling; and, while its danger is great, its usefulness is not much. There is another aspect of the question which should not be overlooked. If, after a century, in my province, my Lord, a century and a half of British rule, it should be found necessary to curtail in India the inalienable rights of the British citizen to express his free opinion in public meetings, what does it come to? Is it not tantamount to a confession of failure of British methods of administration? Does it not amount to the casting of a slur—the greatest slur that could be cast—upon a loyal people, upon an entire community, and should the whole country suffer for the misguided actions of a few? I am sure no British statesman would admit the validity of an argument like this.

“Therefore, my Lord, in all humility and with all respect I submit that the present Act may be allowed to die a natural death; that the country should be allowed to resume its normal conditions under normal circumstances, and that a thorn in the flesh of the body politic which may retard the process should be removed. I am quite sure the Government would have no cause to regret the decision if it came to a conclusion like this, if it came to the conclusion to let bygones be bygones and to treat the whole thing as an evil dream that has passed away. But if this is not conceded, as I am afraid it will not be, I shall take the liberty of placing certain considerations before Your Lordship which I hope will weigh with the Government in giving this measure a short lease of life. Upon that point, my Lord, I hope we non-official Members by a large majority are agreed. I admit that there are arguments against that method, but I will very briefly place before Your Excellency and the Hon'ble the Home Member the considerations which, I think, should weigh with you in fixing a time limit to this Act. My Lord, if Your Lordship has—I am sure Your Lordship has—read the speech of Sir Harvey Adamson in introducing the Bill in 1907, and the speech of my Hon'ble friend the Home Member on the present occasion, Your Lordship will have noticed a great change. There is a strong optimistic tone throughout the speech of my Hon'ble friend which we all welcome. If the situation has so vastly improved in a period of three years—we can only judge from experience—may we not reasonably expect that in another three years the clouds which are still in the offing will completely pass away, and is it not possible to re-enact the law for three years again? That is a consideration which

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I respectfully beg to urge before this Council. It may be wholly unnecessary at the end of this next period of three years. Why, then, have a permanent law of this exceptional nature? My friend the Home Member has said that the re-introduction or revival would lead to excitement again which should be avoided. I do not see that there has been any very great excitement over the present measure. One of two things will happen: if in the meantime there is such an improvement in the situation that the Government of the day may feel that it no longer requires exceptional powers, it will allow the Act to expire; if on the contrary Government does not see its way to do so, people will have become accustomed to the Act by longer experience and will hardly, if at all, offer any resistance to its re-enactment. In this view, my Lord, I am glad to find that I am supported by the Indian Member of the Executive Council of my own Government, and I take this opportunity to say from my place in this Council that the Hon'ble Mr. Goswami carries with him the esteem and regard of his country all over Bengal. I am also supported by my friend to the left, the Hon'ble Mr. Slacke, than whom at the present moment Bengal does not possess an officer more intimately acquainted with the state of affairs prevailing in the province. It is true, my Lord, that we in Bengal have not suffered to anything like the same extent as the people elsewhere, and it may be said to us, 'why then should you complain?' But that has been because our Lieutenant-Governor, whom I am glad to see present here to-day, has been pleased on all important occasions affecting the question of public meetings to take us into his confidence and to repose his trust in us; and though we have sometimes differed, we hope we have been able to maintain mutual goodwill and friendly relations. But this is merely personal; we are concerned not with our particular province for the time being, but with matters of much wider application. Would it be, my Lord, too much to ask that for the present the Bill may be enacted into law for three years only, so that Your Excellency yourself will be able to decide during your period of office as to whether the Act should be continued; and I believe I voice the sentiment of all the non-official Members present here that we shall be content at the end of these three years to leave the matter to your sole discretion. My Lord, we do not wish to raise an unnecessary controversy with Government. We oppose a Government measure only when we feel that for the sake of the great interests at stake we must. I feel that on this occasion the recent outrages have to a great extent hampered our position, though I am quite sure they have not prejudiced Your Lordship's judgment. India seems to be, my Lord, the sport of evil destiny. Whenever a serious question has to be decided, there arises a crop of these outrages. Who will tell these miscreants that their conduct makes things difficult for Government; for no Government can for a moment afford to create an impression that it is yielding to fear; and it also makes things difficult for us to feel that whatever may be our differences we must uphold the prestige and dignity of Government. We must support its honour against malevolent attacks; and if its officers are exposed to terrorism at the hands of assassins inspired by secret organizations, we must stand by the Government even on questions where we may not agree, for differences of detail must be forgotten in the face of a common and grave emergency. I have said, my Lord, all that I need have said. I have not said much that I could have said; and I have adopted this course because the emergency to my thinking no longer exists and certainly admittedly not to the same extent as in the year 1907. I feel, my Lord, I am right in saying that you could not expect the support of our people to a measure like this after the emergency has disappeared or has ceased to be a dominating factor in our public life. I have not got the gift of prophecy, but I feel sure that in three years time existing conditions, even if they justify in official opinion the introduction of this measure, will have thoroughly changed, and Your Excellency will have the supreme satisfaction of allowing the measure, so un-British in character, to drop out of existence, to sink into oblivion, burying with it the bitter memories of the past, and we the people shall also feel a terrible load lifted from us, and a stigma removed from the fair fame of our country. That this may be so is my humble and earnest prayer; and even if I am like a sparrow alone on the housetop, is it too much to hope that my prayer will be heard?"

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The Hon'ble RAJA OF DIGHPATIA: "My Lord, while appreciating fully the important changes introduced in the Bill now under consideration and while we are very thankful to the Government for these changes, I cannot help regretting that the Government should find it necessary to place permanently on the Statute-book a measure of so important a nature.

"It is no doubt the duty of all loyal subjects and right-thinking men to support the Government in any measures which are directed against sedition and anarchism; and this being so, all that I have to say in addition to my amendments is that since the condition of things has greatly improved during the last few years, as admitted by many high authorities, I hope the Government of India will be pleased to reconsider the decision to put this measure permanently on the Statute-book. The Governments of two Bengals and also the Hon'ble the Home Member having declared that the situation has greatly improved, it would not be too much to expect that in another five years' time the condition will be even much better. In view of this I humbly appeal to Your Excellency to make the measure a temporary one, say for a period of five years.

"In meeting this strong wish on the part of the people the Government has nothing whatever to lose, as this measure can be renewed any day the Government finds it necessary to do so. On the other hand, the Government would make it easier for almost all the non-official Members of this Council to accord their unstinted support to the present Bill.

"To take power permanently to impose restrictions on public meetings which cannot but stifle public opinion to a certain extent in the country seems to me quite incompatible with British justice and benevolence, specially when the Government of India has the proud privilege of having at its head so sympathetic a statesman as Your Excellency."

The Hon'ble NAWAB ABDUL MAJID: "My Lord, I support the Bill. I have already declared my opinion at Simla, when the question of the extension of the Seditious Meetings Act was brought forward, that the Bill should be made permanent. No doubt this measure is an exceptional measure, but in my opinion such a preventive weapon should always be ready at the hands of the Government. Three objections have been urged to this Bill. One is that it is not necessary to pass such a Bill; second, that it should not be made permanent; and third, that it casts a slur on Indians of this country. So far as the question of necessity is concerned, the past working of the Bill is a sufficient answer to that objection. The past working of the Bill has shown that the condition prevailing in this country at the time of the promulgation of the Act of 1907, and in fact before 1907, necessitated this measure. If I may speak of my own province, my Lord (I cannot say what was the condition of other provinces), agitators from different parts of India had gone to Allahabad and they were inciting the people. They were quite unbridled in their speeches, and the impressions they made on the public were such that they would have caused a great disturbance to the peace of the country. But since the promulgation of this Act, namely, from 1907, everything has quieted down. We do not hear those excitements, we do not hear those disturbing elements, that were in existence in those days. That is a good and sufficient answer for the necessity of the promulgation of such an Act. The next objection urged is that the Bill should not be made permanent. But it is forgotten that the Bill is nothing but a sort of preventive measure. The effect of the Bill is that it will prevent the people from falling into error, it will prevent them from falling into the hands of agitators, and thus save them from being guilty of the commission of offences. Criminal law may be a good thing in order to run down people who actually commit offences; but this Bill is solely a preventive measure which will prevent the people from committing breach of the law. I say that the promulgation of such a Bill is rather a good thing in order to save the people from falling into error and from falling into committing those offences which are punishable by criminal law. There are people who object to this Bill on the ground of the existence of criminal law. They ought to be thankful to Government that Government is going to pass such an Act which

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will stop men from leaving the correct path. My Lord, it is those who are not well behaved that have to fear the Bill ; those who do not realise the consequences of their action who must be afraid of this Bill. But those who are well behaved and who weigh the consequences of their action well, they should not fear it at all. The last objection urged to this Bill is that it will be a slur upon the whole Indian community. But when this objection is urged, it is forgotten that there is such a thing also in existence as criminal law in this country. There is in that criminal law provision for the punishment of the guilty, and the guilty only will feel the existence of such a criminal law. It is no slur upon the peaceful and well-behaved people. It touches only those who intend to commit breach of the law. My Lord, I say therefore that the existence of such a law is no slur upon the Indian people. I submit that all these objections are objections which are specious and sentimental only ; these are not objections which meet the situation or are borne out by the circumstances of the case ; and these objections, I submit, should not prevent Government from making this law a permanent addition to the Statute-book. With these words I support the Bill."

The Hon'ble MR. SACHCHIDANANDA SINHA : " My Lord, on the day that the Hon'ble the Home Member introduced this Bill, Your Excellency was pleased to observe that it would be open to Members of this Council to discuss to-day the principles underlying the Bill, as well as its details. Availing myself of that arrangement I desire to say, in the first place, a few words on the principle of the Bill. Now, it is not open to question that the measure under consideration is a curtailment of and a limitation on—be it in ever so mild a form—liberty of speech and of public association, which both are the indefeasible rights of all British subjects. This is so obvious that even an Anglo-Indian paper—a stout champion of the Bill—is obliged to admit that ' doubtless a sacrifice of a theoretical liberty of speech is involved in the acceptance of the new Act.' Even assuming, for the sake of argument, that the sacrifice involved is only of ' a theoretical liberty of speech,' the question, to my mind, is whether it was at all necessary for the Government to have come forward to press for such legislation, and that too of a permanent character, such as is contemplated by the Bill. It may be that temporary restraints on the rights of public speaking and association may be deemed necessary under exceptional political conditions of a country ; but I take it to be a settled principle of legislation, in all countries with pretensions to a civilized system of administration, that no repressive measure, to provide against special political exigencies, should be allowed to remain on the Statute-book when the circumstances that might have justified it have passed away.

" If that principle be correct, as I respectfully submit it is, then the only question is whether the present conditions of India render any such legislation, as a permanent part of the Statute-book, necessary or desirable. Now, what is the present condition of the country compared to what it was in 1907, when the Seditious Meetings Bill was enacted ? On this point the testimony of all competent and qualified observers is at one, that there has been a remarkable improvement in the general situation. Mr. Montagu, speaking last year, bore witness to that fact. Lord Minto, speaking some months later at the United Service Club at Simla, was equally emphatic in his declaration on this point. More recently—speaking in London—he has declared in no uncertain voice that ' political quiet now reigns throughout India.' His Honour Sir Edward Baker, speaking the other day at Motihari in Behar, is reported to have said that he honestly believed that an improvement had taken place in the general situation. And to go no further, even the Hon'ble the Home Member made an admission to the same effect in the course of his speech introducing the present Bill. It is thus clear on the highest official testimony that the India of 1911 is in this respect a different India from that of 1907. That being so, I confess I fail to see the expediency or the desirability of placing permanently on the Statute-book a measure like that under discussion.

" The Hon'ble the Home Member in justifying the introduction of the present Bill dwelt at some length on the deeds of the revolutionary party in India

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and abroad, and he clearly suggested that the measure before the Council was one that would go—at least to some extent—to prevent the mischievous effects of their propaganda. My Lord, if I felt half as sure of it as evidently does the Hon'ble the Home Member, I would have given my whole-hearted support to the Bill. But after a careful consideration of the measure I have arrived at the conclusion that the Bill, if enacted, would in no way touch revolutionary propagauda. The Hon'ble Mr. Jenkins gave us a fairly exhaustive catalogue of the methods of the revolutionary party. These are, in his own words, the introduction into and publication in India of large quantities of seditious literature, the writing of threatening letters, the posting of seditious placards in public, and the planning to import arms into this country. Now, I would very much like to know which of these activities it is contemplated to combat by the Bill before us. It would be insulting the intelligence of this Council to labour the point that there are no provisions in this Bill to check any of these tactics of the revolutionary party. As remarked by a leading Anglo-Indian daily of this city—the *Indian Daily News*—in regard to 'its utility to capture the anarchists, it will prove about as useful as a torpedo boat to catch eels.' That being so, the only suggested justification for the present measure seems to me to be untenable. And while on the subject of the revolutionary party I would like to invite the attention of this Council to the remarks of the Government of the Lower Provinces in their Annual Administration Report for the year 1909-10. It is stated that 'there are already good grounds for believing that ... the anarchist movement has been paralysed, at any rate for the present.' This is with reference to the condition as it existed one year back. Since then there has been one murder and one attempt at it, which are regarded as the outcome of the anarchist propaganda; but we would do well to remember in this connection the wise and weighty words of Lord Minto in the course of his speech recently delivered in London. He said:—

'Anarchical crimes in India, I am afraid, we are always exposed to. We all know that other countries are not free from them. The bomb has unfortunately been introduced into India; it has to a certain extent gained a footing. Anarchical plots require the most careful watching. They are very much of the same nature as crimes committed in European countries; and there is no greater mistake than to believe that, if an outrage occurs, it is due to general sedition or to general disloyalty on the part of the people of India.'

"That is just the point, that, by reason of an isolated anarchical outrage, the vast bulk of the people of all classes and creeds, who are loyal to the British Crown, should not be made to suffer by curtailments of rights which they have come to cherish as indefeasible concomitants of British citizenship and the possession and enjoyment of which have intensified in them that spirit of loyalty to their sovereign which is ingrained in the Indian mind. It is because it seems to me that the Bill, if enacted, will in no way affect the revolutionary party, but that it will entail a great hardship on the bulk of the people by curtailing liberty of speech, that I deeply deplore the action of the Government in coming before the Legislature for the enactment of this Bill. The Seditious Meetings Act of 1907 has already largely demoralized public life in this country, and the effect of the present enactment will be to deepen that depression and demoralization.

"Coming to the details of the Bill, I must acknowledge the many improvements made in it on the legislation embodied in the Seditious Meetings Act, and I beg to tender to Your Excellency's Government my grateful acknowledgments for the changes introduced. Some of these changes are certainly important and are calculated to render the working and the operation of the Act less liable to abuse. 'The Act of 1907'—I am quoting an Anglo-Indian paper—'might, in the hands of an arbitrary Local Government, have been employed in such a way as to molest private gatherings or to interfere with legitimate public meetings.' As a matter of fact that Act has been on many occasions so utilized. In this respect the present Bill is certainly an improvement, with the result that it is less likely to be oppressive in its operation. And to this extent the country is deeply beholden to Your Excellency's Government for meeting with popular wishes. I confess I have read with some surprise in the editorial observations of the *Englishman* that 'on the

[*Mr. Sachchidananda Sinha ; Pandit Madan Mohan [20TH MARCH 1911.] Malaviya.*]

whole, the concessions that have been made are not very important.' On the contrary, I am persuaded that if a measure like the one embodied in this Bill has unfortunately got to be placed on the Statute-book, to arm the executive with such powers as they deem necessary to possess, to cope with what they evidently regard as an exceptional situation, the Bill in its present form—while no doubt still capable of improvement—is about as little stringent and oppressive as it could be, under the circumstances. I trust that the Hon'ble the Home Member will be satisfied with this acknowledgment of my humble appreciation of the endeavours made by him to meet with popular wishes, though I wholly differ from him in regard to the principle of the Bill and the expediency or desirability of any such legislation in the present improved condition of the country.

"My Lord, I believe that the powers that the executive may require to cope with the state of affairs at present are adequately available to them in the Indian Penal Code and the Criminal Procedure Code, and it was under section 144 of the latter Code that the authorities at Barisal prohibited the session of, in my opinion, an innocuous meeting, namely, the Bengal Provincial Conference, in March 1907, anterior to the enactment of the Seditious Meetings Act. I feel sure that in section 144 of the Criminal Procedure Code the executive authorities are in possession of ample powers for proscribing all meetings likely to indulge in mischievous or inflammatory propaganda. The new Bill is therefore open to the charge of its being a replication of powers already vested in the executive, with this difference, that whereas the act of the officer under the Codes is a judicial proceeding, which might be challenged, that under the present Bill is made purely executive and absolutely final; and to this extent, therefore, the provisions of the measure under discussion, where they differ from the existing law in the Penal and Procedures Codes, differ for the worse.

"My Lord, it is to me a matter of genuine regret that in the very first session of the Council over which Your Excellency has presided the legislature should be called upon to enact a measure of this character, and that too in a year which is sure to be rendered memorable by the presence amongst us of their Most Gracious Majesties the King-Emperor and the Queen-Empress. At a time like this, the Government should not have placed before this Council, and invoked its assistance in passing, a measure that will act as an irritant, in place of an emolient, to the feelings of a large section of His Majesty's subjects. I trust that in spite of the Hon'ble Mr. Jenkins' prophecy that he hoped that this Bill was now before this Council for the third and last time, it would come up once again, before long, with the object of being repealed. When that day comes, it will be good for the Government and the people alike. My Lord, it would be a mistake to suppose that any non-official Member of this Council would be so short-sighted as not to realize the advantage of co-operating with the Government by giving to it all the support he can, consistently with his regard for the interests of the community he represents. I think some of us might have supported the Bill in its present form as a temporary measure, not because we are convinced of its necessity, but to satisfy the Government of our sincere desire to strengthen the hands of the executive in dealing with what is still regarded, though I fear wrongly, as an abnormal situation. But with the sincerest desire to meet the Government even more than half-way, we cannot shut our eyes to the danger of such legislation being made a permanent part of our Statute-book."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "My Lord, it cannot be regarded as anything but a misfortune for the Government and for the people that the Government should consider it necessary to bring forward such a measure before the Council. It cannot be denied that it is a measure of repression. The changes which have been introduced are no doubt very material; but still the measure retains its character of being an exceptional measure, which can only be justified by exceptional circumstances prevailing in the country. Now, my Lord, if such circumstances existed, I believe there would be no difference of opinion as to the introduction of such a measure. But it cannot be seriously disputed that the circumstances which existed in 1907, when the

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measure was first introduced, do not exist in the India of to-day. It has been freely admitted by the Hon'ble the Home Member and by the various Local Governments that there has been a great deal of change in the circumstances which existed in the year 1907, and that the change has been all for the better. A careful perusal of the opinion of Local Governments, and of the speech which the Hon'ble Member delivered in introducing the Bill, would lead a careful observer to the conclusion that there is no present necessity for passing such a Bill as is before the Council. The law is asked for mainly on the ground that it should be available as a ready instrument to be used by the Government whenever occasion may arise for it. Now, my Lord, no well-wisher of the Government and of the people would desire that the Government should not be armed with any power that may be really necessary to prevent the spread of sedition or seditious disturbances in the country. And if there was any difficulty in the way of the Government enacting such a measure when the need for it arose, the placing of such a measure as is now before the Council permanently on the Statute-book would have much to be said in its justification. But apart from the fact that there is a great body of law on the Statute-book which can and which does enable the Government effectively to check the spirit of sedition, we know that not only can the Government of India, under the Indian Councils Act, pass any law that may be necessary at one sitting of this Council, but also that Your Excellency has the power under section 23 of the said Act to make and promulgate any Ordinance which the emergency of the case may require to deal with the situation. In view of these circumstances, I beg leave to ask if it is necessary at this moment to place a measure like this permanently on the Statute-book? With all the respect due to the Government, I feel it my duty to the Government, no less than to the people, to submit that it is not. It will not be clear to a large section of the general public why such a measure should be placed permanently on the Statute-book at a time when it is admitted on all sides that there is a general political calm prevailing all over the country; but in view of the fact that the Government of India, acting with the unanimous advice of the Local Governments, have come to the conclusion that the law in question should be made permanent, it seems not only unnecessary but useless to repeat the many arguments which have been urged in the past and many which have been urged or suggested in the debate to-day against a measure of the character before us. I frankly and thankfully acknowledge the several important changes which have been made in the existing Act, which have removed some of the most serious objections which had been urged against it. These changes are very valuable, and I have no doubt that they will be fully appreciated by the public and will help them to be reconciled to the measure. If the Government will be pleased to go a little further, and restrict the duration of the Bill to a period of three years or so, I venture to think that most of us will agree to accept the Bill. But however that may be, even if the Bill is passed as it is, it is to be hoped in the interest of good government, which includes the best interests of the administration and of the people, it is devoutly to be hoped that the measure will remain a dead-letter, and that, if unfortunately it is ever put into operation, both the Government and the public will jealously watch its application to ensure that it should only strike at the noxious growth of sedition and not hang as a blight on unexceptionable healthy activity."

The Hon'ble MR. MACPHERSON: "With Your Excellency's permission I will read a speech which has been handed to me by the Hon'ble Raja Partab Bahadur Singh of Partabgarh. (The Hon'ble Member then read the following speech):—

"It is with reluctance as well as with pleasure that we have met here to-day to discuss the advisability of re-enacting the Seditious Meetings Bill and placing it permanently on the Statute-book—reluctance, because there should ever have arisen the necessity of such a measure in India, the soil of which was not congenial to the growth of sedition and anarchy, and where loyalty and complete submission to the Crown were the characteristics of every inhabitant of this vast land; pleasure, because it places all the law-abiding people beyond the

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reach of the influence of mischief-makers and sedition-mongers. It is indeed in the interests of good government, nay in the interests of the people themselves, that the State should be well-equipped with weapons to meet the assaults that might at any time be made on its security. But, my Lord, before forging any such weapon in the legislative workshop, it is necessary for us to see whether it will serve any useful purpose and produce any salutary effect. For this we have simply to look back to the conditions that prevailed in India before the year 1907, when the Government was obliged to enforce an Act for the prevention of seditious meetings. It was a time when in some parts of the country murders, assassinations, conspiracies and dacoities were of frequent occurrence—much of this mischief was undoubtedly due to the inflammatory speeches and public writings in the Press—and public peace and tranquillity were at stake. It was a time when it was feared that if this state of affairs were allowed to continue longer the germs of sedition might spread like wild fire. These were the circumstances that necessitated the enforcement of the Seditious Meetings Act. If we compare that state of affairs with what it is at present, we will find the situation has improved. Nevertheless it cannot be said without fear of contradiction that the country is now in a fit state to dispense with the measures the Government had to adopt in exceptional times. The recent outrages committed in the metropolis of the Indian Empire and also the mischievous doings of some people elsewhere go to show that there still exists the need of an extraordinary measure like this, and sedition has not yet died out.

“Now, the question arises as to what has been the important factor in bringing about this change for the better? The answer is not far to seek. In my humble opinion such measures as have the effect of saving the masses and youths of the country from falling a prey to the pernicious influence of those misguided persons who want to disturb the peace of the country, have been greatly helpful in improving the situation, and are, therefore, essentially required for good government and the safety of the people.

“With these few words I beg to give my cordial and unqualified support to the Bill.”

The Hon'ble MR. MADGE: “My Lord, as one of those who entirely approved of the original Act when it was brought in, I must confess to some sense of disappointment when I first read the amendments of the present Bill. My disappointment arose from the fact that the original Act was undoubtedly effective, and that the amendments seem to me to shed some of the principal elements of its efficiency; and but for a fact which I shall presently mention, my disappointment would be deepened by the admissions which have been made by some of the opponents of this Bill, to the effect that it will not effect the purposes for which it is being enacted. That the original Act has produced a remarkable change in the country will not, I think, be denied by anybody who has studied the signs of the times for the last three or four years; and if the present opponents of the amended Bill think it will not effect its purpose, that would be an argument in my mind for going back to the original Act rather than for disapproving of any legislation whatsoever. But the fact to which I have referred is this, that the Executive Government, which no doubt possesses better information regarding the conditions prevailing in this country than we do, has brought in a Bill and is satisfied with it, and to my mind that is a sufficient reason for supporting the Bill.

“My principal reason, my Lord, for rising is to combat two arguments that I have heard here this morning. One is that this Bill casts a stigma upon the whole province. That is a kind of argument which I have never heard anywhere else. The Bill is directed against a specific class of crime committed by certain persons. How it can cast a stigma upon anybody else, it is really difficult to understand. The only ground on which a Bill of this kind can cast a stigma upon any other class than those who are incriminated by it would be that it has urged certain classes who were timid beforehand to come forward more boldly to condemn crime than they did in the earlier stages of anarchy. Now, my Lord, I am very slow to impute any kind of motive to anybody or to find fault with any one; but no one can have lived in Calcutta for the last four or five

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years without feeling that the intellect and the character of the country were not displayed against this crime when it first arose. It was a common complaint in all the Anglo-Indian Press that, situated as the Government was in a foreign country, it was entitled to more help from people who could assist both in the suppression of crime and in the detection of crime when it was committed than they did. And therefore, if this Bill casts any kind of stigma upon anybody else than the criminals themselves, it can only be because it has produced a certain effect, which ought to have come about from the natural loyalty of the country without the stimulus of such an Act.

"The other argument that I wish to meet is that ephemeral legislation ought to be resorted to against any class of crime, even exceptional crime. My Lord, all crime is exceptional. I do not think there is a single crime mentioned in the Statute-book which is not exceptional in its character. As I humbly ventured to point out in Simla, the differences in crime are of degree and not of kind. The whole lot of them are offences against the public peace or against society and the welfare of the country, and that any crime should once show its face in any country and be legislated for, and the legislation be allowed to die out because the crime seems to be partially suppressed,—nobody can say that it has been wholly suppressed,—is an argument that carries no weight whatever with me.

"I am quite aware that analogies between disease and crime may be overstrained, but there is a certain resemblance between this proposal to have temporary legislation against what is thought to be temporary crime and a proposal, for instance, to abolish vaccination because it was very unpopular any small-pox had died down for a little while. The conditions that bring about small-pox are to my mind as mysterious as those that bring about crime. They have been hunted down successfully by preventive measures, but I do not suppose that the real mystery of the thing has ever been found out. And I am afraid the mystery of crime here or anywhere else will never be found out except in the fallibility of human nature which is prevalent everywhere. Any crime which has shown itself here is exceptional in much the same manner, and I humbly maintain that no Act ever passed against any phase of crime ought ever to be abolished."

The Hon'ble MR. GRAHAM: "My Lord, I wish this afternoon, on behalf of those whom I represent, to give my cordial support to this Bill. I cannot conceive that the Bill as it now stands could possibly be a hardship to any law-abiding citizen in any ordinary area in India, and if any area at any time becomes abnormal and sedition becomes rife, then I do not think anybody can cavil at the Government having this power behind it to deal with sedition and seditious meetings. If this Bill had been enacted fifteen or twenty years ago and had been on the Statute-book for the whole time, I personally think that the sterner measure, which this Bill is now to take the place of, might never have been wanted. I therefore wish to support the Bill."

The Hon'ble MR. GOKHALE: "My Lord, it is with considerable reluctance and regret that I rise to take part in to-day's discussion. I had hoped, like so many of my friends, that the occasion for this discussion would not arise, that in view of the great improvement, which has taken place in the general situation of the country, and to which the Hon'ble Mr. Jenkins bore testimony the other day, the Government would not consider it necessary to prolong this legislation, and that in any case they would not seek to place the measure permanently on the Statute-book. As, however, the Government have come to the conclusion that they must continue to have this weapon in their armoury, and have it permanently, those who are unable to acquiesce in this view have no choice but to express their dissent, and that is why I must trouble the Council with a few observations.

"My Lord, I do not propose to approach this question from the standpoint of abstract principles. Far be it from me to under-rate the importance of abstract principles. Abstract principles are usually derived from the accu-

nulated wisdom and experience of ages, and in stimulating generous sentiment, in sustaining high ideals, and in lighting the path of life over dark and difficult ground, they are of inestimable value. But no thinker has ever urged that mere abstract principles should guide us, without reference to the circumstances amidst which they have to be applied. Thus the abstract principle of freedom of speech must be taken in relation to the circumstances amidst which that freedom is claimed; and I am quite willing to concede that the theoretical objection to any proposed legislation that it restricts the right of free speech must be further supported by an examination of its practical consequences before it can be regarded as conclusive. But, my Lord, just as the right of free speech is an abstract right, so also the proposition that all loyal citizens must rally round the executive in maintaining law and order is an abstract proposition, and its value as a guide for practical conduct must depend upon the circumstances amidst which it is sought to be applied. I think, my Lord, when loyal citizens are called upon to rally to the support of the Government in any measures it considers necessary to maintain law and order, two questions have to be considered. First, what is the danger against which the Government wants to take measures, and secondly, what is the character of the measures which the Government wants to take? And this again leads us to another enquiry. Is the need of the Government urgent and immediate, or is the Government anxious only to take precautionary measures? If the need of the Government is urgent and immediate, then of course all ordinary considerations must be put aside, and every loyal citizen must range himself on the side of the Government in sanctioning and enforcing the measures that are thought to be indispensable. In a state of actual disturbance, in a state of dangerous activity on the part of elements hostile to the very existence of the Government, I can understand the Government calling on all loyal citizens to rally round it in this manner. But where the measures contemplated are more precautionary than required to meet an urgent and immediate situation, where the measures contemplated are more against possible developments in the future than any present need, there, I venture to think, that a different set of considerations apply. Now, my Lord, it is freely admitted that the present situation of the country is not of a character to demand such legislation for immediate use. We have been told that very probably this law—when the Bill becomes law—will not be put into force at all in the near future. Therefore, it cannot be claimed that the need of the Government is urgent and immediate, and we are entitled to take it that the measure is intended to serve the purpose of a precautionary measure. Let us, therefore, examine the measure as a precautionary measure. And here there are two standpoints from which it may be viewed: one, the standpoint of the Government, and the other that of the representatives of the public who are called upon to assist the Government in such legislation. The Government naturally, in passing a precautionary measure, has, first of all, to consider how it can be made effective. A measure like this is not worth having unless it is reasonably effective. The representatives of the public, on the other hand, have, first of all, got to consider, since there is no immediate danger to be met, what harm is likely to result if the powers conferred by the measure are abused, and how to prevent such possible abuses. No one can deny that abuses are possible, even in regard to most carefully framed measures. Now, my Lord, so far as the effectiveness of this measure is concerned, I will freely admit, what has indeed been already admitted by so many of my Hon'ble friends, that, from the standpoint of the Government, it could not have introduced a milder measure than this. The more objectionable features of the Act of 1907 have been removed, and if, when the need arises, this law is applied with reasonable care and caution, it is not likely to produce any serious hardship. I am free to admit that at once, and I do not think there is any difference of opinion on that point. But while the Government may claim to have removed from the old law its harsher features, we, here, who represent the public, that will have to come under this law, have also got to consider what will happen if the powers which this law confers are abused; and from that standpoint, my Lord, I submit that, though a great deal of cargo has been thrown out of the vessel, still enough remains to fill our minds with apprehension. Let us, my Lord, take the case of an area which comes to be

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proclaimed under this law. It is quite true that the Government of India will have first to extend the notification to the province; it is quite true that the Local Government will have next to proclaim the area, and that, too, now, after first obtaining the sanction of the Governor General in Council; but after all, in the last analysis, it is the opinion of local officers that will generally prevail in these matters. If the local officers strongly hold that a particular area is developing a dangerous activity,—whether it is actually doing so or not is a different question,—if the local officers think so, the Local Government, in ninety-nine cases out of a hundred, will endorse that view; and when the Local Government urges this view upon the Government of India, I think it is very improbable that the Government of India will refuse to extend this law to that particular province and that particular area. Therefore, my Lord, in the last resort, it is the opinion of local officers that will really prevail; and when once an area has been placed under this law, the Local Government and the Government of India will, so to say, be out of it, and it is the district authorities that will then apply the law and stand face to face with the people.

“Now, my Lord, I do not wish to make any general or sweeping observations about district officers. The district authorities of this country try to do their duty as conscientiously as any body of human beings, similarly circumstanced, can do; and they have their exceptional and their average men. There are in their ranks some who are exceptionally high-minded and conscientious; a large number who merely take a routine view of things, and do what they consider to be their duty without considering how it will affect the people; and some who are intolerant of all criticism and who certainly will not hesitate to use the powers which a law like this will confer on them, in order to put down all political agitation, whatever its necessity or character. And I distinctly fear that in an area proclaimed under this law, there is no small likelihood of these exceptional powers being abused. It must be borne in mind that district authorities, in their turn, are dependent for their information upon the police, and it is well known that the police of the country as a class are feared and not trusted. Therefore, there is a serious danger that the powers under this Act may be abused; and since there is this liability to abuse, it becomes necessary for the representatives of the people in this Council to consider what should be their attitude towards a measure of this kind. My Lord, I have considered this question long and anxiously, not only in connection with this particular measure, but also on other occasions, which have arisen in the past, as to what should be our attitude towards the repressive measures which the Government comes to consider as necessary. The position, briefly, is this. The Government of India considers certain legislation to be necessary in order that certain evils, actual or anticipated, should be coped with properly. The Government's intentions, of course, are beyond question. The Government only wants the remedy to be applied to the evils and does not want any excessive zeal on the part of any of their officers. If the non-official Members of this Council take only the intentions of Government into consideration and raise no objection to the proposed legislation, they become responsible for that legislation along with the Government. As soon, however, as the legislation is passed, the matter gets out of the hands of the Government of India; and wherever the legislation happens to be enforced, every officer who administers the law comes to be armed not only with the spirit of the law but also with the letter of the law. And, then, when abuses occur, non-official Members, who have been assenting parties to the legislation, find themselves placed in a very awkward position. I will illustrate my meaning by what occurred last year in connection with the Press Bill. Last year, when the Government of India introduced a drastic Press law, it was a time of considerable anxiety for the Government. And if ever the Government was entitled to the co-operation of the people in repressive measures, it was at that time. A generous measure of Council reform had been conceded, and when the new Council was about to meet, a diabolical murder had taken place here in the very precincts of the High Court. The time was such that every generous sentiment urged one not to judge the proposals of Government in any very critical spirit. When the Government brought forward its measure, ample material was laid before the Select Committee, which satisfied many of us that in several parts of the country, a section of the Press habitually went beyond all

reasonable bounds and needed to be controlled; and that if the Government were to rely merely on ordinary prosecutions, the evil was most difficult to deal with. When, therefore, it was proposed that some executive action within certain limits should be tried to cope with the situation, several Members of this Council came to the conclusion that we should not stand in the way. And when the Bill came up before the Council we did not oppose it, and practically gave a sort of reluctant assent to the measure. If ever, therefore, there was a measure, which should have been enforced with care and caution, it was that Press Bill. Apart from the fact that a harsh enforcement of the measure was liable to turn the feeling of the people against Government, this special caution was due to those non-official Members who at a difficult time had come forward to range themselves on the side of Government. There was never any doubt about the intentions of the Government of India. We were assured, both in private conversations and in the speeches of Members of the Government in this Council, that the law would be applied only to extreme cases, that the past would be wiped off the slate, and that the measure would be enforced only in the case of new and serious offences. And in waiving our opposition to the measure, we permitted ourselves to believe that the remedy would be tried in that spirit. As soon, however, as the Bill was passed, Magistrates in all parts of the country started enforcing the provisions in the harshest manner, and the worst cases occurred, I am sorry to say, in my own province, Bombay. For the most paltry reasons, security came to be demanded, with the result that even thoughtful men, who deplored the excesses of the Press, turned violently against those who had stood by the Government in the matter. I know the Members of the Government were themselves distressed to see this abuse of the Press Act. Sir Herbert Risle, who had introduced the measure, had gone, but Sir Harold Stuart, the Home Secretary, was here. I had a talk with him in the matter, and I know he was deeply grieved that this harassing overzeal was being displayed by Magistrates, who were enforcing the letter and not the spirit of the law. The difficulty, my Lord, in such matters is that it is impossible to communicate properly on paper the intentions of the Government of India even to the Local Governments, and further, even if it is found possible to do so, these intentions do not travel beyond the Local Governments; and hundreds of Magistrates all over the country, who come to be armed with the powers conferred by the law, do not think of the intentions or do not know anything about them. When I went back to Bombay last March, after the session of this Council was over, I found that the position of some of us had become, owing to the abuses of the Press law, almost intolerable; and this not merely in the eyes of those who were in the habit of talking wildly, but even of those who wanted us to give a reasonable sort of support to the Government; so much so that I thought it necessary to ask for an interview with His Excellency the Governor of Bombay and lay the whole matter personally before him. Sir George Clarke entered into our feelings at once, and with that readiness which has always characterised him to look into grievances brought personally to his notice, he promised to set the matter right at once; and then orders were issued, which stopped the whole scandal.

"My Lord, the fear of such experience always weighs us down. We are quite willing to accept the statement of the intentions of the Government of India, as made known here. And we know that the Government of India has no other object in view than to put down the evils complained of. We know also that Local Governments will try to carry out those intentions to the best of their ability and as far as they understand them. But it is not the Government of India nor the Local Governments that ultimately exercise the powers; it is local officers, scattered all over the country; and these officers, according to individual idiosyncracies, will interpret the law and enforce it. The whole question, therefore, is not so much a question of legislation as of executive administration. It has often been said—it is really a mere truism—that more depends upon the manner in which a law is administered than upon the law itself. And in the executive administration of the country we have absolutely no voice. If, in enforcing this law, non-official men were first consulted by district authorities, if their advice was sought beforehand, then there would be some safeguard against an abuse of

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these powers. If, for instance, district officers were to have round them district councils, as has often been suggested, and they were to put the powers of such law into force with the advice of the district councils, there would be some guarantee that no improper exercise or abuse of those powers, whether due to ignorance or excess of zeal, would occur. But as long as we have no opportunity of making our wishes known in the executive administration of the country, so long it becomes an exceedingly difficult matter for us to accept the responsibility which associating ourselves with the Government in such measures brings to us.

"My Lord, after a great deal of consideration, I have come to the conclusion that, while things are as they are to-day, our co-operation with the Government cannot ordinarily go beyond two classes of measures—constructive measures taken for the moral and material well-being of the people, and measures urgently and immediately necessary to deal with actual or threatened disturbances. I will illustrate my meaning by an analogy drawn from the question of military expenditure. If war or invasion were threatened, I think, whatever our views about military expenditure may be, we all should be willing to come forward and support the Government in any measures—even extra taxation—which the Government might consider necessary to cope effectively with the danger; but that is in an abnormal and extraordinary state of things. In normal conditions we should jealously scrutinise our military expenditure and urge the Government to keep it within reasonable limits. In the same manner, where an abnormal situation as regards the maintenance of law and order in the country arises, we should brush aside all ordinary considerations and come to the support of Government in any measures that are really necessary for putting down or preventing disorder. After all, we do not want any sedition in this country any more than the Government does. Our hopes for the future are bound up with the peaceful maintenance of British rule; and in all measures, reasonably necessary for the maintenance of that rule, and reasonably applied, the Government is entitled to our co-operation and support. But there is the difficulty which I have spoken of, where measures are taken as mere precautionary measures, not required by any immediate necessities, but simply to guard against possible developments in the future. And I have come to the conclusion that, in view of the possibility of abuse, we must leave the responsibility for such measures to the Government. I admit that, as the responsibility for peace and order is primarily with the Government, the judgment of the Government must prevail in the end in such matters; but as the Government has the power to enforce that judgment, whether in this Council or outside, we should not be expected ordinarily to assent to the exercise of that power, and no occasion for complaint arises if we prefer to stand aside.

"I will now say a few words on the Bill before us, and then resume my seat. I do not wish to go into the details of this measure. That has been done by many of my Hon'ble friends and I do not think anything has been left to be said on the subject. It is admitted freely that the Government has removed from the old Act its more objectionable features, and that, if an Act must be passed, the Government could not have made it milder. But I must urge again, what I urged at Simla in 1907 and what I also urged last year, that legislation in such matters should be passed in Provincial Councils and not in the Imperial Council. My Lord, I think it is unfair to everybody—unfair to the Government of India, unfair to the Members of this Council, unfair to the whole country—that such legislation should be passed here. The only justification for such measures is the prevalence of an exceptional state of things, and unless such a state of things is general throughout the country, a province which wants to be armed with exceptional powers should seek to pass the necessary legislation in its own Council. As most provinces possess their own Legislative Councils, there is no reason why the Government of India should ask this Council to accept a responsibility which should be borne by Local Councils. When the Government of India passes such legislation for the whole country, it gives rise to a feeling of general irritation, and the irritation is greatest in those provinces which need the special legislation the least.

A province that is disturbed recognizes more or less the need for some measure of the kind; but the provinces that are in a normal condition feel that they have been badly treated. Moreover, it is impossible here, whether in Select Committee or in Council, to consider all the circumstances of the different provinces, whereas, if a province which needed these extraordinary powers were called upon to legislate for itself, the circumstances of that province would be discussed with full knowledge by Members, both official and non-official, before a final judgment is arrived at. It has been stated that all the Local Governments are in favour of placing this legislation permanently on the Statute-book. I do not think, however, that that goes far. No Local Government, or for the matter of that no authority, would like to relinquish the powers which it already enjoys. A clear illustration of this is furnished by what has happened in the Rhotak District in the Punjab. When the proclamation of Rhotak was about to expire, the Deputy Commissioner of Rhotak and the Commissioner of the Division strongly urged its renewal. The Lieutenant-Governor would not agree to that—at the same time he is unwilling to let this Act expire. Thus each authority wants to keep the powers which it possesses, and it is not strange that all Local Governments have expressed themselves in favour of the permanent retention of the Act.

“My Lord, if the Government had proposed to limit the duration of this measure to three, four or even five years, that would have considerably altered its character. It would then have meant that the Government wanted a temporary remedy for a state of things which it did not consider quite normal. If this had been done, it would have been easier for us not to stand in the way of this Bill passing into law. My Lord, if this measure were passed for five years, what would happen? I am quite sure that in five years things will so settle down that there will be no need for this measure. When this Act was first passed in 1907, Dr. Ghose and I pointed out that by itself it would not only prove no remedy for the state of things, but that it would drive discontent into more violent channels, and that what the situation needed was above all a large and generous measure of reform. And what we had prophesied actually came true; for in April 1908 the first outbreak of violence took place in the country. In November 1908 came the gracious message from the late King, the Proclamation of 1908, and it was followed soon after by the scheme of reform, which was announced by Lord Morley in his memorable speech of December 1908 in the House of Lords. The improvement in the situation of the country has been rapid since then, and further that improvement has been continuous; and, in spite of the two detestable outrages that have recently occurred, we all feel that, taking the country as a whole, the situation every day is improving and that it will not be long before the whole thing passes away like a hideous nightmare. That being our view of the situation, we feel, my Lord, that a temporary measure would have suited the requirements of the situation much better than a permanent measure of this kind. If, on the other hand, our estimate of the situation is found to be wrong at the end of four or five years, the Government has the power to renew the measure for a further period or indefinitely. There may be some little agitation to be faced, but that is a small consideration compared with the fact that, in placing this measure permanently on the Statute-book just now, the Government is going against a large volume of public opinion. My Lord, let not the Government be influenced too much by the latest outrages. They are like the dying embers of a fire that is going out. A number of young men came under unfortunate influences under circumstances over which I will not dwell, but the responsibility for which must be shared equally between the Government and the people. There is much truth in the adage that it takes two to make a quarrel. I am not, however, going into that; I only want to say that for three or four years a wave of wild teaching passed over the land, and under the influence of that teaching a number of youths completely lost their heads and committed themselves to courses of conduct from which retreat was not easy. I think it is some of these men who are still responsible for these outrages. There may be a few more outrages in the near future,—no one can say,—but no new additions to the ranks of these men are taking place; the supplies have been cut off;

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and I feel quite sure that the situation will now grow better and better every day until at last only the memory of these times is left. I therefore urge, my Lord, that the Government should reconsider this matter even at this late stage, and limit the duration of the Bill to a period of three, or even five, years. If this is done, some of us, who are unable to assent to a permanent measure, may find ourselves in a position to reconsider the line which we have decided to adopt."

The Hon'ble MR. SYED ALI IMAM: "My Lord, the legislative measure which is before the Council deserves to be examined in the light of a comparison of its provisions with those of the Seditious Meetings Act of 1907. This process will lay bare the constitutional changes that have been introduced by Your Excellency's Government in a piece of legislation the utility of which, under circumstances of political danger, cannot be sufficiently appreciated. It will be conceded on all hands that these far-reaching changes are all in the direction of removing features that in the Act of 1907 were supposed to induce real or fancied alarm in the minds of such as have permitted themselves to be obsessed by abstractions rather than be guided by the statesmanship which addresses itself to a correct appreciation of the conditions existing in fact. It will be remembered that the notification under sub-section (2) of section 1 is a condition precedent to the exercise of the power under section 2. The former established only a correlation between the Government of India and Local Governments with regard to the operation of the Act, and does not impose any immediate curtailment of the right of the people to hold public meetings. The proclamation of a province or a part of it must be preceded by this notification that does not do more than make it only possible for Local Governments to apply the measure within their jurisdiction. I find it necessary to advert to it as, in the criticisms that have been offered from time to time on the action taken under the Act by Lord Minto's Government in January 1910, the point has been lost sight of, and it has been assumed that His Lordship's Government, by taking the action it did, deprived the whole of India of the right of holding meetings at one stroke of the pen. As a matter of fact it did no more than make it permissible for different Local Governments to apply the Act if an emergency arose. This action served as a gentle warning to put the disaffected and the wavering on their best behaviour without in the least trenching upon any rights of citizenship. Better informed and more circumspect critics, however, condemned that action on the ground of the impolicy of arming Local Governments with powers of such potency as the Act contains.

"My Lord, it is only a bare justice to the Local Governments concerned for this Council to remember that they fully justified the confidence the Government of India reposed in them. It is now more than a year since they were armed with this authority; yet, be it said to their credit, they have not put it into actual operation in any one single instance. My Lord, an advocate of decentralisation might find in the political sagacity and sobriety displayed by the Local Governments sufficient justification to ask for the continuance of the policy of giving them a free hand in this matter. But with a view to provide additional precautions and create greater security in the mind of the public, the Bill has subjected action of Local Governments under the two clauses of section 2 to the previous sanction of the Governor General in Council. The Bill, therefore, relieves Local Governments of the responsibility of applying its provisions to the whole or any part of their charge and places the discretion to accept or reject such a proposal in the hands of the Governor General in Council. Those who are acquainted with the constitution of the Government of India are aware of the immense safeguard this provides against an inconsiderate use of the power this Bill seeks to create. Many a pet project, cherished resolve and elaborately prepared scheme finds its grave in the deliberations of the Executive Council of the Viceroy. The restraining hand of the Central Government is a sufficient check on precipitancy, and is, I submit, entitled to inspire the Council with confidence that the exercise of the power the Bill is designed to create will be under the most exceptional circumstances of grave political necessity. When the Government of India has elected to take upon itself such responsibility, Hon'ble Members may well

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be assured it has not done so in a light and sporting spirit, but in the solemnity and earnestness that are inseparable from authority of exceptional magnitude.

" But to proceed with the Bill. My Lord, as the Member of Your Excellency's Government who has to do with law and legislation, I may with pardonable pride point to the welcome advance this Bill has made on the Act of 1907 in maintaining intact a great and cardinal principle of English criminal jurisprudence. The presumption of innocence in favour of the accused is the basic principle of criminal administration of justice in India. The burden of proving the guilt lies on the prosecution. The Bill accepts the soundness of this hoary-headed and venerated juristical theory and has not therefore departed from the traditional orthodoxy of a great system of law. It was open to Government to justify such a departure on the plea that the Bill applies to exceptional places during an uncommon period of public disturbance. In Indian legislation there is precedence for shifting the burden of proof in exceptional circumstances from the prosecution to the defence. But Government has taken up in this Bill the loftier position of declining to claim any special treatment of Crown prosecutions under the proposed legislation. Some Hon'ble Members present here are practising lawyers of eminence. They will realise the importance and significance of this concession. In the conduct of criminal trials, as is well known, the mainstay of the defence is that the *onus probandi* is on the prosecution. Law Officers of the Crown are well aware how heavy a burden it is. It is an important factor in the considerations that determine initiations of proceedings. It is a powerful and vigorous check on irresponsible and indiscriminate prosecutions. Nothing short of a clear case where the doubt regarding conviction reaches vanishing point is allowed to go to trial. This is a safeguard the value of which cannot be too highly estimated in forming a correct judgment of the liberality of the Government view in this connection. Hon'ble Members will, I venture to think, agree with me when I say that the deletion of sub-section (3) of section 3 of the Seditious Meetings Act of 1907 from the present Bill has introduced a radical change in the very core and conception of the rationale that prompted the measure four years ago. Surely, my Lord, vague apprehensions, unworthy suspicions and nervous speculations regarding the possible misuse of power to convulse the country with doubtful Crown prosecutions need not any more lurk in the breasts of the champions of Indian liberty.

" But the Bill has further merit. The Act of 1907 places a political subject on the same level that is likely to cause disturbance or public excitement. The restrictions under sections 4 and 7 of the Act apply to both with equal force and rigour. My Lord, considering the Bill aims at grappling with conditions of abnormal difficulties in times of political stress and administrative emergency, it was reasonably open to Your Excellency's Government to follow the Act and refuse within a proclaimed area to recognise the distinction between a political subject and a subject that is likely to cause disturbance or public excitement. Yet the Bill that is before the Council has not, even among such lamentable surroundings as necessitate proclamation, trespassed upon the rights of free citizenship to hold meetings to discuss political subjects, so long as they do not lend themselves to disturbance or public excitement. The emancipation of peaceful public discussion on constitutional lines, of genuine and *bona fide* political subjects, from the limitations imposed by the Act of 1907, is an expression of the earnest desire of Government not to put a ban on the growth of healthy political activities in the country. Hon'ble Members will note, I hope, with satisfaction the courageous statesmanship that characterises this part of the Bill.

" But, my Lord, I have not yet come to the end of the benefactions. One more feature of striking contrast will I present. It is regarding the position of the police in this Bill. On the 6th of August of 1910, at Simla, when the Hon'ble Mr. Gokhale rose in this Council to oppose the continuance of the Seditious Meetings Act, he referred to the proclamation of an area as placing it under 'police rule'. We all know the Hon'ble Member is a great master of debate and dialectic! The unpopularity of the police furnished the Hon'ble Member with a theme that was rich in destructive criticism. The Hon'ble

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Member then dwelt on the abuses to which the police would put the Act. My Lord, here again the Bill has so largely modified the provisions of the Act that, save and except a Commissioner of Police (and he is an officer of high standing), not a shred of power has been left in the hand of any member of that force, and although I listened to-day with attention to the excessively mild assertions, but yet very persuasive, of the Hon'ble Member opposite, I have failed to detect any good reason to show why, after the Bill has been accepted by this Council, by any manner of means it is possible again to apply the viciousness of the police to the discomfort of the people at large."

The Hon'ble MR. GOKHALE: "May I interrupt the Hon'ble Member? On whom will the district authorities depend for their information?"

The Hon'ble MR. SYED ALI IMAM: "That is a question that may well be answered in this way. If the district officer depends upon the police for his information, is it the Hon'ble Member's contention that he surrenders his judgment to his subordinates, and am I to understand that the leadership of the Opposition in this House is subject to the same principle, and that the learned and able Hon'ble Member opposite surrenders his judgment to those who supply him with information and has the same position in regard to subordinates as the police have in regard to the Magistrate? I claim on behalf of the administration, my Lord, that the Magistrate never surrenders his judgment; he receives information which he has to digest and he has to apply to it all the ability that he possesses and all the experience he has gathered in administration, and after that he decides as to whether he has to act on the information of the police or not. I submit, my Lord, in this Council I think that any Member should get up and put forward a wholesale denunciation of the administrative ability of the Civil Service, of which the District Magistrate is a member, on the ground that he sees with the eyes of the police, that he hears with the ears of the police, and that he does not use any discretion, is, I submit, a proposition that I was not prepared to hear from the high authority of the leader of the Opposition. It has disarmed all criticisms based on allegations of the wickedness of the police. The Bill, as considered by the Select Committee, makes an offence committed against the proposed legislation triable only by a Magistrate of the first class. My Lord, this is also a conspicuous advance made by the Bill, and I submit that if these various points that I have been placing before the Council are looked at by this assembly in a dispassionate manner, they will see that the Government has been approaching the subject, as it were, with all the tenderness of a mother towards a criminal who comes within the purview of this Act. It is not absolutely necessary that this Act is at all to apply to any part of India, and I trust it shall never be, and I hope my countrymen will make it impossible for us to apply this Bill; but if they had, even in that case if an offence is committed, we have taken all those various precautions in order to secure into the mind of the Indian public the absolute safety which Your Excellency's Government is prepared to accord to the whole of India under even very great and difficult stress of political complications.

"Such are the solid and substantial alterations effected on the lines of liberal forbearance in a measure that has to meet the forces of sedition in this country. I should think, my Lord, Hon'ble Members will find on careful consideration that the Bill has real merit to commend itself to their acceptance and of all true lovers of law and order.

"It has been urged in the Press and insisted upon with untiring reiteration that the powers the authorities possess under the Indian Penal Code and the Procedure Code are sufficient to check the evil the Bill is intended to combat.

"My Lord, this I have heard before, this I have seen before in the papers, but I must confess that when lawyers of the eminence of the Hon'ble Babu Bhupendranath Basu and the Hon'ble Mr. Mazharul Haque—when these two Hon'ble Members put forward the same proposition, I do think it was time for me to point out, with great submission, that at least on this occasion they have not quite appreciated the provisions of the general law of the country. I venture to submit that reference to the Indian Penal Code in this connection is to express want of a proper appreciation of the scope of the Bill. The Indian

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Penal Code, my Lord, is punitive. The Bill in its design and conception is preventive. It would therefore be just as well to put that Code out of consideration. Now, as to the Criminal Procedure Code. There is no question that some of its preventive sections are of great potency, but, my Lord, certainly section 107 was not the section that I thought the Hon'ble Member opposite would put forward in this assembly. I invite his attention (I have a copy of the Criminal Procedure Code here and can lend it to him) to have a look at that section and then say for himself whether he can possibly apply that section to a man in a proclaimed area, who intends to call a public meeting to hear a subject that may cause public excitement or the discussion of which may lead to a disturbance, and whether he can be got hold of under that section. Members opposite, who are great criminal lawyers—and they are all sitting in a bunch together—I leave it to them to say whether or not, during the practice they had at the bar, they do not recollect the beautiful and happy occasions when they have walked with triumph out of Court and got their man off on the sole plea that there was neither an overt act committed by the man nor that he was going to do anything that was unlawful. And I submit, my Lord, in this assembly, which represents the community so largely, such a generalisation should have been put forward to-day in regard to the application of the principles of criminal law in India, this generalisation—I put it with a great deal of submission and respect—is such that it should be at any rate reconsidered by Hon'ble Members opposite, inasmuch as if they went into a Court of law and put forward these propositions there, they would find their adversary on the other side make mince-meat of their argument. Now, my Lord, let us see the other sections. I quite admit that they are full of force, but, my Lord, I submit, however potent they may be, however strong they may be, the particular in which this Bill safeguards the safety of the people, in that particular they are absolutely inane, they are useless sections, and I shall show to the Council, I hope and trust, by a very small reference to these sections (as a Law Member it is one of my duties) that not one single section of the Criminal Procedure Code will be of any use if this Bill is not passed. Section 108 is effective for taking security for good behaviour from persons disseminating seditious matter. Section 144 is of great force to issue prompt and absolute order in urgent cases of nuisance or apprehended danger. Sections 127 to 132 are of remarkable efficacy for dispersing an unlawful assembly or an assembly likely to cause a disturbance of the public peace. Some of these, at least the last two, were not referred to by Hon'ble Members on the other side; but I thought that it was necessary in fairness to the complete appreciation of this question that I should put them forward, so that the Council may understand that our Criminal Procedure Code is of no use to us. Under normal conditions of the social and political life of a people, these sections are of genuine utility and much protective strength. Indeed, they are enacted and designed to cope with such ordinary distemper in the social organism as is inherent in human society. The peculiar feature of these sections is that they pre-suppose the possession of reliable information on the part of the authorities of the imminence of the evil they are to avert. This, to my mind, goes to the very root of the whole question. Section 44 of the Criminal Procedure Code lays the public under obligation to give information to the authorities of the intended commission of certain offences punishable under the Indian Penal Code. A reference to the offences enumerated in this section will show that its operation is extremely limited and does not touch even the fringe of the criminal tendency the eradication of which is aimed at by the Bill. Section 45 of the Code is equally insufficient. In fact, Chapter IV of the Code, which deals with the question of such information, is hopelessly inadequate to supply the legal obligation to apprise the authorities of the intended or proposed calling together of a meeting described in section 4 of the Bill. In this particular the general law of the land supplies no remedy; yet the preventive action of that law for the purposes under consideration is dependent on removing the want. The unhappy circumstances in which the proclamation of an area is unavoidable render the proposed legislation imperative and indispensable for the maintenance of public tranquillity and the prevention of the spread of revolutionary doctrines. The public weal is a sacred trust committed to the

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legislative care of this Council. Hon'ble Members will agree with me that measures that are somewhat out of the common have to be applied to conditions that give cause for exceptional treatment. This is a truism that was accepted by the Hon'ble Mr. Gokhale in 1907. In this Council speech on the Seditious Meetings Act, he enhanced the brilliancy of his oration by a passage of remarkable force, though wanting in prophetic perspicuity. The Hon'ble Member said :

' My Lord, I can imagine circumstances of such extreme urgency and such extreme gravity as to necessitate the passing of a law of this kind, and passing it even in the manner the Government have adopted. Had there been an active and widespread movement of resistance to authority afoot in the country, if breaches of public peace had been frequent, if incitements to violence had been the order of the day, I can understand the executive wanting to arm themselves with these vast powers of coercion. But, my Lord, can any one truthfully say that such a state of things has arisen in the country? On the contrary, I assert, without fear of contradiction, that there is nothing in the circumstances of the land which constitutes even a distant approach to such a situation.'

' Since the 1st of November 1907, when the Hon'ble Member thus spoke, a great deal of water has run under the bridge. The dark and dismal shadow of sedition has fallen on the land. The religion of revolt, the gospel of political assassination, the preaching of violent doctrines, the growth of Nihilistic principles and the manifestation of anarchical crimes, have loomed large on the political horizon of India. I crave the Hon'ble Mr. Gokhale's indulgence to suffer me to quote him once more. On the 8th of February 1910, speaking on the Press Bill in this Council, the Hon'ble Member summed up the situation in that inimitable style of language and diction which has captured the admiration of all of us. Said the Hon'ble Member :

' It is not merely the assassinations that have taken place, or the conspiracies that have come to light, or the political atrocities that have been 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.'

' Nobler words, my Lord, were never uttered. The exact position of the country was never summed up more ably than that day by the Hon'ble Member opposite. My Lord, the Hon'ble Member's pronouncements made in this Council bear the mark of that well-considered deliberation which we have learnt to associate with the leader of the Opposition. The question, therefore, is whether since last year when the Hon'ble Member spoke the situation has materially changed. Now, I admit that things move very fast in India, but I doubt very much if they have moved so fast as to permit the Hon'ble Member to appreciably depart from the position he took in February 1910. The Press Act, which the Hon'ble Member did not find justification to oppose, and the Bill before the Council are, if I may say so, intended to serve similar purposes under different conditions. While the former is to check seditious tendencies disseminated by the agency of the printing press, the latter is to restrain the propagation of revolutionary propaganda by the more dangerous methods of direct preaching. I shall show to the Council that if the Press Act is to be in existence in this country in its present form the permanency of which was not opposed by the Hon'ble Member opposite"—

The Hon'ble MR. GOKHALE: "I moved the amendment that the Press Act should be limited to a period of three years, but was defeated."

The Hon'ble MR. SYED ALI IMAM: "The Hon'ble Member was defeated and it was one of those tactics with which we are acquainted in Parliamentary warfare. The Hon'ble Member in his speech accepted the Bill, and I have a copy of the Hon'ble Member's report here, and, if necessary, I shall be able to quote from it. I have been all my life in the habit of currying my authority with me. The Courts before whom I have plied my trade always had the bad habit of at once calling me up to prove my point by the production of the necessary authority, and I am in a position to quote my Hon'ble friend on the other side that when he put forward that amendment that was only an amendment that was put forward after the first delivery of his speech in which he said that he was not prepared to oppose the Bill. Now, therefore, I submit, my Lord, that if

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the Press Bill, which was passed without opposition, and my Hon'ble friend on the other side thought the country was in want of a measure like that, I have only got to say that Your Lordship's Government has been exceedingly sober, if I may say so without impertinence, temperate, mild and merciful in framing the Bill as it has been framed by emasculating wholly the Act of 1907 in the manner in which it has been done. After this generous concession I did not think that there was any chance for the opposition that was given to the Bill. Now, my Lord, let us probe this matter further. The Press Act, which the Hon'ble Member did not find justification to oppose and the Bill before the Council are, if I may say so, intended to serve similar purposes under different conditions. While the former is to check seditious tendencies disseminated by the agency of the printing press, the latter is to restrain the propagation of revolutionary propaganda by the more dangerous agency of direct preaching.

"The hostility of the Vernacular Press to the Government was only the other day recognised by Hon'ble Members in this Council in the debate on a resolution moved by Hon'ble Babu Bhupendranath Basu in the present session. I think His Honour the Lieutenant-Governor of Bengal had some interest in that. The Hon'ble Mr. Mazharul Haque gave expression to his views on this subject in unveiled language, a characteristically refreshing style, if I may say so without impertinence. Said the Hon'ble Member :

'The evil is recognised by all thinking men of the country that the Vernacular Press is doing a great deal of mischief.'

"The Hon'ble Mr. Gokhale largely sympathised with the desire of Government to correct misrepresentations of their acts and intentions which appeared in the Vernacular Press, and also thought that the attitude of the Vernacular Press was deplorable at times. The Hon'ble Mr. Mudholkar helped the debate by saying :—

'I frankly admit that there are journals, and their number unfortunately at present is very large, who write in a spirit which is most deplorable and very reprehensible.'

"Several other similar pronouncements, all condemnatory of that Press, were made by other non-official Members. My Lord, the Press is held in some degree to reflect the attitude of the mind of the public. The Vernacular section, and according to Hon'ble Mr. Mudholkar, a large portion of that section, has persevered in its hostility in spite of the controlling influence of the Press Act.

"Now I must say, my Lord, in fairness to the position that the Government of India has taken up, that these statements—responsible statements made by Hon'ble Members here only the other day in regard to the position of the Vernacular Press—conclusively show, at any rate, that if the Executive Government has erred at all on any side, it has erred on the side of leniency and not on the side just now pointed out by the Hon'ble Member opposite—that the Press Act has been applied with a great deal of rigour. If the Press Act had been applied with a great deal of rigour, surely, my Lord, only two or three weeks ago in this Council Hon'ble Members would not have embarked upon that very frank and open, but the same time condemnatory, criticism which they offered on the Vernacular Press. Now the Vernacular section, according to the Hon'ble Mr. Mudholkar—a large portion of that section—has persevered in its hostility in spite of the controlling influence of the Press Act; in other words, it has gone as far as it was possible to go without drawing upon itself penalties under that Act. If that be so, my Lord, it is not an indication that weighs as an argument against the passing of the Bill that is before the Council. If only a year ago 'the air was in many places thick with ideas' subversive of the 'unquestioned continuance of British rule', we need some proof that the atmosphere has quite cleared and the sources of pollution exist no more. Whereas I hold to the belief that since the inauguration of the reforms things have been considerably on the mend, I am not prepared to accept that the situation in many parts of India is not without anxiety. Assassinations, bomb outrages, political dacoities are all of a programme of campaign of active sedition. They have been of late of less frequent occurrence,

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but they have not unfortunately altogether disappeared from our midst. If sedition is lying low, it is by no means certain that it is not biding its time. We have evidence that it is encouraged and excited by organizations abroad. There is reason to believe that there are secret societies in conspiracy to make British rule impossible in India. Can it be supposed that these societies can hope to succeed without tampering with the loyalty of the people generally and seducing them from allegiance to our Sovereign? Their methods are well-known. These have been exposed in some of the political trials in our Law Courts. Their emissaries in the garb of teachers of religion, of social reformers, of learned pundits, of even jugglers and musicians, go forth in search of audience. When an audience is found, which is mostly composed of the simple folk of the country, meetings are held that ultimately furnish the recruiting ground. The blind fanatic, the ardent enthusiast and the impressionable youth fall easy victims to the wiles of these representatives of organised sedition. It is an evil which in time of danger the provisions of the Bill under consideration will effectively resist. True, Indian patriotism regards India's place in the British Empire as the only condition which ensures her a safe conduct on the path of progress and prosperity. Is it therefore too much to ask the support of the Indian Members of this Council to this Bill? I wish to acknowledge the appreciative standpoint from which such of these as were in the Select Committee approached the Bill. The Hon'ble Mr. Gokhale has not been able to reconcile himself to the permanency we propose to give to this measure. My Lord, as an Indian I can claim to realize the sentiments which have overpowered even the sterling statesmanship of the Hon'ble Member. The overwhelming sense of shame and humiliation in giving one's acquiescence to legislation that has been interpreted as a slur on the national character of one's countrymen is not unlikely to warp judgment. My Lord, I refuse to accept the proposition that the permanency will be a blot on, or reproach to, the good name of my country or countrymen. On the contrary, I assert that it will be the greatest condemnation that India's representatives can give to any suggestion that implies a doubt regarding her loyalty. My Lord, if the measure is made permanent, the chapter will be closed once for all. The energy of the Government and of the people will be no more wasted on recurring political excitement, and India will be saved from periodical legislative irritation. And after all is said and done, my Lord, what is the intrinsic value of this enactment if the Bill passes into law? We shall have created a weapon that will repose in the legal armoury unless and until the forces of sedition threaten to corrupt the allegiance of a particular area. No loyal and law-abiding Indian need be ashamed if this weapon is used under circumstances of grave peril to the best interests of the country. I trust, my Lord, my countrymen, who are Members of this Council, will not permit themselves to be swayed by a sentimentality which has its birth in a highly strung emotional temperament rather than a dispassionate examination in the cold light of reasoning. I support the Bill, my Lord."

The Hon'ble MR. SUBBA RAO: "My Lord, after the several speeches that have been delivered in connection with this Bill, I feel it my duty not to give a silent vote on this occasion. I have listened to the forcible speech delivered by the Hon'ble Law Member, and I am fully aware that important changes have been made in this Bill and that it has been made as mild as circumstances would admit. I fully realise the beneficent intentions of Government in recasting this Bill and removing some of the objections to the present Act. At the same time the main principles of the Act remain and must remain if it is to be of any potency whatsoever. The question before us is therefore, whether we should give our assent to this Bill as a permanent measure. I may mention in this connection that the Hon'ble Member in charge of the Bill has done a real service by allowing the reports received from various Provincial Governments to be circulated among the Members of the Council. They have given us an insight into the reasons that led to the introduction of this Bill. They show how delicate is the position of the Government of India in this matter. All the Local Governments with one voice have urged upon this Government to place this measure permanently on the Statute-book. And under the

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circumstances it is indeed very difficult for the Government of India to resist the request made by them. I must gratefully acknowledge that the Government have gone as far as they can to soften the harsh features of the present Act.

"It is said by the Hon'ble the Law Member that the present situation does still cause anxiety and that a measure of this kind is necessary. As far as I have been able to gather even from the reports of the Provincial Governments, it appears to me that the situation has very much quieted down and in fact the reason why they desire the re-enactment of the measure is that it might serve more as a reserve power in case there might be any trouble, not that the measure has any use at present. In view of what has fallen from the Hon'ble Law Member, I may take the liberty of quoting short extracts from these reports.

"The Government of Eastern Bengal and Assam states :

'A far better feeling now prevails, and His Honour very gladly recognizes the good sense and loyalty of the bulk of the educated classes, which have led to their emerging from the attitude of hostility and suspicion into which many of them were at one time led.'

"The Government of the Central Provinces says :

'The mere fact that its assailants have for the time being desisted from such assaults is no guarantee that they will never renew them.'

"Now coming to the Punjab :

'The Lieutenant-Governor admits that thanks to good harvests, the comparative absence of plague, the punishment of leading seditionists and probably the existence of the Act, sedition is now hardly heard of in the Punjab, and a steady and persistent attempt is being made by Government officers and responsible men of all sections to create a more loyal atmosphere all round. But it is impossible to say how long this happy state of affairs will last.'

"Turning to Bengal :

'He (the Lieutenant-Governor) fully and gladly admits that during the last year there has been considerable improvement in the tone of public sentiment, and he acknowledges the assistance which has been rendered by the leaders of moderate opinion towards attaining this satisfactory and happy condition Before then it is decided to jettison the Seditious Meetings Act, it must be clearly recognized that Government has no assurance whatever that similar conditions will not recur.'

HIS EXCELLENCY THE PRESIDENT : "As all Hon'ble Members are in possession of these papers, I think it will be sufficient if the Hon'ble Member made no further quotations from them."

The Hon'ble MR. SUBBA RAO : "I accept Your Lordship's suggestion. It is the same with regard to other Governments. Thus it is practically admitted that the country has fairly quieted down and it is clear that the reason put forward for the re-enactment of a measure of this kind is that Local Governments should have this power in reserve against contingencies. Now, my Lord, if that is the correct position, the question is whether this measure should be made permanent. I should have been very pleased to hear if there were any legislation in any civilized country on the lines on which this legislation is proposed to be made permanent. I know that in some countries legislation of this kind was placed on the Statute-book temporarily from time to time as occasion arose, but to place it permanently on the Statute-book is a thing I am not aware of, and I shall be glad indeed if I am enlightened on the subject. It may be said that other Governments have administrative powers to meet emergencies. I respectfully submit that the Governor General in Council has also similar powers in reserve to meet emergencies in this country.

"My Lord, the Hon'ble Law Member have very well pointed out the important alterations which have been made in this Bill ; first of all, it is the Governor General in Council that must sanction the application of the Act to any particular area. I wish to associate myself with what has fallen from the Hon'ble Mr. Gokhale that after all it is the local authority on whose information the Government of India must to a large extent depend. That local officers are men of ability, men who want to do their duty, there can be no question ; but in times of panic or excitement it is quite natural and it is only human

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that they could not always take a correct view of the situation. The Hon'ble Member has mentioned that there was a disturbance in Rajahmundry in the year 1907, apart from what is called the outbreak of the students in the Rajahmundry College. The Hon'ble Sir Harvey Adamson when he introduced the Bill in 1907 also referred to this disturbance and said that it necessitated the sending of troops there. My Lord, I may state, as one who knows intimately what took place in that part of the country, that there was as a matter of fact no disturbance whatever in Rajahmundry. It may be that there was an apprehension of a disturbance, though there was no reasonable ground for it. Troops were stationed there for a month or two: only there was no disturbance and they had no work to do. The only result was that sepoys were put to a great deal of inconvenience on account of rains, and it was a wonder to all why troops ever came to Rajahmundry and why they were quartered there. The Collector of the district at the time was one of the best officers we could have, well known for his calm judgment, tact and capacity, and yet he took a mistaken view of the situation and was apprehensive that there might be a disturbance. I give this as an illustration to show how local officers in times of panic or excitement might take a wrong view of the state of affairs which would only mislead the higher authorities. The abuses, therefore, the Act might lead to are not at all imaginary.

"Another point on which the Hon'ble Law Member has laid stress is that the police are entirely eliminated from the Bill. Well, in one sense they are eliminated. It is not the Inspector of Police who can depute his subordinates to go to a public meeting to take notes of the proceedings; the power is now proposed to be vested in the District Magistrate or a Magistrate of the first class to depute a police-officer, not below the rank of a head constable. The police, therefore, do come in after all under the present Bill. I do not wish, my Lord, to be hard on the police. I shall give only one instance that occurred a few months ago when there was absolutely no trouble whatever. A Bengali gentleman came to Rajahmundry; a lecture was arranged for him, and that lecture was upon a subject connected with social reform. A police sub-inspector attended the proceedings. A local gentleman of standing was chosen as the president on the occasion and things passed off quietly as usual. Some days afterwards this gentleman received a letter from the District Collector enquiring how it was that, when he presided at the meeting, he allowed so much sedition to be talked about. He was naturally surprised and explained to the Collector the real facts of the case. Some time after this gentleman met the sub-inspector and asked him if there was any sedition spoken at that meeting. 'No', was the prompt reply. 'But why did you report that there was sedition?' 'I thought there was something like it.' My Lord, the police may be very good people, but their work is judged and their promotion is regulated according to certain standards; and naturally, as the Hon'ble Mr. Gokhale has said, they are more feared than trusted. I think these two instances which I have cited go to show that it cannot be said that the provisions of the Bill would not be liable to abuse. Whatever may be the safeguards that are taken in enacting such a measure, after all it is the local officers that have to administer it. It is truly said, my Lord, that we should be jealous of excessive powers being given to the executive, and I submit that such powers as are proposed in the Bill should not be given permanently to the executive. It is quite a different matter if those powers are given temporarily under exceptional circumstances. I regret, my Lord, that, though I have given anxious consideration, I am unable to give my support to this measure."

The Hon'ble MR. JENKINS: "My Lord, the speech of the Hon'ble the Law Member and the ample and very able support which has been accorded to the Bill by a great part of the non-official Members of the Council, combined with the time of day, absolve me from the task of making any reply. I would merely say that the course of the debate in Council has fully justified our decision to introduce this Bill, and our resolve to make the legislation permanent."

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The motion was put and agreed to.

The Hon'ble RAJA OF DIGHPATIA : " My Lord, in moving the amendment that stands in my name, namely, that the words ' sufficient to bring on a breach of the peace ' be added after the word ' excitement ' in section 4, clause (1), of the Bill, I beg to point out that unless such a safeguard is provided for, meetings of even social and non-political character may be prescribed under this section, as practically 90 per cent. of meetings have some subject or other likely to cause excitement, such as child marriage, widow re-marriage, taking sacred thread by some sections, and even such a harmless subject as primary education. Such being the wide scope of the present section, I think the restriction proposed in the amendment would meet with the requirements of the Government, without in any way interfering with such ordinary and commonplace discussions as I have already pointed out."

The Hon'ble MR. JENKINS : " My Lord, I regret that we are unable to accept this amendment. If the words ' sufficient to bring on a breach of the peace ' are intended to be read with both the phrases ' to cause disturbance ' and ' public excitement ', there would be a difficulty. ' To cause disturbance sufficient to bring on a breach of the peace ' is meaningless. If, on the other hand, the amendment is confined to ' public excitement ', it would be difficult for any Magistrate to say whether the excitement was sufficient to bring on a breach of the peace until a breach of the peace had actually occurred."

The amendment was withdrawn.

The Hon'ble MR. MUDHOLKAR : " My Lord, I beg to move that in clause 7 of the Bill as amended by the Select Committee, the following words be omitted, namely :—

' without the permission in writing of the Magistrate of the district or the Commissioner of Police, as the case may be, previously obtained.'

" My Lord, I would say only a few words to explain the necessity of this amendment. In section 4 Hon'ble Members will find that the wording is :—

' No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement or for the exhibition or distribution of any writing or printed matter relating to any such subject shall be held in any proclaimed area—

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

" What section 4 thus requires is that notice should be given, or permission should be obtained. Possibly the Bill regards the permission requirement with preference. It, however, lays down that, at any rate, notice should be given to the District Magistrate or the Commissioner of Police before a meeting of the kind described in section 4 should be allowed to be held. Now, if a man wants to hold a meeting, say in connection with the discussion of the Financial Statement, and the meeting is announced to be held in the Town Hall of a place in a proclaimed area, and he has given notice of it to the District Magistrate, of which the District Magistrate has taken no notice and has given him no reply in regard thereto, if he goes on and holds the meeting, the result under section 7 would be that though he would have complied with the requirements of section 4 by giving notice, he is liable to be arrested by any police-officer without warrant. In other words, though section 4 has been modified, section 7 would take away much of the beneficial results which are intended to be secured by the omission of the words ' public meeting.' As the previous portion of the section complies with the real requirements of the situation, and the words ' otherwise than at a public meeting held in accordance with, or exempted from, the provisions of section 4,' secure all that is necessary according to section 4 being done, the additional requirement about the permission of the District Magistrate or Commissioner of Police laid down by section 7 is not only unnecessary, but is opposed to the object of section 4. Therefore, I put it

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to the Hon'ble Mover and to the Government whether those words should not be taken out."

The Hon'ble Mr. JENKINS: "I would point out, my Lord, that the provisions of section 7 are perfectly distinct and stand by themselves. They deal with meetings of a particular class, and of a particularly dangerous class, with regard to which it is necessary to have such provision. They deal with meetings in public places and in places of public resort; and for that reason it has been provided that if, in a proclaimed area, a man wishes to hold a meeting in places of that kind, he must have the permission in writing of the District Magistrate. I am afraid I cannot accept the amendment."

His Excellency THE PRESIDENT (*to the Hon'ble Mr. Mudholkar*): "Do you withdraw your amendment?"

The Hon'ble Mr. MUDHOLKAR: "I am sorry I cannot withdraw it."

The amendment was put and negatived.

The Hon'ble RAJA of DIGHAPATIA: "My Lord, in connection with the amendment on section 7 of the Bill that stands in my name, I beg to observe that the power of arresting without warrant is too great a power in the hands of ordinary police-officers, such as common constables. As some of the men are not expected to understand the drift and subject-matter of many speeches, the power is likely to be abused in many instances, and as a safeguard against any such abuse I humbly submit that warrants should be provided for in every such case and that they should be issued by a Magistrate either in charge of a district or holding first class power.

"I find the drift of this Bill is to take away certain powers from the police and to vest them either in the District Magistrate or the Commissioner of Police, and, this being so, I venture to suggest this amendment, as I would be quite in a line with the policy of conciliation underlying this measure in its present shape. I can say that this little change will go a long way to make this Bill more acceptable to the public.

"No doubt in the interior it may at times be difficult to arrest an offending speaker if a warrant has to be procured before arrest, but at the same time it is more in the interior that the power of arresting without warrant is likely to be abused.

"With these observations, I beg to move the amendment that in the place of 'without warrant' the words 'under a warrant issued by a District Magistrate or a Magistrate of the First Class' be substituted."

The Hon'ble Mr. JENKINS: "My Lord, the amendment proposed by the Hon'ble Member would reduce this clause to a nullity. We are to suppose that a meeting, perhaps several meetings are going on in contravention of the law in public places or in places of public resort; the police come upon them and find they are being held. Now, if the Hon'ble Member's amendment is adopted, before the police can touch them, they must run off to the District Magistrate, who may be twenty or thirty miles off, and obtain a warrant of arrest, and in such circumstances it is evident that meetings of that kind might be held with perfect impunity. The Hon'ble Member's arguments that a policeman might arrest wrongfully is met by the statement that policemen do sometimes arrest wrongfully, and they have to take the consequences. The amendment cannot be accepted."

The amendment was withdrawn.

The Hon'ble MAULVI SYED SHAMS-UL-HUDA: "My Lord, the amendment which stands in my name is this, that after clause 7 of the Bill, as amended by the Select Committee, the following be added:—

"8. The provisions of Chapter XXII of the Code of Criminal Procedure, 1898, shall not apply to the trial of any offence under this Act;"

and that clause 8 be renumbered as 9.

"My Lord, the provisions of Chapter XXII relate to summary trials. There

[*Maulvi Syed Shams-ul-Huda ; M. Mazharul Haque ;* [20TH MARCH 1911.]
Mr. Sachchidananda Sinha ; Mr. Jenkins ; Mr.
Mudholkar.]

can be no doubt that summary trials are unsatisfactory from the point of view of an accused person, because, in the first place, in such trials the Magistrate is not bound ordinarily, unless he makes up his mind to pass an appealable sentence, to make even a note of the evidence; he is not bound to write a judgment; he has only to fill up a few particulars; and the adoption of that procedure stands in the way of an accused person invoking the revisional jurisdiction of a superior Court, because in such cases there exist no materials upon which such jurisdiction can be exercised. I am sure, my Lord, it is the desire of Your Excellency's Government that men who are brought up for trial under this special enactment should not have any cause of complaint and that they should have no grievance. We cannot, my Lord, conceal from ourselves the fact that these trials will elicit a certain amount of public attention, that a trial under this special enactment will be watched, that it will be noticed in the newspapers; and I think it will be satisfactory, both from the point of view of the Government and of the public, that the facts of these cases should be fully known, so that the public may not have an idea that there is any attempt on the part of Government to shut out justice. It is from this point of view, and having regard to the fact that a measure of this kind will always be more or less unpopular, I think it would greatly improve the situation, if the amendment is accepted. I need only add, my Lord, that not only is there no record of the evidence, but in a summary trial the right of appeal is also restricted."

The Hon'ble MR. MAZHARUL HAQUE: "My Lord, I have great pleasure in supporting the amendment of my friend, the Hon'ble Maulvi Shams-ul Huda. All those lawyers who have any knowledge of criminal trials in this country will agree with me that a trial in the regular course is a much better trial than by a summary procedure. We have got experience of these summary trials, and it is difficult to say that justice is always done by this procedure. The cases which will come up under the special law will be cases of some importance, and, in my humble opinion, Magistrates should not be given the power of trying these cases summarily. With these few remarks I support the amendment."

The Hon'ble MR. SACHIDANANDA SINHA: "My Lord, I desire to support this amendment and I hope the Hon'ble the Home Member will be pleased to accept it. It does not affect any of the provisions of this Bill so far as the substantive law embodied in it is concerned. It merely relates to the question of procedure to be adopted in the trial of cases under the Act, and it is clearly desirable that such trials should be in a regular form, regard being had to the public interest involved. I therefore support the amendment that summary procedure should not be applicable to trials under this Act."

The Hon'ble MR. JENKINS: "My Lord, this amendment was fully considered in Select Committee and we decided not to adopt it. It is true that a Magistrate possessing summary powers may try a case under this Act in a summary manner, but we, who have been Magistrates, know perfectly well that the Appellate Courts regard with great jealousy the records in summary trials where any intricate points are involved. The consequence is that Magistrates invariably safeguard themselves against appeal by preserving a very full record in cases which they judge summarily, although they are not obliged to maintain that record. There was a very general opinion in Select Committee that that was quite sufficient and we ought not to depart from the ordinary provisions of the law. In these circumstances I regret that I am unable to accept the amendment."

The amendment was put and negatived.

The Hon'ble MR. MUDHOLKAR: "My Lord, I beg to move that the following clause be added to the Bill as amended by the Select Committee:—

' 8. This Act shall continue in force till the 31st of March 1914.'

"My Lord, I should be very sorry to detain the Council at this time of the day with any remarks of mine, and it was my intention to move this amend-

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[Mr. Madholkar.]

ment formally without addressing one word in regard to it; but observations have been made which render it my duty to speak at some length on this motion, and I must ask Your Excellency's indulgence for it.

" I fully appreciate, in fact I myself pointed out long before the eloquent and fervid address which was delivered to us by the Hon'ble the Law Member, that this Bill is an undoubted improvement over the old Act. That was, my Lord, why we are all so ready to accept it for a period of three years or even for a period of five years. Had we known that it was to be a continuance of the old Act in all its harshness, it would have been our duty to oppose it to the best of our power. Thus our readiness to accept it for a period of three or five years is in full recognition of the fact that very important alterations and improvements had been made under Your Lordship's auspices in the old measure. My Lord, that matter did not require the elaborate and erudite treatment which was given to it. Everything which was pointed out with such emphasis was admitted in a simpler manner by much humbler men. My Lord, it was certainly utterly uncalled for that those who could not go with the measure completely should be called or regarded as belonging to the Opposition. My Lord, that is not a description which should be applied to persons who hold as loyal and as respectful sentiments towards the Government as any Member who is in complete accord with every word of the Bill and who accepts it without qualifications. My Lord, because we cannot accept the Bill in its entirety, it is not just or fair to characterise us as persons who constitute the Opposition. I believe in this Council there are no such parties as the Government party and the Opposition party. I hope the time will not come when Members of the Government will be inclined to consider persons who offer criticisms according to their best lights and with the utmost *bonâ fide* motives as persons who constitute the Opposition. It is also necessary to emphatically repudiate the statement that those persons who do not accept all that is stated by the advocates of the measure must be branded as men who are wanting in loyalty. The insinuation that loyal men have nothing to fear from such things is, my Lord, an unworthy slur upon us. However, those are matters which I am sure can have absolutely no weight with Your Lordship and with the Members of the Government. My only regret is that an important Member of the Government should have thought it proper to call us members of the Opposition. My Lord, coming to the provisions of the Bill, the Hon'ble Member pointed out that the Code of Criminal Procedure was not sufficiently powerful to give effect to the measure—to bring about all the results which are aimed at by this Bill. In regard to this I will only point out that the whole question was gone into in this very Council at considerable length in August last when I dealt with it in the speech which I had to make on the Continuation Bill. My Lord, advantage has been taken of what was evidently a slip of the tongue of my Hon'ble friend Babu Bhupendranath Basu and his ignorance has been exposed and ridiculed. If, instead of saying section 107 of the Criminal Procedure Code, he had only said section 108, he would have been on perfectly safe ground. The eminent lawyer who exposed his 'ignorance' should have seen that the Hon'ble Mr. Bhupendra spoke of the security sections in regard to persons doing a thing calculated to promote sedition. My learned friend the Hon'ble Babu Bhupendranath Basu's reference to section 107 was thus only a slip of the tongue. Then, my Lord, there is Chapter VIII of the Criminal Procedure Code. I do not wish to delay the Council by reading this. The Criminal Procedure Code confers extensive and full powers on certain Magistrates for preventing an assembly under section 144, for dispersing an assembly, for calling in the aid of private citizens, for calling out the military, and for taking any other suitable action. Before ignorance of criminal law is attributed to us I would ask the eminent gentleman to say what mistake there is in the description of the law given here by me. However, my Lord, I do not wish to tire the Council with repeating what had been said before. All I wish to do is to make an earnest appeal to Your Lordship as to whether it is not feasible to give at present only a limited duration to this Bill. We are willing to go with the Government to that extent, and are willing to give our adhesion on the ground that this is an exceptional measure which is required by exceptional circumstances, and as these exceptional circumstances

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have not yet ended, we are willing that they might be continued for some time, and it is in that spirit, my Lord, that this amendment is moved."

The Hon'ble MR. GOKHALE : " My Lord, I beg to support this amendment."

The Hon'ble MR. JENKINS : " My Lord, the whole question of the permanent or temporary character of this Bill was very fully discussed in the general debate upon the motion that the Report of the Select Committee should be taken into consideration, and I feel that I should be occupying the time of this Council unjustifiably if I now spoke upon it. All that was said upon the subject must be fresh in the minds of all the Members of the Council and they have had ample material upon which to form their judgment. I regret that I cannot accept the amendment."

The Council divided :

Ayes—14.

Pandit Madan Mohan Malaviya ; Maulvi Shams-ul-Huda ; Raja Pramada Nath Roy of Dighapatia ; Mr. Ghuznavi ; Babu Bhupondranath Basu ; Mr. Sachchidananda Sinha ; Mr. Mazharul Haque ; Mr. Jinnah ; Nawab Saiyid Muhammad Sahib Bahadur ; Mr. Subba Rao ; Sir Ghulam Muhammad Ali, Prince of Arcot ; Mr. Gokhale ; Mr. Mudholkar ; and Sir Vithaldas Thackersey.

Noes—50.

The Lieutenant-Governor of Bengal ; the Commander-in-Chief ; Mr. Jenkins ; Mr. Carlyle ; Mr. Butler ; Mr. Syed Ali Imam ; Mr. Clark ; Sir Guy Fleetwood Wilson ; Major General Grover ; Mr. Earle ; Mr. MacLagan ; Sir Lionel Jacob ; Mr. Porter ; Mr. Robertson ; Mr. Brunyate ; Sir Henry McMahon ; Nawab Abdul Majid ; Raja Partab Bahadur Singh of Partabgarh ; Mr. LeMesurier ; Mr. Holms ; Mr. Meston ; Mr. Fromantle ; Mr. Todhunter ; Surgeon General Lukis ; Mr. Graves ; Mr. Macpherson ; Mr. Sharp ; Mr. Andrew ; Mr. Quin ; Mr. Birkmyre ; Mr. Madge ; Mr. Graham ; Mr. Monteath ; Sir Sassoon David ; Mr. Chitnavis ; Mr. Phillips ; Mr. Dadabhoy ; Mr. Gates ; Maung Bah Too ; Lieutenant Malik Umar Hayat Khan ; Sir Ranbir Singh of Patiala ; Sardar Partab Singh ; Lieutenant-Colonel Davies ; Mr. Slacke ; Mr. Stewart-Wilson ; Mr. Dempster ; Mir Allah Bakhsh Khan ; Sir T. R. Wynne ; Mr. Kenrick ; and Mr. Kesteven.

So the amendment was negatived.

The Hon'ble MR. JENKINS moved that the Bill, as amended, be passed.

The Hon'ble MR. GOKHALE : " My Lord, before this motion is put to the vote I would like to make a few observations that have been rendered necessary by certain remarks which have fallen from my Hon'ble friend Mr. Ali Imam in the course of the somewhat exuberant support that he gave to this Bill. My Hon'ble friend marched through his speech, brandishing his sword high over his head, and dealing blows right and left at all and sundry, without considering whether they were really needed. However, I do not wish to refer to these attacks. But I feel I must remove some misapprehensions which are likely to be caused by what the Hon'ble Member has said with reference to my position last year over the Press Bill and my position to-day over the Seditious Meetings Bill. Before doing that, however, I hope my Hon'ble friend will let me remind him gently—and in this my Hon'ble friend Mr. Mudholkar has already anticipated me—that the word 'Opposition' is really not applicable to non-official Members sitting in this Council. I know that my Hon'ble friend meant to be complimentary when he spoke of me as the 'leader of the Opposition,' but we are far away yet from the time when the Government Members will exchange places with private Members in this Council, and until that time comes there can be no regular Opposition here, as the term is understood in Western countries. As a matter of fact, we support the Government here more often than we oppose it ;

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and if, on any occasion, we have to differ, it is simply owing to our conscientious conviction that the view of the Government is not correct. I hope, therefore, that this description will not again be applied to us in future. My Lord, it was unfortunate that the Hon'ble Member had made up his mind as to what he was going to say before he had heard my speech; and therefore though I explained—I hope clearly—the difference between my attitude towards the Press Bill of last year and my position this year as regards the Seditious Meetings Bill, the Hon'ble Member did not take note of that explanation. My Lord, the Hon'ble Member was not fair to me when he said that last year I supported the Press Bill, though it was a permanent measure. In my minute of dissent appended to the Select Committee's Report, in the speech which I made when the Report of the Select Committee came up for consideration in this Council, and finally when amendments were moved,—at all stages I most strongly urged that the Bill should be limited to three years only. I may further state that, even as regards the Press Bill, I never said that I supported the Bill. All I said was that I did not feel justified in opposing the Bill. Those were the precise words I used:—'That in view of the situation that exists in several parts of the country, I have reluctantly come to the conclusion that I should not be justified in opposing the principle of this Bill.' I pointed out throughout the risks of that law, and I urged again and again that it was of the utmost importance that it should be temporary. Finally, when the time for moving amendments came, I moved an amendment that the law should be limited to three years: and I may mention that up to the last moment—and I think this is within the knowledge of many Hon'ble Members who were then present—there was some uncertainty as to whether the Government would or would not accept the proposal; and as a matter of fact, before my amendment was put to the vote and lost, the Hon'ble Sir Herbert Risley, who was in charge of the Bill, went up to the Viceroy, and asked him before us all if he was to accept the amendment; thus up to the last moment there was a chance of our proposal being accepted, and we were influenced in our attitude largely by that hope. However, that, my Lord, is a small matter. The real difference between that Press Bill and this Seditious Meetings Bill, which the Hon'ble Member does not seem to realize, is this—under the Press Bill, only the man who actually writes takes the consequences. If a writer exercises reasonable care, keeps himself within certain limits, and writes with due restraint, there would probably be no trouble in his case. But under the Seditious Meetings Bill, while one or two men may make wild speeches in an area, once the area is proclaimed, all the people in that area are placed indiscriminately under the ban. And in fact the less objectionable a man's opinions are, the more he is sure to feel the hardship of this law. Take the place from which I come—Poona. Suppose there are some wild speeches made there, as may happen on any day, and Poona is proclaimed under this law; what happens? The men who will have brought down this on Poona will probably keep quiet, but all the rest of us, who are pursuing our ordinary activities, shall find ourselves placed under this new law, having to give notice of every meeting that we hold, having to obtain permission beforehand in certain cases, and being liable on occasions to be charged with holding meetings surreptitiously. My Lord, the Hon'ble Member is now a Member of the Government, but he comes from the mufassal and has had personal experience of the mufassal in the past, and he should know that in the mufassal fear of what the police may do is very real. I came from Poona, a mufassal place in the Bombay Presidency, and I can assure the Council that we have very real fear that the police might cause trouble without cause. I have got that fear myself and everybody whom I know has got that fear, and I think it is only fair that the Government should know that this fear is entertained. My Lord, the Hon'ble Member says that this law keeps the police out. When I asked him on whose information the District Magistrate would act, he interpreted my suggestion as if it was a wholesale denunciation of the Civil Service! Nothing, however, was further from my mind. He himself must feel that it was not a fair interpretation to put upon my words, because I had taken care in my speech not to give room for such an interpretation. I had said that the district authorities were, like similar bodies of men, composed of persons, many of them

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average, some exceptional; and therefore my query could not be construed as a denunciation of the whole Civil Service. My Lord, the police are not out of this Bill. The District Magistrate will act—indeed must act—on the confidential reports that he receives from the Criminal Investigation Department and other Police-officers. You may say that he will examine these reports carefully and try to arrive at an impartial judgment. He may do so, but mistakes will take place as they have taken place in the past. You cannot avoid making mistakes in such positions. Last year, when certain District Conferences were stopped in Eastern Bengal, when even a meeting of the depressed class was prohibited, what was the justification? In my humble opinion, these prohibitions were undoubted abuses of the powers under this Act. I do not know what view the Hon'ble Member holds about those orders, but those things are likely to happen again in proclaimed areas. My Lord, my Hon'ble friend quoted from a description which I gave last year of the state of the country, when I said that I did not want to stand in the way of the Government trying the remedy of executive action in regard to the writings in a section of the Press. But, my Lord, the Hon'ble Member ignores the difference between the Press and the Platform. In the Press, a man can do mischief from day to day without being noticed. Who is going to notice ordinary writings, unless there is something sensational to attract attention? But you cannot hold seditious meetings without attracting the attention of all. The Press and the Platform, therefore, as instruments of sedition, do not stand on the same level. Apart from that, however, the position last year was undoubtedly different from what it is to-day. I have already stated in my observations on this Bill that after the introduction of reforms in December 1908 a rapid improvement began: those who have had experience of the time before and after, will, I feel sure, corroborate what I say. The Press Bill, however, came up within less than two months after the introduction of the reforms, and much time had not elapsed for things to settle down. And when I spoke of the state of certain parts of the country at that time, I did feel that the air was charged in many places with anti-English ideas, and I did say that it was necessary in our own interests that it should be cleared of those ideas. And that was why I did not want to stand in the way of the Press Bill being tried. But, my Lord, the situation has vastly improved since then, and were it not for the two recent, miserable outrages, I am quite sure there would have been but one opinion even in this Council, that there was no comparison between the state of things a year ago and to-day. These outrages, however, should not be allowed unduly to influence the mind of the Government. In any case that is my view, and I respectfully submit it to the consideration of the Council."

The Hon'ble MR. SYED ALI IMAM: "I crave Your Lordship's permission to say a few words on this motion. My Lord, I have pretty largely felt the justice of the misunderstood reference in my submissions to-day about the position of the leader of the Opposition. Specially, I find that I owe as it were an explanation to the Council as to what I meant. That explanation has been given in a very clear language by my Hon'ble friend Mr. Gokhale. I could not have possibly suggested it for a second that the 'Opposition' indicated anything in it that was reprehensible. On the other hand, I have always felt that those who do so, do so absolutely in a friendly way and absolutely consistent with their conviction, and there was not the slightest suggestion in my address that the 'leader of the Opposition' should have been misunderstood in the way in which Mr. Mudholkar was pleased to take it. So I emphasize that I meant only what the Hon'ble Member was good enough to suggest was my meaning. That is to say, in a complimentary sense. In regard to this question of making it permanent, I think a reference to the Press Act was made by me only because of that passage which was just now put to the Council by the Hon'ble Mr. Gokhale, and there is not the slightest doubt that he fought very hard in the course of the debate on that occasion to give the Press Act only a temporary life; but on the contrary the passage that he has done me the honour to quote to-day clearly says that the Hon'ble Mr. Gokhale on that day did not find his way to oppose the principles of that Bill, and one of the principles of that

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Bill was the question of permanency. I hope that the Council will not remain under the mistaken impression that at that time Mr. Gokhale did not adopt two positions in regard to that Bill. As to the question, my Lord, of permanency, I have only to place one consideration. It is this that if the Press Act is enforced as it is at present, the result is that those ideas with which the air last year was thick cannot find possibly expression through the printing press, because that has been all stopped. More the reason, therefore, I submit, my Lord, that the Council should consider as to whether or not we should check the only possible way left for these ideas to float into the country, *viz.*, by the holding of meetings. We all hope and trust that the good sense of the country will prevent meetings to be held for purposes that would lead to any spread of these ideas, but the question is that the country as it stands has a right to expect from the Government some kind of assurance that if such meetings were held that these meetings will be effectively dealt with. And therefore, my Lord, I support the motion."

The Hon'ble MR. MAZHARUL HAQUE: "My Lord, I want to say just a few words. My lifelong friend, the Hon'ble the Law Member, has invited me to a forensic combat as regards the adequacy or otherwise of the preventive measures of the Criminal Procedure Code. Well, my Lord, if this Council were a Court of Justice, I would have gladly accepted his challenge, and no doubt I would have won my case too; but as this is not a Court of Justice,—it is a Council Chamber,—I refuse, with the greatest respect to him, to accept his challenge. However, I must complain of one thing, my Lord, and that is that my Hon'ble friend was not quite just to me when he said that I opposed the Bill absolutely. He did not appreciate my grateful acknowledgments to Your Excellency as regards the mildness of the measure. I said in the strongest and clearest terms possible that the most objectionable features of the present Act had been taken away by the Bill, and I gave my respectful thanks to Your Excellency for this generous concession to the people of the country. But, my Lord, consistently with my conscience and with my duty to the country, I could not accept the principle which is laid down in this Bill, and I still do not accept it in spite of the eloquent address of my Hon'ble friend."

The Hon'ble BABU BHUPENDRANATH BASU: "With Your Lordship's leave I shall say only a few words on this motion. A pointed reference was made to me by the Hon'ble Law Member as regards the particular section of the Criminal Procedure Code which I had quoted as enabling Magistrates to take preventive action. I frankly confess, my Lord, that I have had but little to do with criminals, and I must bow to the superior knowledge of my Hon'ble friend who, it will be no exaggeration on my part to say, has spent all his life amongst crime and criminals; but at the same time what I have thought to indicate is this, that section 107 is a section which I have known to be invoked, and invoked successfully. The accused persons probably in those cases had not the means of enlisting on their side the advocacy of my learned friend, for if they could probably they would have got off; but as a matter of fact, they did not. However, my Lord, that is a small matter. But I think I was not a little surprised at the vehemence which the learned Law Member displayed in dealing with the subject-matter to-day. We have been accustomed in this Council, so far as the Government Members are concerned, to an air of detachment, of personal detachment. That is an attitude, my Lord, which commends itself to us, to me in particular. We children of the tropics, who are moved to warmth upon occasions, when in our cooler moments we should not probably have done so, realise with appreciation the air of cool and collected detachment which the Government officials display when they deal with matters which vitally concern them as well as ourselves. I think, my Lord, that is an advantage in debate in this Council. While, on the other hand, we, my Lord, born in this country, 'lulled by the languor of the land of the lotus,' we sometimes feel that a little ruffling of the surface probably would be desirable, and that has been our experience this afternoon. I was suddenly reminded of that famous Knight of Spain who was going after imaginary cavaliers, when my friend laid about right and left against opponents

[*Babu Bhupendranath Basu ; the President.*] [20TH MARCH 1911.]

who never wore and against arguments which had never been advanced. But that is a small matter. I almost felt that Kant's theory, following Plato and the Upanishads, that the external world had no real existence was after all true and the learned Law Member (thumping down the points of his speech with an emphasis all his own) was the creation of my disturbed imagination. I, Sir, sitting in this Council Hall, felt as if I was transferred to the Court of a Deputy Magistrate in the mufassal where learned Counsel come down and flourish books which they carry in their arms, as containing precedents which cannot be controverted. I have known that game much too long to be overawed by it, and my friend the Hon'ble Mr. Gokhale has shown that the precedents which the Law Member has so valorously flourished in our face—supposed quotations from my friend's speech—after all did not support him; but I shall stop here. I shall only pray that our debates may be conducted with as little heat as possible and with as much dignity as possible."

His Excellency THE PRESIDENT:—"It will probably be within the memory of Hon'ble Members that my predecessor Lord Minto, in a speech made in Council in Simla in August last, gave his reason for the temporary re-enactment of the Seditious Meetings Act for a period of six months only, that he did not wish to commit his successor to a policy of which he had not had sufficient opportunity of judging and of which he might possibly not approve. I feel, therefore, that in view of the fact that I have been brought in personally into the discussion of this very important question, that it is incumbent upon me, on this occasion, to say a few words on the subject. In the first place, let me say that I am grateful to Lord Minto for his consideration in having given me an opportunity to take stock of the whole state of affairs and to submit to your consideration a new Act more in accordance with the actual situation and without some of the more stringent provisions of the previous Act. I do not want to discuss the origin of the Act of 1907 except to express my absolute conviction that the Government of India would never have passed a measure of that kind without having duly weighed the heavy responsibility that they incurred and without the knowledge that the provisions of the ordinary law were inadequate to meet the very grave and serious situation that had developed in certain provinces at that time. That the Act has had a beneficial and restraining influence is a fact which no amount of argument can disprove, and the very material improvement that has taken place in the general internal situation is undoubtedly largely due to the restraining influence of that measure. I am far from ignoring the views and opinions of Hon'ble Members who have spoken against the Bill with great moderation and with the dignity that is customary to them. I am confident that their scruples are absolutely conscientious and that they are just as keen and anxious as the Government of India for the maintenance of order and tranquillity and for the dissemination of sentiments of loyalty throughout this great Empire. We differ only as to the best method of arriving at that result. It is, however, a source of intense satisfaction to me to be able to associate myself with the views of Hon'ble Members as to the improved situation and political temper of India, of which, I maintain, there can be absolutely no doubt whatever. In spite of recent instances of crime in Calcutta which all sane men must regard with absolute abhorrence, there has been, I am glad to say, a revulsion of feeling against political violence and crimes to which it so often leads. Thoughtful people have realised that, thanks to the reformed Councils, opportunities are presented for the redress of grievances and for the prosecution of demands by constitutional methods, and that inflammatory speeches and writings are not likely to further, but rather to retard, the progress that we all desire. But to accept as a conclusion from this that sedition and political crime have entirely disappeared would be to live in a fool's paradise and to close one's eyes to the actual facts of the situation. Were the vigilance of Government to be relaxed for one single instant, there is very little doubt that sedition and political crime would once more spring into life and would thwart at least for a time that healthy evolution of political life and material progress that it is the desire and the duty of Government to promote.

[20TH MARCH 1911.]

[The President.]

"The Seditious Meetings Act of 1907, whatever its blemishes may be, need have had no terrors for the law-abiding citizen. It is an Act that is limited in its operation. It is a purely preventive measure designed to restrict inflammatory oratory on the part of irresponsible members of the community. It would, I should have thought, have met with the warm approval of all those who wish to see the educated youth of India grow up into useful and law-abiding members of the community instead of being exposed to incitement to become seditious agitators and possibly political criminals. We have unfortunately in Eastern Bengal a striking example of the development into ordinary criminals of young men of the middle class who during the last three or four years have been engaged in what has euphemistically been called political dacoities, thus showing the moral deterioration and degradation that have taken place owing to the spread of sedition and illegitimate political agitation. In any case, whatever the objection of some Hon'ble Members may be to the Act in question, they should remember that through its agency the youth of India during the past three and a half years have been protected from the evil effects of sedition preached from the platform. It was with the greatest satisfaction that I learnt that amongst others the student class of Calcutta, an intensely human and sympathetic body, since the restrictions placed on seditious writings and speech, have shaken off all predilections for teachings of that kind and have diverted their attention to the more wholesome and normal interests of manly games and exercises. This is only one instance out of many, but I should remind Hon'ble Members that it is the primary duty of Government to extend the fullest protection to all members of the community, and especially to the rising generation, and I may add that no effort will be spared by Government in so doing.

"One of my first acts on assuming the reins of office in this country was to consider very carefully this question upon which I had an absolutely open mind, and to invite the opinions of the Local Governments as to whether in their view the Act should be re-enacted, or whether it should be allowed to lapse. The complete unanimity of the replies that I have received from the Local Governments, the views of several Indians of marked ability and knowledge, who impressed upon me the danger to public tranquillity were the Act allowed to lapse and no other law to take its place, and the views which I myself have formed during the few months that I have been in this country, have convinced me of the absolute necessity of a weapon being in existence to meet special situations, although it need not necessarily be in evidence. With this view my Government entirely concur. No self-respecting Government with knowledge of the situation which occurred in 1907 would expose itself to the risk of allowing a similar situation to recur without having the means at hand to meet it. Nor would it willingly surrender a weapon that has already proved its usefulness as a preventive and restraining force. It is not to anybody's interest, except perhaps to that of the criminal classes, that the law should be weighed in the balance and found wanting.

"The new Act that is before you is, as you are aware, intended to be of a permanent character, and with that object in view the clauses to which special objections have been taken in the past have either been modified or expunged. It is with regret that I have been unable to accept the suggestion of a time limit for the Act, but I cannot help feeling that a revival of agitation on this subject is very detrimental to the best interests of the State. The new Act, as it stands, is the very minimum required to make it effective. But should it be found in practice that it is wanting in the required force, then legislation will become necessary to give it that force. It is, however, my earnest hope and desire that the new Act may never be put to the test and that before very long it may come to be regarded as an obsolete measure in the Statute-book.

"The present Act was, as Hon'ble Members are well aware, extended by my predecessor's Government to the whole of India. Now, in order to show my trust and confidence in the people of India, I do not intend that the new Act when passed shall be extended to any part of India until the necessity arises—a contingency that I trust may never occur. It depends therefore on the people of India whether the new Act is to remain a dead-letter or not. In

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[*The President.*]

the meantime I adjure Hon'ble Members of my Legislative Council to rally to the side of Government in passing an Act which will not only restrict sedition and crime, but which will at the same time protect your sons and the sons of your friends and relations from pernicious and disloyal teachings that can only end in sadness and disaster."

The motion was put and agreed to without dissent.

The Council adjourned to Tuesday, the 21st March 1911.

J. M. MACPHERSON,
*Secretary to the Government of India,
Legislative Department.*

CALCUTTA ;
The 31st March 1911. }