

THE INDIAN LEGISLATIVE COUNCIL

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**PROCEEDINGS
OF
*THE INDIAN LEGISLATIVE COUNCIL***

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

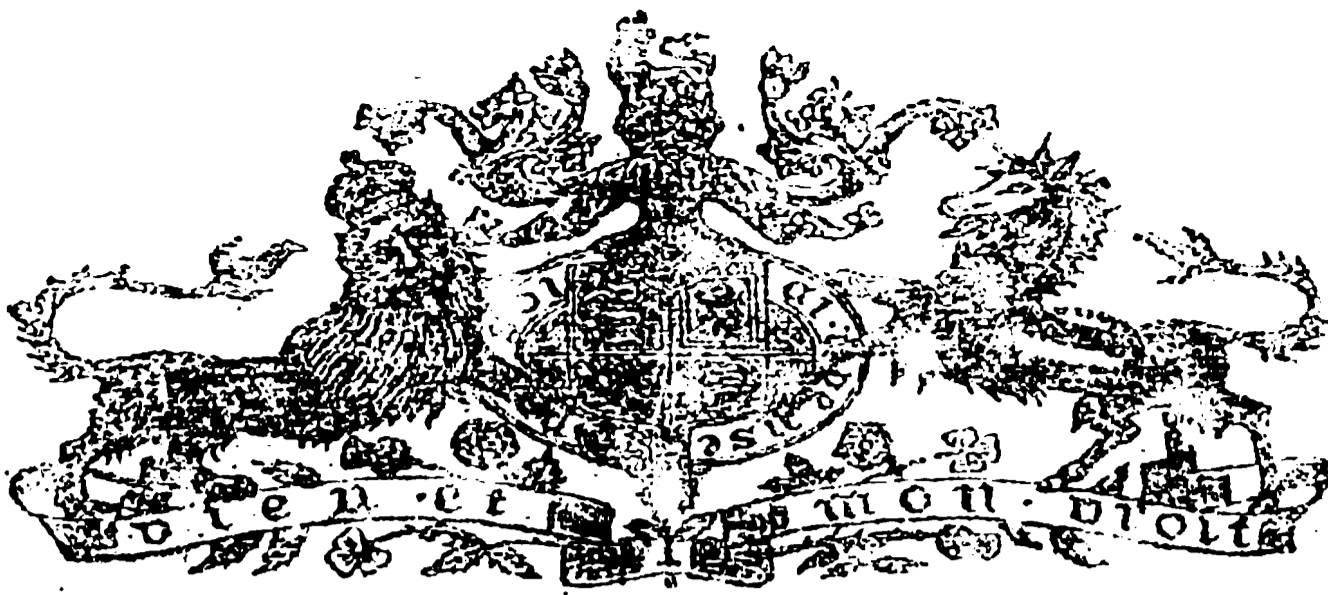
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GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE INDIAN LEGISLATIVE COUNCIL ASSEMBLED UNDER
THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1915.
(6 & 6 Geo. V, Ch. 61.)

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Thursday, the 6th February, 1919.

PRESENT:

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.I.E., G.O.M.C., G.O.B.E.,
Viceroy and Governor General, *presiding*, and 59 Members, of whom
52 were Additional Members.

OATH OF OFFICE.

The following Additional Members took the prescribed oath of affirma- 11 A.M.
tion of allegiance to the Crown:—

The Hon'ble Mr. Henry Moncrieff Smith.

- „ Mr. Patrick James Fagan, C.S.I.
- „ Sir James Houssemayne DuBoulay,
K.C.I.E., C.S.I.
- „ Mr. John Thomas Marten.
- „ Mr. Arthur Herbert Ley, C.I.E.
- „ Mr. Reginald Arthur Mant.
- „ Mr. Walter Francis Rice, C.S.I.
- „ Sir Arthur Robert Anderson, Kt., C.B.M.,
C.I.E.
- „ Mr. Thomas Emerson, C.I.E.
- „ Mr. Pierce Langrishe Moore, C.I.E.
- „ Mr. Denys de Saumarez Bray, C.I.E.

434 TELEGRAMS OF CONGRATULATIONS TO ALLIED ARMIES;
HIS EXCELLENCY THE VICEROY'S OPENING SPEECH.

[*His Excellency the Commander-in-Chief; His Excellency the President.*] [6TH FEBRUARY, 1919.]

TELEGRAMS OF CONGRATULATIONS TO ALLIED
ARMIES.

His Excellency the Commander-in-Chief:—"My Lord, I ask permission to lay on the table a copy of certain telegrams* received in reply to the message conveying the terms of the Resolution of thanks and congratulations to the Allied Armies adopted by the Indian Legislative Council on the 25th September, 1918."

HIS EXCELLENCY THE VICEROY'S SPEECH AT
THE OPENING OF THE LEGISLATIVE COUNCIL
SESSIONS AT DELHI ON 6TH FEBRUARY, 1919.

11-5 A.M.

"In welcoming Hon'ble Members once again to their Delhi Session, I think there is no topic to which I can more aptly refer at the outset than the elevation of our friend—once familiar to us here as Sir Satyendra Sinha—to the peerage and to a place in His Majesty's Government. I am sure that I shall be voicing the unanimous opinion of this assembly when I say that we are deeply gratified by the high distinction he has achieved, and that we are confident he will rise equal to the great opportunity which by his high intellectual qualities and his unfailing tact he has created for himself in the central counsels of the Empire. Personally I have always had the warmest friendship and admiration for Sir Satyendra, and I have no reason to doubt that I shall consistently entertain similar feelings towards the Right Hon'ble the Lord Sinha.

"Now there are one or two matters affecting Hon'ble Members themselves to which I will refer briefly. The first is the extension of the term of office of Members. In the ordinary course it would have been necessary to hold a general election in the spring, since with one exception all the elected Members will have completed their terms before the September Session. This seemed to me undesirable for many reasons having regard to existing circumstances, and accordingly, with the approval of the Secretary of State in Council, the regulations were amended so as to enable me to extend the life of the existing Council for a period of one year in all. I have exercised this power so as to prolong the term of office of Members till the 20th July 1920.

"As Hon'ble Members are aware, I recently intimated to them that it would not be possible to find time during the present Session for the discussion of ordinary Resolutions, and I explained the reasons that actuated me in coming to this decision. I hoped that these reasons were such as would commend themselves to Hon'ble Members, as I know that they are as anxious as I am to facilitate the progress of the Reforms proposals. A protest has, however, been received from one Hon'ble Member against the action I have taken. I do not propose to discuss the arguments with which this protest is supported, as I am satisfied that my action is not only in the public interest, but is entirely in accordance with past practice. It is, moreover, unnecessary for me to do so, as the Hon'ble Member in question, while feeling himself bound as a lawyer to protest, generously expresses himself as anxious to fall in with the object I have in view. I will only add that it is my desire to expedite the grant of wider facilities for public discussion that has led me to arrive at the decision I have taken, and I think Hon'ble Members know me well enough to believe that no power that I may possess will ever be used for the curtailment of the privileges of this Council. I would, therefore, ask Members to have patience and to put up with what they may regard as a temporary inconvenience in order to accelerate the progress of measures which may lead to the grant of further powers to their successors.

[6TH FEBRUARY, 1919.] [*The President.*]

“ Among the legislative matters to be brought before you in the ensuing Session are two Bills of the highest importance. I refer of course to the Bills to give effect to the recommendations of the Commission presided over by Sir Sydney Rowlatt. These recommendations were unanimous, and coming as they did from persons who command the greatest authority, the Government of India decided that they should be brought before this Council in the shape of the necessary legislative measures. The necessity for proceeding with legislation on the subject in this Session is of course due to the early termination of hostilities and the prospect of the conclusion of peace in the near future. The very important powers which have enabled the public peace and order of India to be preserved during the war will shortly come to an end. It is essential in my judgment that they should be replaced by adequate substitutes. The sudden release from restraint and control of the forces of anarchy would involve a position which we cannot contemplate. The reaction against all authority which has manifested itself in many parts of the civilised world is not likely to leave India entirely untouched, and the powers of evil are still abroad. We cannot shut our eyes to the undoubted existence in India of definitely revolutionary organisations.

“ There are facts which can neither be denied nor explained away, and the Government of India would be failing in its duty if it did not make preparation to deal with them. After the most anxious consideration of the subject I have come to the very clear conclusion that special measures are essential, not only to the maintenance of His Majesty's Government in this country, but to the safety of the lives and property of its citizens. I can only commend these Bills to your very earnest and careful consideration.

“ Some Members of the Council will remember that in the cold weather of 1913-1914 Lord Hardinge's Government accepted a Resolution moved by Mr. Rama Raya Venkataranga that a joint commission of officials and non-officials should be appointed to investigate the whole subject of jail administration and to suggest improvements in the light of the experience of the West. A Committee for that purpose was on the point of being constituted when the war broke out and made it practically impossible to hope that any Committee could obtain assistance in England or any other country that had taken up arms. Now that hostilities have ceased we have taken the question up once more, and I hope that we shall shortly be able to announce the appointment of a small Committee under the chairmanship of an expert from England who is a very high authority on these matters.

“ It will be also within your recollection that as a result of a Resolution in this Council last September, a Committee composed partly of official and partly of non-official Members of this Council met to consider the administration of the Arms Act. We have given the report of this Committee our most earnest attention and have lately formulated our conclusions upon the subject and submitted them to the Secretary of State. I do not suppose that they will give satisfaction to all, but the subject bristles with difficulties, and I hope it will be generally recognised, when the changes we have decided to introduce are placed before the public, that a serious attempt has been made to grapple with a very knotty problem.

“ I have already mentioned in this Council the Bill introduced by the Hon'ble Mr. Patel to enable district municipalities in Bombay to adopt with the sanction of the Local Government compulsory elementary education for children. That Bill has now become law, and I am glad to see that the Government of Bombay propose to behave in a liberal manner to any municipality which desires and is able to adopt its provisions. I have recently given my assent to a Bill of a similar nature but of wider application in Bihar and Orissa, and other Bills are either awaiting introduction or have arrived at various stages in the process of legislation.

“ It is a matter for congratulation that in two provinces where primary education has hitherto been peculiarly backward, namely, the United Provinces and the Punjab, vigorous action is now contemplated.

[*The President.*] [6TH FEBRUARY, 1919.]

"The compulsory education Bills which are in process of becoming law require that Government should be satisfied that proper facilities are, or can be provided before the measure becomes applicable in any particular area. This is a very proper condition and I make no doubt that Local Governments, when laying down rules under such sections, will also pay special attention to the very important problem of the training of teachers. Among our vernacular teachers only 32 per cent. are trained. If, as we hope now that the war is over, the rate of expansion of mass education is accelerated, the institutions for the training of vernacular teachers will have to be multiplied, enlarged and strengthened. For the first essential of a school is an efficient teacher, and if our teachers are inefficient, the money spent upon their pay and upon the buildings, equipment and up-keep of the school is only too likely to be money thrown away. We addressed the Local Governments on this important matter in 1916, and further allotted a recurring Imperial grant of 30 lakhs for the training and pay of teachers in the ensuing year. I observe with pleasure that the resolution issued by the Government of the United Provinces in pursuance of the policy for the expansion of primary education lays special stress upon the importance of training teachers, which is indeed, as I have frequently urged, a necessary preliminary to any effective advance.

"Since the last occasion on which I addressed you, we have received the long-expected Report of the Indian Industrial Commission. I regard this Report as a State document of the greatest value and importance. With the underlying principles which form the basis of the Commission's recommendations, namely, the urgent necessity not only for the improvement of Indian industries, but for the more active participation of Government in developing them, I imagine there will be unanimity of opinion. I believe strongly that there is a great future before Indian industries, but it is necessary that, if the full harvest is to be reaped, the land must be ploughed and the seed sown at the best time and in the best manner. It is essential that Indian Industries should be guided on right lines at the early stages of their development. Few people, I imagine, will hesitate to agree that in order to ensure such guidance, a great expansion of the scientific and technical advice at the disposal of industry in this country is essential, and the proposals of the Commission for the organisation of scientific and technical services form probably the most important part of their Report. I need hardly say that we have lost no time in considering this Report and in consulting Local Governments on the proposals made by the Commission. While I believe that the Commission's proposal for the organisation of an Imperial Department will be found essential to supply the necessary stimulus to industrial development and to afford advice and assistance where required, I fully recognise that the actual work of developing industries will have to be chiefly carried out by Provincial effort and under Provincial control. I know that this is a matter on which local opinion is keen, but I have no fear that the organisation which will be ultimately established will involve any undue centralisation. I cannot conclude my remarks on this subject without expressing my appreciation of the work of Sir Thomas Holland and his co-adjutors in producing this Report. The labour which with great public spirit they devoted to their difficult and complicated task was unstinted, and the care and thought with which they have elaborated their conclusions is beyond praise.

"I do not propose to-day to review at length the field of ordinary departmental work, but there are certain points specially connected with India's war effort on which I feel it right to touch. Taking the material side first, I think it is still not fully appreciated how effectively India contributed to meet war requirements. To form a correct estimate, it is necessary to picture the special difficulties which arose particularly during the later phases of the great conflict. The forces in Mesopotamia, for which we were largely responsible, were fighting in a country utterly deficient of the ordinary requirements of a modern army; there were no roads, railways or mechanical transport facilities on the rivers. The country over which the troops had to move was devoid of timber, of fuel and even of ordinary stone; everything, even firewood for cooking and fodder for the horses, had consequently to be imported.

[6TH FEBRUARY, 1919.] [*The President.*]

"While endeavouring to meet the wants of the armies in the field our supplying officers in India were daily confronted with the competing wants of the civil population in India, and at the same time we had to restrict to the barest necessities the import into India of manufactured goods, in order to free the energies of war workers in Allied countries. The maintenance of this delicate balance between conflicting demands imposed a heavy burden of great complexity on the responsible Departments of Government.

"The necessity of supplying the coal required by transports east of Suez introduced an additional complication, by leaving us with insufficient fuel to meet the requirements of essential industries and transport within India itself. The general shortage of sea freight introduced further difficulties.

"The depletion of our supplies of manufactured goods, partly through unusual military consumption and partly by the cutting off of imports, to which I have already alluded, was naturally attended by disturbance of prices and withholding of stocks which made it difficult to obtain at short notice the necessary equipment and stores for the army.

"The complex and rapidly changing conditions that followed the depredations of enemy submarines, especially during the last two years of the war, in these ways thrust a burden on India that cannot be appreciated fully in those countries where all ordinary munitions of war can be manufactured in the country itself. Habits and administrative methods which had rested on a basis of uninterrupted import had rapidly to be recast; the manufacture of substitutes had to be devised without the usual facilities of suitable machinery; iron, steel, coke and various other necessities had to be rationed, expert labour trained, and undeveloped resources turned to account.

"The lessons learnt and the new industries inaugurated must now be developed and converted into permanent acquisitions. To this question Government is devoting its earnest attention.

"Whilst making special endeavours to be herself less dependent on outside sources of supply, India has contributed raw materials and food-stuffs to meet the needs of the Allies generally. To England we sent over 100,000 tons of hides and to Italy about 44,000 tons with a total value of some 21 millions sterling. As a result of special efforts, a considerable fraction of these were tanned before export, and in order to assist in turning this new development to permanent account, we engaged experts in tanning, in leather goods manufacture and tannery research.

"Timber for structural works, exclusive of fuel and railway sleepers, to the extent of 200,000 tons were sent to the armies in the Near East. Railway materials of local manufacture sufficient to construct over 1,800 miles of track and 13,000 feet of bridging were despatched, while from our own stock we spared 229 locomotives and 5,900 vehicles.

"The unusual military demand for cotton clothing was entirely met by Indian Mills, whilst a large fraction of the woollen goods required were also manufactured locally from indigenous and imported Tibetan wool. Altogether 42 million articles of troops' clothing were manufactured.

"On the man-power side I can also give you some interesting details covering the closing stages of the war. As a result of the Delhi Conference, India undertook in response to the Prime Minister's appeal to contribute 500,000 combatant recruits during the 12 months commencing on June 1st last.

"Doubts were expressed in some quarters regarding the prospects of fulfilling the pledge, and, as the previous year had yielded only 266,000 combatants, it was clear that the most strenuous efforts would be necessary to secure the large quota promised. Although during June the number obtained was only 28,000 against 41,000 required, the succeeding months, when the full effect of the increased effort was felt, showed such gratifying results that by the 11th November, the date of the armistice, over 200,000 recruits had been obtained, and there is every reason to believe that the 300,000 required during the remaining seven months would have been forthcoming had recruiting continued.

[*The President.*] [6TH FEBRUARY, 1919.]

"From the commencement of the war India has furnished 1½ million recruits—combatant and non-combatant—a most creditable achievement.

"Demobilisation of the Indian Army has commenced, but cannot become general until peace has been declared. Up to date approximately 50,000 Indian troops have been demobilised and allowed to return to their homes.

"The Recruiting Board as such has now ceased to exist, and its place has been taken by the Indian Soldiers' Board presided over by my Colleague Sir George Lowndes. It is felt that a debt of honour is due to those who have ventured, and in thousands of cases lost life and limb in the service of the Empire and of India, and that prompt and comprehensive action should be taken to discharge that debt. Accordingly the new Board has been formed. It will deal with questions affecting the interests of Indian soldiers and non-combatants serving, discharged or deceased, and will more especially consider questions connected with land rewards or other grants for distinguished service, the after care of the wounded and incapacitated, educational concessions for children and the safeguarding of the general interests of soldiers by means of provincial and district committees who will especially watch the interests of soldiers absent from their homes.

"In this connection Hon'ble Members will be interested to hear that we have taken up with Local Governments the question of the education of children, both boys and girls, of all men of whatever rank, whether combatants or non-combatants who since the 4th of August 1914 have died while on active service list duty or become permanently incapacitated owing to wounds or disease contracted while on the active list. It is proposed that such children should receive free primary education, together with a small allowance to cover incidental expenses, scholarships to carry them on to middle schools and, we hope, some reserve scholarships for still higher education. The women in India have contributed a substantial sum to be presented to Her Imperial Majesty the Queen-Empress as a Silver Wedding Gift, and it is Her Majesty's desire that this should be used for a similar purpose, supplementing the efforts of Government by providing higher education and alleviating cases which cannot well be brought within ordinary rules.

"I must also refer in passing to the efforts which Government has made during the last six months to secure through our Publicity Boards the diffusion of correct information about the war. In these efforts, we have been ably seconded by the Press of India, to whose hearty co-operation our success is largely due. I may refer particularly to the work in the United Provinces and in the Punjab. Both the United Provinces *War Journal* and the *Haq*, the organ of the Punjab Publicity Committee, have disseminated war information far and wide, and have created in the minds of thousands of our peasant-folk an interest in the larger world outside the circle of the village. Thus besides the service which has been performed by the Publicity Campaign, in assisting the people of India to form a right idea of the issues of the war, in helping forward the last War Loan, and in supplying a great stimulus to recruiting, its educative effects are such as can hardly fail to be of the utmost importance both now and in the future.

"No difficulties could compare with those imposed upon us by the war, but our release from their strain has unhappily coincided with a period of new anxieties.

"At the very moment when Great Britain and her Allies were bringing the great war to a victorious close, there suddenly fell upon the world a new calamity, the extent of which has hardly yet been measured or realised. I mean the so-called influenza which has just swept over the greater part of the globe and in an incredibly brief space of time has carried off some millions of lives. The Medical authorities did not spare themselves in coping with this fell disease. But whether in India or in other countries possessed of more perfect medical organisations, the very suddenness of the onslaught, the novelty of the symptoms and the fact that doctors were frequently laid low while battling with the scourge produced a condition of helplessness and disorganisation. All thanks are due to the unselfish efforts made by public

[6TH FEBRUARY, 1919.] [*The President.*]

and private bodies during this terrible time. The Medical authorities in India have made haste to investigate the disease, and so far as is possible to make ready by the preparation of vaccines, etc., against such another visitation. An officer has been placed on special duty in connection with the investigation. Those who complain of the apparent unsuccess of attempts to cope with this disaster, must remember that India alone has not been afflicted, that the greatest medical authorities throughout the world have been concentrating their attention on this matter, and that it is beyond human skill to find instant remedies in such a case. Two lessons we may learn if indeed they have not already been sufficiently impressed upon us by the ravages of plague and other diseases. The defects of sanitation in India are fully recognised, and in June last we addressed Local Governments on this subject, and especially on the necessity for sanitary organisation in rural tracts, and we placed before them the recommendations made by an informal conference of Sanitary Commissioners which had been held here. In the second place, it is incumbent on us to increase our facilities for research. The Medical services in India have a proud record in this respect, a record which should encourage us and give us confidence in making a bold advance in the establishment of research institutes to investigate those ailments which are particularly prevalent in India.

"Our other grave anxiety has been on the score of the unusual drought. Widespread scarcity has resulted, and a general rise of prices which presses very heavily on the poorer classes. The position has, I am glad to say, been favourably affected by the recent rainfall. As the Hon'ble Sir Claude Hill is going to make a statement covering the whole ground and setting forth the measures that have been taken to relieve the situation, I will not take up more of your time with this subject now, but before leaving it I should like to express my appreciation of the good work which Mr. Gubbay has done in discharging the duties of Food Controller.

"There is a matter of special and grave concern to the European community which is exercising me and my Government at the present time, and on which I feel I ought to touch. I refer to the difficulties in the way of securing passages home and to the exorbitant rates charged. All I can now say is that from the time the Armistice was signed we have been in constant communication with the Home authorities, urging in the most emphatic manner the claims to consideration of Europeans resident in this country, and that we shall not rest satisfied till we have secured amelioration in existing conditions.

"You will expect me now to say something in regard to the Reform proposals. The Committees under the chairmanship of Lord Southborough are now sitting in Delhi, and hope in conjunction with the Government of India to lay their Report shortly before His Majesty's Government. I have dealt on other occasions with various aspects of this important question. To-day I wish to deal more particularly with the position of the services and the English commercial community.

"It is indeed natural that the services should feel keen anxiety as to their place in the future scheme of things. The Secretary of State and I could not within the compass of our report elaborate in full detail all the issues arising out of our proposals for Reform, but now that the criticisms and discussions of the past months have brought home to us something of the misgivings and anxieties which our services are feeling, I propose to take this opportunity of stating, as clearly as I can, what my conception of their future position is.

"And first let me say this. The services of India have just come through a long period of exceptional strain. Their strength has been seriously depleted by the war. They have been called upon not merely to run the administration with a far weaker staff; not merely to help to steady men's minds during periods of depression and alarm; but they have also had to organise and promote many forms of war activity. It has been out of the question to let them take leave, and so they have stayed at their posts year after year doing double work, often

[*The President.*] [6TH FEBRUARY, 1919.]

to the detriment of their health and commonly at the sacrifice of domestic comfort. They have been hard hit by rising prices; and they have come in for attacks arising out of the agitation in connection with Reforms which have sometimes been ungenerous and unfair. But they have risen superior to all these things, and as Viceroy I am proud and glad to acknowledge on behalf of my Government the part they have played in keeping India contented and quiet, and in helping to win the war. And now the war is over, and they seem to see before them difficulties and sacrifices greater still. I want the services to know that my Government and I are fully cognisant and deeply appreciative of all these things.

“ Let me state then, as clearly as I can, what I conceive to be the governing conditions of this problem. The changes which we are setting about in India must gradually involve a profound alteration in the position of the public services. Hitherto the great administrative and technical bodies of men recruited from England—such as the Indian Civil Service, the Indian Police, the Indian Medical Service, the Indian Education Service, the Indian Forest Service, the Public Works Department—have not been civil services in the sense in which that word is generally understood. I have indeed seen criticisms which assumed that our public services had usurped to themselves a place which Parliament never assigned to them. That, as every reader of history knows, is a wholly wrong and unfair suggestion. The services were sent to India by Parliament not as the executive agents of a popular government in India, but to administer the country under the official Government of India. No one else could have done the work which they have done. They could not have done it themselves, had their position been different. Now with the introduction of responsible government in India, however limited at first, a change must begin. If we set up ministers, ministers must administer; and the permanent services must execute. That is so well accepted a maxim of our British polity that no one will dispute it. This then is my first proposition.

“ But to suppose as has been alleged that we propose to place the services as a whole in helpless subordination to inexperienced and possibly hostile ministers; that we intend not merely to deprive them of power, but to require them blindly to execute policies which they cannot reconcile with their self-respect is very seriously to misconceive our purpose. Let me explain at once why that is impossible. Progress to further constitutional growth in India is to come not by a process of drift; not by the English Departments or Governments throwing up the sponge out of weariness or a sense that they are fighting a losing game; not by our taking back our hand from the plough; but by the response made by Indians to the great opportunity now offered them—by the measured verdict of the highest outside impartial authority upon their performance. It is recognised at the present moment that the time is not ripe for Indians to take over the entire management of the country. Every moderate and thoughtful Indian admits that truth himself. And government, believe me, is not the simple thing it may sometimes seem. The help of the services, trained, efficient, impartial, with their high standards of duty, of character, of the public interest, is absolutely essential if this vast experiment is to succeed. We cannot afford and we do not mean to lose them until India acquires, what she has not got at present, something approximately as good to put in their place. That is my second proposition.

“ The Secretary of State and I have declared our intention to protect the services in the defence of their rights and the discharge of their duties. I see that apprehensions have been aroused by the general character of this phraseology. Let me now, speaking for myself and my Government, endeavour to give precision to the undertaking. In the first place as regards their pay and pensions. I propose that the pay, pensions, leave and conditions of service generally of the services recruited from England shall be guaranteed at least by statutory orders of the Secretary of State, which no authority in India will have power to disregard or vary. My idea is that the all-India services are to be retained, as in a mould cast by Parliament and the Secretary of State, as an exemplar to all the services drawn exclusively from India. In this respect, therefore, I see no cause for disquiet.

[6TH FEBRUARY, 1919.] [*The President.*]

"I pass to a more difficult question, and one which I know is causing more doubt than any mere questions of money—the position of the services who are under Indian ministers. Now I am not going to recite the series of ways in which I conceive it possible that difficulty may arise. I ask you to take it from me that my Government and I have considered this field very anxiously and have had vividly before our minds the sort of troubles that may arise over postings or promotion, or policy or professional questions or discipline. How then can these potential difficulties be mitigated? In the first place, we hope to get as ministers responsible men who will realize how greatly the services can help them. There is more in this than a pious hope. We may look to what has happened elsewhere. It has often been the case that men going in fresh to office, full of prejudice against the public services, have found them their best ally and protector against the critics which every administrator encounters, and have ended by gaining the full confidence of the service and giving the service theirs. Secondly, we do not intend to leave the handling of the services wholly to the minister. We propose to instruct the Governor, in a published instrument, that we lay on him a personal responsibility for securing the welfare of the services. He will disallow proposals that aim or tend towards their disintegration. The head of every department under ministers will have access to the Governor. He will be in a position to represent difficulties to him before they become acute: and it will be for the Governor to deal with them by influence and persuasion, and finally by tactful exercise of authority. Lastly, we propose to secure all existing rights of appeal to the Government of India and the Secretary of State whenever an officer is prejudicially affected as regards emoluments or pension by a minister's order.

"How these arrangements will work, you and I can only leave it to experience to show. But I think that the services will accept them as an earnest attempt to fulfil the pledges which we have given. It may be that even more provisions will be required. But about those I will say nothing at present, because I am anxious to give no countenance to the idea that the services will find their position made impossible. I will merely add that the Government of India will always regard this question of the fair treatment of the services as one of the cardinal tests by which our great experiment will be judged.

"Let me now turn to the very important matter of British commercial interests in this country. It would distress me profoundly if I thought that we could with justice be accused of under-rating either the colossal financial interests at stake, or the enormous part which British non-official energy, character and brains have played in the task of making India what she is. For myself I regarded these facts as self-evident and thought that, so far as it was necessary to reassure this important community, we had in our Report made our attitude towards them quite clear. However, the complaint has been made that we have dealt too summarily with the subject. So let me emphasise our intentions. I have not found by the way in the papers of a year ago, or the criticisms just received, any reasoned statement of the ways in which it is supposed that British trade interests may be jeopardised by the changes which we have in view. I note, however, that in the joint address which some representatives of European commerce in Calcutta signed last year, reference was made to the risk of injury by 'predatory or regulative legislation' or the neglect of transportation and other facilities; and I see that the Bengal Chamber of Commerce appear to have chiefly in mind proposals for provincial taxation likely to prejudice commerce or industry.

"Now let me explain the position as I see it. The legislation on which British commerce in the main depends is mainly all-India in character. Some of it is embodied in the great commercial codes; some of it deals with matters of peculiar interest to industry-like railways, factories, petroleum; explosives or mines. Now inasmuch as these will remain with the Government of India, who will, as I have laid down more than once, retain indisputable authority, there is surely no reasonable ground for apprehension. Commerce can make its voice heard just as effectively as heretofore. It may be said however that, in the future, Provincial Councils will exercise more freely the power of amending all-India Acts. But that they can only do with the previous

[*The President.*] [6TH FEBRUARY, 1919.]

sanction of the Governor General. In any case there is the safeguard of the triple veto of the Governor, the Governor General and the Crown; and this applies to all provincial legislation.

"It seems to me indeed that the control of the matters of peculiar interest to European commerce is to a great extent concentrated in the hands of the Government of India. I am thinking of the tariff and the currency; of banking, railways, shipping, posts and telegraphs. In these respects no existing measure of security is being diminished, and therefore apprehension is surely groundless.

"But evidently it is in the minds of some people that in the provincial sphere it will be possible injuriously to affect the commercial community. Say, for instance, by special interests, being singled out to bear the burden of provincial taxation or by rival interests being artificially stimulated by bounties. What protection will there be in such cases? Well, the Secretary of State and I have pledged ourselves in paragraph 344 to reserve to Government power to protect any industry from prejudiced attack or privileged competition. To speak for myself, I believe this can be secured by embodying this undertaking in the instrument of instructions given to the Governor on appointment, wherein he will be informed that His Majesty's Government lay on him a responsibility for seeing that the pledge is made good. With such a public document in his hands the Governor, with the Government of India and Secretary of State behind him, would be in a very strong position to resist all proposals of his ministers which appeared to him to be acts of hostility to British commerce. There will moreover be representatives of that interest sitting in the provincial chamber; and I cannot do them the injustice of supposing that they will fail to bring any just grievance effectively to the Governor's notice, or if need be to remind him of his responsibility.

"Now, gentlemen, I shall not detain you much longer. The conditions under which we meet to-day are very different from those to which we have been accustomed during the past four years, for the hopes of victory—deferred nay long deferred—have now been abundantly realised, and to-day we can hold high our heads feeling, I trust, each one of us in his own way, that we have shared in the great fight for justice and truth, and that we are proud citizens of a powerful and victorious Empire.

"For those who seek for proof of what the British Empire has done in this great and fateful chapter of the world's history, is not the tribute of Marshal Foch sufficient?

'The hammer blows of the British Armies were the decisive factors in the final crushing defeat of the enemy.'

"Again, is not the humiliating surrender in British waters of the German Navy a powerful—indeed almost incredible—testimony of what had gone before, of what British valour and endurance had achieved by unrelenting effort on the sea?

"On India's part in the Empire's achievement I have dwelt time and again. There is no need to tell over again what all the world knows—how India's loyalty enabled us at once to send our troops far from India's shores; how India's effort increased and developed till the supply of men, material and munitions reached a figure worthy of the stake which India had in the war; and how in the last critical stages Indian troops played a decisive part in the glorious victories won in the Eastern campaign under General Allenby.

"There are supreme moments in the life of communities as well as of men when all that is petty and sordid sinks into insignificance, when differences and animosities fade in the light of some deep emotion and we see revealed the feelings that lie deep and the things that matter. Such a moment, I think, came to us here in India when the news was celebrated throughout the length and breadth of the land that the Empire had come through its long ordeal by battle, still standing four square, its purpose unimpaired, its credit untarnished, its citizens still free. The victory of the Sarkar was every man's victory. We met upon a common platform of rejoicing, and there was

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[6TH FEBRUARY, 1919.] [*The President ; Rai Bahadur B. D. Shukul.*]

revealed to us a deep and essential comradeship which in commonplace times of domestic stress and difficulty I trust we shall not forget.

“ Who will say that there were not days during that long struggle when the outlook was dark and threatening, and we knew that it was only the dogged tenacity of the British character which stood between the civilised world and the domination of brute force? The German High Command could point with arrogance to their much boasted war map, but they had no chart of British character. There was a moral situation not susceptible of German appreciation. And to that great reserve of moral strength which made our Empire invincible, India contributed her full measure.

“ It would be idle to suppose that our victory, complete and overwhelming as it is, carries us straight into a peaceful harbour of ease and content. The tempest which threatened us has abated, but the troubled sea is still a danger to all but the stoutest craft. The nations who have won the war are called upon to display qualities as fine as those which carried them through those long years to final victory. We have shown courage and tenacity in war: we must show sanity and sobriety in peace.

“ The difficulties engendered by the war will heavily tax our patience for many months to come. Trade, supplies, prices, wages, currency, labour, transport—wherever we turn in the domestic field—there are hardships which must still be borne, difficulties which must still be overcome. In attempting to solve these problems our hands are tied in every direction, and on behalf of my Government I must ask for still more of that same patience which has been so liberally extended to us during the war.

“ In the difficult days that lie ahead the established forces of law and order—the forces to which the people are from childhood accustomed—need all the support that comes from the co-operation of the great body of sober-minded citizens.

“ Do not let it be supposed for one moment that I fear that this country lies in any danger of falling a victim to those disruptive forces best suggested by the name Bolshevism. The poison of that doctrine flows from failure, and I am convinced that those nations who have drunk the tonic of success with the consciousness of duty done are immune from its virus.

“ Nor would I have you suppose that I have anxieties in regard to the Indian masses, for each year I have spent here has strengthened my confidence in the solid good sense of India as a whole. The bulk of the Indian masses may live their lives remote from affairs, lacking in education, still wanting in most of the paraphernalia of progress. They may perhaps in some sense be voiceless masses. But the good sense of India springs from a deep political instinct, from lessons learnt in a harsh school perhaps, learnt in ill-rewarded toil, in pestilence and famine and under the drums and trappings of many a stern conqueror, but still learnt and not to be easily unlearned. In that instinct lies a solid foundation for our public life. There lies our ultimate source of strength. The good sense of India has been tried in this great war as never before and it has not been found wanting. The test, as I have said, is not yet over; but, speaking for myself, I look forward confidently to the days ahead, fully assured that, when the dust of these days has subsided, a greater India will emerge—greater in resources, greater in self-help, great as ever in her loyalty to the King-Emperor.”

QUESTIONS AND ANSWERS.

The Hon'ble Rai Bahadur B. D. Shukul asked:—

11-58 A.M.

1. “ Will Government state by what time they will be in a position to remove the various limitations imposed upon railway traffic during the war? ”

Removal of
limitations
imposed
upon rail-
way traffic

[*Sir Arthur Anderson; Rai Bahadur B. D. Shukul; Sir James Meston; Mr. A. H. Ley.*] [6TH FEBRUARY, 1919.]

The Hon'ble Sir Arthur Anderson replied:—

"I wish that I could give the Hon'ble Member the date for which he asks. I can only assure him that the Railway Board are as anxious as he can be to see all restrictions removed and will spare no pains to this end."

The Hon'ble Rai Bahadur B. D. Shukul asked:—

Encashment of currency notes.

2. "(a) Is it a fact that currency notes are sold or exchanged at heavy rates of discount, and that this is causing severe hardship to the poor agricultural classes living in the interior of the country, and serious dislocation of business in commercial circles?"

(b) Has it been brought to the notice of Government that the non-acceptance or acceptance only to a limited extent of currency notes for encashment at the Government treasuries has aggravated the difficulties of the general public?"

(c) Is it a fact that in spite of the action so far taken by Government with a view to remove this complaint the evil has not yet ceased to exist? If so, will Government state what further action they propose to take in the matter?"

The Hon'ble Sir James Meston replied:—

"Currency notes are believed to be at a discount in most districts and in many places this discount probably causes hardship to persons of small incomes who have a legitimate need to change notes. This matter was raised by the Hon'ble Sir Dinshaw Wacha in a question asked at the last September Session of the Council, and the Hon'ble Member's attention is invited to the reply given by Sir William Meyer on the 4th September last. The present position is substantially the same as when that reply was given. The demand for rupees continues unabated, and it is only by working the mints to their utmost capacity that our liability for the encashment of notes at the seven Currency offices is being met. Actually over 8 crores of rupees were coined at the mints in the month of December alone. It is expected that the value of the silver purchased by Government during the current year will be approximately 60 crores of rupees. From these figures I hope that the Hon'ble Member will appreciate that we are doing all that is humanly possible to meet the insatiable appetite of the country for coin. What, if any, further action can be taken is a matter now engaging our anxious attention."

The Hon'ble Rai Bahadur B. D. Shukul asked:—

Relaxation of the India Office control of finance.

3. "Are proposals for the relaxation of the India Office control in the matter of finance under the consideration of the Government of India? If so, will the non-official members of this Council be consulted before any final decision is arrived at by Government?"

The Hon'ble Sir James Meston replied:—

"The reply to the first part of the question is in the affirmative. As the Legislative Council has already had an opportunity of expressing its views upon the Reforms proposals generally, the Government of India do not propose to consult it further on the particular point mentioned by the Hon'ble Member."

The Hon'ble Rai Bahadur B. D. Shukul asked:—

The Indian Industrial Commission.

4. "What action has been taken or is intended to be taken by the Government of India for the purpose of giving early effect to the various recommendations made by the Industrial Commission?"

The Hon'ble Mr. A. H. Ley replied:—

"This question was dealt with by His Excellency the Viceroy in his opening speech to the Council. The Government of India have lost no time

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[Mr. A. H. Ley ; Rai Bahadur B. D. Shukul ;
Sir William Vincent ; Sir Claude Hill.]

in considering the Report of the Industrial Commission, and have already consulted Local Governments on the proposals made by the Commission. They are also in communication with the Secretary of State on the subject. I am sure that the Hon'ble Member will understand that I am not in a position to make a more definite statement at the present time, but I can assure him that the matter is not being allowed to sleep."

The Hon'ble Rai Bahadur B. D. Shukul asked :—

5. "(a) Is it a fact that the Reception Committee of the Indian National Congress, Delhi, had to abandon the Presidential procession? If so, will Government state the circumstances which led the Reception Committee to adopt this course?"

Abandonment of the Presidential procession at Delhi.

(b) Are Government aware that the action taken by the local authorities in respect of the proposed Presidential procession exasperated the Indian educated public, and if so, do Government propose to take any action in the matter?"

The Hon'ble Sir William Vincent replied :—

"(a) The Government of India have been informed that the proposed procession of the President of the Indian National Congress on his arrival in Delhi on the 25th December, was abandoned because the local Reception Committee declared themselves unable to accept the route which the District Magistrate and the Superintendent of Police, in the exercise of the responsibility vested in them by sections 30 to 33 of the Police Act, 1861, were prepared to license.

(b) Government are aware that some sections of Indian educated opinion have expressed dissatisfaction with the orders passed by the local authorities in the matter, but they are informed that other sections of the community hold the view that the District Magistrate acted rightly and properly in preferring a route on which there was no reasonable apprehension of a disturbance during the progress of the procession, to the route proposed by the Reception Committee which did not fulfil this condition. Government do not propose to take any action in the matter."

The Hon'ble Rai Bahadur B. D. Shukul asked :—

6. "(a) Has a grain census been taken in all or any of the provinces in British India from the owners or possessors of different kinds of foodstuffs? If so, in what provinces and with what result?"

Food-grains.

(b) If the answer to the first part of (a) be in the affirmative, will Government please lay upon the table a statement compiled up to date for the whole of British India giving figures for each province, district by district, showing the surplus quantity of food-grains available in the country for the use of the people and the period for which it is so available?

(c) Do Government propose to institute a thorough and careful inquiry as to the extent of food-stuffs grown in the country and the average balance remaining unexported for the use of the people?"

The Hon'ble Sir Claude Hill replied :—

"At a Conference which was held at Delhi on the 15th October, 1918, with Directors of Civil Supplies, a Resolution was passed to the effect that it was imperative to obtain as exact an estimate as possible of stocks then existing and of the actual outturn of the *Kharif* harvest in each district. This Resolution was passed in view of the necessity of conserving the food-grains supplies of India to enable her to meet her military obligations and commitments, as also in the interests of the country. Accordingly, Local Governments were addressed towards the end of October, and they were asked to obtain from District officers as accurate an estimate as possible of the stocks in their charges. The detailed procedure to be adopted in obtaining this estimate was

[*Sir Claude Hill* ; *Mr. Kamini Kumar Chanda* ; [6TH FEBRUARY, 1919.]
Sir Arthur Anderson.]

left to the Local Governments, but certain lines were indicated by the Government of India who pointed out, however, that in their opinion any inquisitorial proceedings or house-to-house examination of stocks should be avoided, and Local Governments were advised to institute instead local inquiries into the proportion borne by the stocks then in existence to stocks in the corresponding months of a normal year.

2. Further, Local Governments were also asked to cause a further estimate to be made early in January on the same lines.

3. Replies have now been received from a number of Local Governments, but these state that it has not been possible to obtain any estimate which can be regarded as even tolerably accurate. The District officers are insistent that no confident opinion can be based on the results of the inquiries instituted by them. It is not, therefore, proposed to place on the table the figures which have been received. Moreover, they are not complete, inasmuch as returns have not been furnished by certain important provinces.

4. The Government of India do not propose to cause any further inquiries to be made on the above lines as to the stocks available in the country. Since the Delhi Conference was held the situation has been entirely altered by reason of the cessation of hostilities and the consequent removal of the obligation which India had previously undertaken of making available for the benefit of the Allies her exportable surplus of foodstuffs. On the contrary His Majesty's Government have now agreed to the maintenance of the prohibition on the export of wheat and have surrendered their previous demand for a portion of the exportable surplus of rice from Burma, and have further made available for consumption in India a portion of the stocks which they hold of Australian wheat, while, on their part, the Government of India have taken steps, by limiting the export of rice, jowar and bajra, to conserve for the needs of the Indian consumer supplies available in the country."

The Hon'ble Mr. Kamini Kumar Chanda asked :—

Dining cars
and refresh-
ment stalls
for Indian
travellers.

7. "(a) Are dining cars provided for Indian travellers on Indian Railways? If so, how long have they been in existence and on what lines? Do Government propose to consider the desirability of extending the system to other lines, at least for experiment?"

(b) Are there refreshment rooms on railway lines for Hindu and Muhammadan travellers like those for travellers in European style?

(c) Is it a fact that there are complaints by the public of the want of refreshment rooms and stalls in railway stations for the use of Hindu and Muhammadan travellers?

(d) Do Government intend to sanction such rooms and stalls at important stations on all lines?"

The Hon'ble Sir Arthur Anderson replied :—

"(a) Refreshment cars for Indian travellers were running on the Madras and Southern Mahratta Railway, from prior to 1911 and on the North-Western Railway from 1913 up to 1917, when owing to the reduction in the passenger train services, necessitated by conditions arising out of the war, they had to be withdrawn.

Other railways, for example, the Bengal-Nagpur, Bombay Baroda and Central India and East Indian Railways, tried the experiment of running refreshment cars for Indians, but were obliged to withdraw the cars as it was found that they were not sufficiently utilised to justify their continuance.

(b) Refreshment rooms for Hindu and Muhammadan travellers are provided at important stations and junctions where needed on most railways. This matter has been receiving a great deal of attention in recent years.

(c) Complaints have been received but these have not been numerous. They have received careful consideration by the Railway administrations concerned.

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(a) The provision of such rooms is within the competence of the railways concerned, and does not require Government sanction."

The Hon'ble Mr. Kamini Kumar Chanda asked :—

8. "(a) Has the attention of Government been drawn to resolutions of public bodies in India strongly urging the delegation of non-official Indian representatives to the Peace Conference to be nominated from a panel prepared by the Indian National Congress and the All-India Moslem League ?

Indian representation on the Peace Conference.

(b) Do Government propose to consider the desirability of recommending to His Majesty's Government the acceptance of this suggestion ? "

The Hon'ble Sir William Vincent replied :—

"The attention of Government has been drawn to resolutions of the character mentioned. The Government of India do not propose to recommend to His Majesty's Government acceptance of the suggestions contained in them."

The Hon'ble Mr. Kamini Kumar Chanda asked :—

9. "(a) Has the attention of Government been drawn to the Associated Press telegram, dated Bombay, the 11th December, 1918, reporting the proceedings of a public meeting held in the Town Hall of Bombay the same day, with the object of raising a memorial to Lord Willingdon ?

Memorial to Lord Willingdon.

(b) Has Government seen any correspondence that passed between the Sheriff of Bombay and a number of the citizens of Bombay headed by the Hon'ble Mr. Jinnah questioning the legality of the action of the Sheriff in calling the meeting ?

(c) Is there a rule prohibiting memorials, addresses and presents to retiring officials? If so, do Government propose to consider the question of extending the rule to Provincial Governors ? "

The Hon'ble Sir William Vincent replied :—

"(a) and (b) The answers are in the affirmative.

(c) A Government servant may not, without the previous sanction of the local Government, receive any complimentary or valedictory address, accept any testimonial presented to him, or attend any public meeting or entertainment held in his honour; but the head of a Government may receive an address.

No change in the rules is contemplated."

The Hon'ble Mr. Kamini Kumar Chanda asked :—

10. "Has Government considered the desirability of issuing passports without any further delay to the members of the Indian National Congress, the All-India Moslem League, and the Home Rule League deputations to England ? "

Grant of passports to members of the Congress and other deputations.

The Hon'ble Sir William Vincent replied :—

"Orders removing the embargo on the issue of passports to delegates of the Indian National Congress and of other bodies desiring to proceed to England in connection with the Reforms proposals were issued at the end of December last."

The Hon'ble Mr. Kamini Kumar Chanda asked :—

11. "(a) Is it a fact that the following newspapers published in India are not allowed to be circulated in England, namely, the "Hindu," "New India," the "Bombay Chronicle" and the "Amrita Bazar Patrika," while Anglo-Indian papers and the "Bengalee" and the "Leader" are allowed free entry there ? "

Prohibition against certain Newspapers entering England.

[*Mr. Kamini Kumar Chanda* ; *Sir William Vincent* ; *His Excellency the Commander-in-Chief.*] [6TH FEBRUARY, 1919.]

(b) If the answer to (a) be in the affirmative, will Government be pleased to state whether the British Government prohibited the entry of the said papers into England of their own motion or at the instance of the Government of India or of any local Government?

(c) Is Government in a position to state the grounds on which such action has been taken?

(d) Is there any other instance where papers published outside England have been prohibited entry there?

(e) Will Government consider the propriety of moving the British Government to remove the said prohibition?

The Hon'ble Sir William Vincent replied:—

(a) The export of newspapers from India to any destination was a matter for the discretion of the Indian censorship, which, in the exercise of that discretion, prevented the export of certain newspapers, published in India, to any destination, including the United Kingdom. Such prevention was, in each case, made after perusal of each newspaper and consideration of its contents by the censors, who were guided by the actual contents of each issue of each paper and not, in any case, by the general political tone of any particular paper. It is a fact that export of "New India", the "Bombay Chronicle", the "Hindu" and the "Amrita Bazar Patrika" was frequently, though not invariably, prevented by the Indian censorship.

(b) There was no actual prohibition at all. Whatever prevention of export from India existed was due to the Indian censorship, acting on the discretion vested in it.

(c) The Indian censorship was a military institution and took the action stated on purely military grounds, in view of the fact that the Home Rule agitation in India was being exploited in Germany for purposes of enemy propaganda, and there was every reason to believe that the newspapers supporting this agitation, from which copious excerpts appeared in the German propaganda, reached enemy territory, in many cases through the United Kingdom.

(d) There were instances in which newspapers published outside England were prevented from entering the United Kingdom. It is believed that this prevention was due to action by the British censorship and not to actual prohibition by His Majesty's Government.

(e) The censorship in India of the United Kingdom mails ceased on December 19th, 1918, since which date there has been no interference by the Indian censorship with the export of newspapers from India to England."

The Hon'ble Mr. Kamini Kumar Chanda asked:—

Delay in
delivery of
cables to
"New India."

12. (a) Has the attention of Government been drawn to complaints in "New India" that telegrams to that paper are needlessly delayed in delivery and that, as a specific instance, a cable sent by its London correspondent on the 29th November and received at the Madras Government Telegraph Office on the 30th November was not delivered till 3-40 p.m. on the 4th December, though a similar cable to the "Bombay Chronicle" was delivered to and published in that paper on the 30th November?

(b) Are the above allegations true? If so, will Government be pleased to state the reasons for this differential treatment?"

His Excellency the Commander-in-Chief replied:—

"The attention of Government has already been drawn to this matter. The cable in question was despatched from London on the 24th and not on the 29th November and the copy intended for the "Bombay Chronicle" was passed by the local censor without reference to higher authority. The copy for "New India" was detained by the Madras censor who referred it for the

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[His Excellency the Commander-in-Chief; Pandit Madan Mohan Malaviya; Mr. A. H. Ley; Rao Bahadur B. N. Sarma; Sir Claude Hill.]

orders of higher authority, but the telegram which was despatched by the Madras censor was lost in transmission and this was not discovered until he had telegraphed again asking for orders. A repetition of the missing telegram was then obtained and orders were issued at once for the delivery of the telegram intended for "New India". Thus the delay in its delivery was mainly due to the accidental loss in transmission of the Madras censor's original telegram. The Hon'ble Member will, therefore, see that no differential treatment in respect of the issue of the telegram in question was intended."

The Hon'ble Pandit Madan Mohan Malaviya asked :—

13. "Will Government be pleased to state what steps, if any, have been taken to organise Provincial Departments of Industries on the lines recommended by the Indian Industrial Commission?"

Organisa-
tion of Pro-
vincial De-
partment
of Indus-
tries.

The Hon'ble Mr. A. H. Ley replied :—

"As the Hon'ble Member will be aware from His Excellency the Viceroy's opening speech to the Council, Local Governments have been consulted on the proposals made by the Indian Industrial Commission. I have no information yet to show what steps Local Governments propose to organise Provincial Departments of Industries or reorganise those already existing, on the lines recommended by the Commission. The Local Governments will naturally require a little time for the consideration of the proposals in the Report, but, in order that this important question may be dealt with as rapidly as possible, the Government of India have placed an officer on special duty who is now visiting the various Local Governments in order to consult with them and collect their views on the subject."

The Hon'ble Pandit Madan Mohan Malaviya asked :—

14. "Has the recommendation of the Indian Industrial Commission that industries should be placed in separate charge of a member of the Governor General's Executive Council been approved by the Secretary of State for India, and, if so, when is the appointment of such member likely to be made?"

Placing of
industries
under the
separate
charge of
a member
of the
Executive
Council.

The Hon'ble Mr. A. H. Ley replied :—

"I am unable to add anything to the answer already given to the Hon'ble Rai Bahadur Bishan Dutt Shukul regarding the report of the Indian Industrial Commission. The Hon'ble Member can, I venture to think, hardly expect that an immediate decision should be arrived at on the important recommendations made in such a long and elaborate Report. Copies of the Report were sent to the Secretary of State by the first mail after signature by the Commissioners, but they did not reach England until about the middle of December."

The Hon'ble Rao Bahadur B. N. Sarma asked :—

15. "Will Government be pleased to state—

(a) What quantities of food-stuffs, wheat, rice, chollam, ragi, barley, maize, cumbu and oil-seeds are normally consumed in India per year;

(b) What the estimate of the stocks expected to be available for consumption during the year 1919 is;

(c) What steps are proposed to be taken to supply the deficiencies, if any?"

Consumption
of food-
grains in
India.

The Hon'ble Sir Claude Hill replied :—

"(a) Estimates of yield are available only in respect of certain crops and not in respect of all crops. A rough estimate of consumption could be made by deducting the exports from the estimated yield, but, in the absence of full information, the Government of India have not attempted to frame such an

450 QUESTIONS AND ANSWERS; INDUSTRIAL COMPULSION BILL; CRIMINAL LAW (EMERGENCY POWERS) BILL.

[*Sir Claude Hill; Rao Bahadur B. N. Sarma; His Excellency the Commander-in-Chief; Mr. V. J. Patel; Mr. A. H. Ley; Sir William Vincent; The President.*] [6TH FEBRUARY, 1919.]

estimate, which would, by reasons of its incompleteness, be of little value, and might be seriously misleading.

(b) and (c) The Hon'ble Member is referred to the answer given to the Hon'ble Rai Bahadur B. D. Shukul in reply to question No. 6."

The Hon'ble Rao Bahadur B. N. Sarma asked :—

Military training of members of the I. D. F. at Trichinopoly.

16. "Is it a fact that the young men who were undergoing military training in the Indian Defence Force at Trichinopoly have been dismissed before the completion of their course? If so, will Government afford facilities for the completion of their training?"

His Excellency the Commander-in-Chief replied :—

"In consideration of the useful service rendered by the Indian Defence Force generally, instructions were issued that for the remainder of the training year no further compulsory training should be demanded beyond the completion of musketry courses, and further, that attendance at camp should be voluntary. In pursuance of this decision the compulsory training of the Indian Branch of the Indian Defence Force (Non-University) was also suspended.

Orders have been issued to General Officers Commanding Divisions that there is no objection to the continuance of training, provided that attendance at such training is voluntary."

The Hon'ble Mr. V. J. Patel asked :—

The Indian Industrial Commission.

17. "What steps do Government contemplate taking to put into practice the recommendations of the Indian Industrial Commission?"

The Hon'ble Mr. A. H. Ley replied :—

"I cannot add anything at present to the answer I have already given to a similar question by the Hon'ble Rai Bahadur Bishan Dutt Shukul. I shall be very glad, if the Hon'ble Member so wishes, to send him a copy."

INDUSTRIAL COMPULSION BILL.

12-18 P.M.

His Excellency the Commander-in-Chief :—"My Lord, I beg to move for leave to withdraw the Bill to provide that certain persons liable to military service under the Indian Defence Force Act, 1917, should be liable to perform war work, which was introduced in Council on the 26th September, 1918."

The Bill was by leave withdrawn.

CRIMINAL LAW (EMERGENCY POWERS) BILL.

12-19 P.M.

The Hon'ble Sir William Vincent :—"My Lord, may I ask your Excellency's permission to take up item No. 5 on the List of Business before item No. 2, as Item No. 5 deals with the more important of the two Bills?"

His Excellency the President :—"Certainly."

The Hon'ble Sir William Vincent :—"My Lord, my task in explaining the reasons for introducing this Bill has been considerably lightened

[6TH FEBRUARY, 1919.] [*Sir William Vincent.*]

by the discussion on the Resolution brought by the Hon'ble Mr. Khaparde last Session and I will endeavour to avoid repeating to-day what I then said. At the same time it will be my duty to place before the Council salient facts connected with this measure.

"As the Council are aware for some time before the war the Government of India were faced with the difficulty of dealing with a number of revolutionary conspiracies or rather with one revolutionary conspiracy of which there were several sub-divisions. The intention of those conspiracies was by dacoity, murder and other crimes of violence to promote a rising against the British Government and to render the administration of this country impossible. Owing to lack of any effective measures for dealing with this conspiracy, the movement gained considerable strength, and either before the war or shortly after the inception of the war, the difficulty of the situation was complicated because it received material assistance from the King's enemies. It attained indeed such serious proportions that it was really subversive of all good government in parts of this country.

"It was impossible to cope with this movement under the normal law, and if Hon'ble Members will read the Report of the Rowlatt Committee, upon which the present legislation is based, they will find confirmation of this not only in the findings of the authors of the Report, but also in the figures which they cite. It will be seen that from 1906 up to the date of the Report there were no less than 311 offences and attempts at offences connected with this revolutionary movement, in which 1,038 persons were known to be implicated. Out of that number, 64 only were convicted. In 1915, the Defence of India Act was passed, mainly in connection with certain violent outbreaks of crime in the Punjab. It was not, however, used to any great extent in Bengal though it may have been used to a small extent there. The result was that the revolutionary movement gained further strength, and in 1915 and 1916 there were 64 outrages including 14 murders, 8 of the murdered people being policemen. The Act was then enforced. I think that the specific reason for enforcing it was particularly the murder of Deputy Superintendent Basanta Chatterji. I am not positive on the point as I speak from memory. The result was that the outrages were at once reduced and from January 1917 to February 1918, I believe the total number was 10. I think I am right in saying also that during the last quarter of 1918 there were no revolutionary outrages at all. The obvious conclusion from this is that the measures taken by the Bengal Government (I am citing the Bengal Government because the movement was particularly prevalent there and illustrates the position) have been effective. The Council will see indeed that the Bengal Government has been singularly successful in dealing in this way with revolutionary crime; the success of these efforts may also further be gauged from letters which revolutionaries have themselves written. Here is one:—

'Armed rising was imminent in other provinces. We could not lag behind. Government got the scent and was on the alert. Some of our best men were lost. Unfortunately at last we had to drop the idea of an immediate rising. The local organisations are still intact and can be developed if required.'

"In another letter which I have here, one of these revolutionaries says:—

'The condition here beggars all description. Trusted friends can no longer be trusted with secrets. No one wants to see us. The guardians hate us more than the enemies. (I am not surprised at that.) The students are anxious to avoid us. Those who were eager to talk to us now avoid us.'

"I cite these letters and figures to show that the movement was effectively scotched by the Government under the powers conferred on it by the Defence of India Act. I am glad also to say that the Bengal Government have at once taken advantage of the situation to release a very large number of men whom they had under restriction. A recent report of a debate in the Bengal Council indicates that out of 1,062 detenues 677 have already been released on guarantee. Of the rest, 385 are subject to restrictions of domicile only, 125 being domiciled in their own homes.

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“ Well, my Lord, during the progress of these operations, the Rowlatt Report, as it is commonly called, was published. In it certain recommendations were made for legislation to enable the Government of India effectively to cope with the disorder. The position as it appeared to the Government of India was this. We had been unable effectively to cope with this movement under the normal law. We had been foiled in all our efforts. We then took restrictive measures, and we have been, or really the Local Government has been, singularly successful in dealing with it. I think if you read the Report the vital propositions are that under pre-war conditions the machinery of law and order was unfitted to cope with lawlessness of a particular type; that the coming of the war with its emergency legislation really saved the peace of India by providing machinery which could deal with this lawlessness; and that it is unsafe for us now to revert to the previous condition of affairs, in which these anarchical forces were allowed unrestricted license to prosecute their designs. It is on the basis of this Report that we have undertaken this legislation. But before I explain exactly what the details of the Bill are, I think I ought to make one point quite clear, and that is, that this Bill is in no sense aimed at political movements properly so called. It is definitely and distinctly intended and framed to cope with seditious crime, and it differs very materially also in its scope from the Defence of India Act. It is not, if I may say so, nearly as wide as that Act; and, so far as I am able to interpret it, it cannot be used against any activities other than seditious activities, even though they may endanger or tend to endanger the public safety. I think it is necessary to emphasise this fact, because there seems to be in some quarters a misapprehension on the point.

“ The Bill itself is divided into five parts. The first part provides for the speedy trial of offences. It can only be used or brought into operation when the Governor General in Council is satisfied that scheduled offences are prevalent in the whole or any part of British India, and that it is expedient to provide for their speedy trial. Put very shortly, the part enables such offences to be tried by a strong Court consisting of three High Court Judges expeditiously without commitment and with no right of appeal. The first part also makes provision for trials being held in case of need in the locality or near the locality where the offence was committed, and also for trials *in camera*. Another point of importance in this part of the Bill is contained in clause 17, which allows the statements of persons not examined as witnesses to be used in evidence in certain circumstances. We know that witnesses have, after their statements have been recorded, been murdered and we seek to remove at least the temptation to murder these witnesses and to preserve their testimony. Another point of great importance in this part of the Bill is that we now propose to allow accused persons to give evidence on their own behalf. They are not forced to do so. They may do so or not as they like, so that those who are innocent may have full opportunity for clearing themselves. This last provision of the Bill is in accordance, I believe, exactly with the law which prevails in England.

“ Part II of the Bill deals with preventive measures and with Part III is probably the part which will attract more attention. It can only be brought into operation if the Governor General in Council is satisfied that movements which are in his opinion likely to lead to the commission of offences against the State are being extensively promoted. Now if the Members of this Council will look at the Report itself, they will see that it is admitted that punitive measures alone can be of little effect in the repression of this sedition; and it is for that reason that they have recommended these preventive measures. The powers of the Local Government where this part is brought into operation can be exercised only in respect of persons reasonably believed to be or to have been actively concerned in such area in any movement of the nature referred to in section 20, that is, a movement likely to lead to the commission of offences against the State. In such cases the Local Government may either order the person so concerned to furnish security or to notify his residence, or to reside in a particular area or to abstain from any act specified or finally to report himself to the police. In order to ensure that the powers of

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Government are not exercised without reason, the Bill provides for a safeguard in the constitution of an investigating authority which is to examine the material upon which orders against any person are framed. This investigating authority is to include one judicial officer and one non-official Indian. Further, in order that the interests of any person subjected to an order may be adequately protected, the Bill provides for the constitution of Visiting Committees to see to the welfare of such persons.

“ Part III is more drastic. It can, however, only come into operation when the Governor General in Council is satisfied that scheduled offences have been or are being committed to such an extent as to endanger the public safety. In such circumstances, the Local Government, where there is reasonable ground for believing that a person has been concerned in a scheduled offence, may direct the arrest of such person, his confinement in such place and under such conditions as may be prescribed. There are again the same safeguards as under Part II for an investigating authority and for a Visiting Committee. The period of orders under Parts II and III I ought to have explained is limited to one year in the first instance and to three years in all.

“ Part IV applies the provisions of Part III automatically to persons known to have been concerned in revolutionary crime at present and who are under restriction under the Defence of India Act by reason of that connection.

“ I do not think that at present there is anything in Part V to which I need draw attention. It is mainly ancillary and is a matter in great measure, I think, for Select Committee. But if there is any point on which Hon'ble Members seek for information I will do my best to furnish it.

“ Well, my Lord, I have now explained the provisions of this Bill, and it remains for me to say that the Government have not undertaken this legislation lightly or without anxious consideration. We have no desire to restrict the liberty of persons further than a compelling sense of duty forces us to do. At the same time we are responsible for the public peace in this country, and it is our duty to take such measures as may be necessary to secure that. No other remedy has been suggested in regard to this form of crime as yet for attaining that object. If, however, any effective remedy is proposed the Government of India will be only too glad to consider it. There seems, however, to me to be some misunderstanding as to the nature of the disruptive forces of this anarchism. There are those apparently who look upon these men as innocent patriots, guilty of nothing save an excess of possibly mistaken zeal. My Lord, I ask the Council to get rid of this delusion. These men are not patriots; they are really enemies of civilisation, they are enemies of progress and enemies of any form of organised government, whether European or Indian. It may be suggested, as it has been suggested before, that all their activities will be reduced by the introduction of the Reforms Scheme. My Lord, I should like to say that these men are as much opposed to the Reform Scheme as to anything else. During Mr. Montagu's visit last year, I myself saw a circular which was addressed to a prominent citizen in Calcutta where it was openly stated that these men were not concerned with Mr. Montagu's coming or going, and that their object was first and last to spread terror and make the Government impossible. My Lord, I think if these facts were more fully realised, we should hear less of that veiled sympathy with desperate men which really encourages them to further efforts and hinders the work of many who have the progress of this country at heart; and I suggest that it is the duty of all sober-minded men to combat this dangerous confusion of crime with patriotism, remembering what the effect of any such encouragement is. The Bill which I now seek to introduce is not aimed at patriots; it is aimed at criminals; it is not aimed at the suppression of politics at all; it is aimed rather at the purification of politics. What we seek to do is to prevent anarchy and disorder, and I think that many here will realise the importance at this juncture of combating these forces of disorder so rampant in many parts of the world when they consider the effect of anarchy both in Russia and in other countries. My Lord, if ever there was a time when it was necessary to check revolutionary and anarchical tendencies, I think it may be safely said that it is the present.

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" My Lord, at the same time, if I may say so, I realise very acutely the difficulties in which Hon'ble Members in this Council are placed. I realise their reluctance to accept a repressive measure which is frankly a repressive law aimed at the suppression of a revolutionary movement. I realise their regret that any such measure should be necessary and their constitutional dislike of any legislation which interferes with the liberty of the subject. Government is exactly in a similar position. We also recognize the constitutional objections to these interferences with liberty, but we realise the danger which has to be combated, and for that reason we are forced, though with the greatest reluctance and only after anxious consideration, to introduce this present Bill. We ask the Members of this Council to face the facts in this matter courageously and honestly.

" If the findings of the Rowlatt Committee are accepted, and I submit that they must be accepted by every reasonable man, there is no getting out of that, that is to say the facts apart from the recommendations, then is it not essential that Government should be vested with some reasonable machinery to deal with this evil? And is it not the duty of the Members of this Council to assist Government in this matter? I ask the Council very earnestly to realise their own responsibility in this matter. There are many here who claim responsible government for the country, some sooner some later; are they willing to accept the responsibility which responsible government inevitably connotes; are they willing to face the hostile criticism which must frequently be expected when action is taken in the public interest? My Lord, there are many who are watching the conduct of this Council on this occasion with great interest; it will be regarded by many as a test of capacity—whether the Members of the Council have the courage to do what is right in assisting the Government in its first duty, the maintenance of the public tranquillity. Will the Members be found wanting, and give a right to anyone to say that their attitude on this question indicates their unfitness for responsible government? I earnestly hope that no such occasion and no such material will be furnished to those who are opposed to political progress in this country.

" My Lord, with these words I commend the Bill to the Council. The details, if the motion is carried, will be considered in Select Committee, and the Government is perfectly open to consider such modifications as will not render the machinery ineffective for dealing with the evil which they seek to combat.

" I now introduce the Bill and move that it be referred to a Select Committee consisting of the Hon'ble Sir George Lowndes, the Hon'ble Pandit M. M. Malaviya, the Hon'ble Mr. Shafi, the Hon'ble Mr. Muddiman, the Hon'ble Mr. Sastri, the Hon'ble Nawab Saiyad Nawab Ali Chaudhuri, the Hon'ble Mr. Kincaid, the Hon'ble Mr. Khaparde, the Hon'ble Mr. Banerjea, the Hon'ble Mr. Fagan, the Hon'ble Mr. Patel, the Hon'ble Sir Verney Lovett, the Hon'ble Sir James DuBoulay, the Hon'ble Mr. Emerson and myself, with instructions to report on or before the 6th March, 1919."

12-34 P.M.

The Hon'ble Mr. V. J. Patel:—" Your Excellency, I beg to move

' That the consideration of this Bill be deferred till six months have elapsed after the expiry of the term of office of this Legislative Council.'

" In moving this amendment, I must say at the outset that no sensible Indian could be charged with having any the slightest sympathy with anarchists or anarchism. We are all interested, my Lord, in putting down anarchists or anarchism, and as a matter of fact, the interests of the Government and of the people are identical in this respect. The difference however is in the methods, in the ways and means as to how to put down these anarchists and anarchism. In every country, my Lord, revolutionary crime is really the outcome of what I may call political and administrative stagnation; if the political advancement of a country is really very slow and does not keep pace with the times, this sort of crime is bound to raise its head and disturb the peace of the country. What is then the remedy? The remedy, I submit, does not lie in repressive measures, but I am strongly of opinion that the remedy lies in the removal of the standing grievances which bring revolutionary crime

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into existence. We are all very glad that the Reforms are coming. The very publication of them has a good deal to do with the creation of a smooth atmosphere to some extent, and I am absolutely certain, my Lord, that when these reforms actually do come, particularly with the modifications suggested by the leaders of public opinion—I mean the main modifications—I have not the slightest doubt in my mind that revolutionary crime will almost disappear. It is said by the Hon'ble Sir William Vincent that anarchists are opposed to reforms, they will have nothing to do with Mr. Montagu or the Viceroy or their Reforms Report; that what they want to do is to terrorise the Government and make it impossible. Well, I assume that that is so. But I say that for revolutionary crime to advance a sort of general discontent—I should say an atmosphere of general discontent—is absolutely necessary. But let me assure your Excellency and this Council that as soon as the Reforms are granted, why their very publication has done a great deal, as soon as they are introduced, the general atmosphere of discontent will give place to an atmosphere of contentment, with the result that revolutionary crime will tend to disappear. That is the answer which I give to my Hon'ble friend Sir William Vincent's argument that anarchists do not and will not care for reforms. The amendment which I have proposed before this Council is that the consideration of this Bill should be postponed for some time. At present, as I have already pointed out, circumstances have entirely changed; even the Rowlatt Committee which made the Report did not contemplate that their recommendations should be put into effect in all and under any circumstances. As a matter of fact, in their recommendations regarding legislation to deal with the difficulties that might arise in dealing with the conspiracies, the Committee say :—

'This as expressed appears to us to be applicable to the state of circumstances under which the difficulties referred to were encountered. These difficulties have, however, been circumvented for the time being by special temporary legislation and they have not been in operation at the time of our inquiry. When this legislation, lapses circumstances may have altered and the position may be better or worse. We do not think it is for us to speculate nicely on these matters. We must of course keep in view that the present war will have come to an end, but we cannot say with what result or with what ulterior consequential effects or possibilities of consequential effects upon the situation.'

So the Rowlatt Committee itself did not contemplate that their recommendations should be put into effect under any circumstances. As a matter of fact, the circumstances have altered. Revolutionary crime had ceased to exist at the time when they made their report, and since then cessation has continued. Then, again, after the Rowlatt Report, the Reforms Report has been published, the functions and the Franchise Committees have met in India; they will shortly, as your Excellency pointed out in your opening speech, submit their Report to Parliament, and a Bill of Reforms will also be passed into law. That being so, I personally think that the passage of this measure at this juncture will materially affect the reception of the reforms in India.

"My Lord, I cannot disguise the fact that the whole country from one end to the other is entirely opposed to this measure, and I am absolutely certain, and I shall be very sorry to see it, that the passage of this Bill will stir up, in fact the introduction of it has already stirred up, a tremendous and unprecedented agitation in the country at a time when great changes are in sight. Surely Government intends that the reforms should be given a fair trial, and I am afraid that intention of Government will not be fulfilled if at this juncture this measure is passed. I must say that I am not at all surprised that the Government have thought it proper to introduce this measure at this juncture. It is one of those blunders which a Government not responsible to the people is likely to commit in moments of excitement. What I am, however, surprised at really is that a Bill of this kind should have been brought forward at a time when people really expected the introduction and discussion in this Council of measures which would bring them more liberty, more contentment, measures which really would conduce to the greater well-being of the people in matters political, in matters social, and in matters industrial. At a

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time like this when the war has ended triumphantly for us, at a time when the Peace Conference is sitting to devise measures for the peace of the world, at a time when we are within sight of great constitutional reforms in India, at a time when one of the Indians is made a Member of the British Cabinet, at such a time instead of bringing forward measures which would really conduce to the well-being of Indians, a measure of this character should have been brought forward. That is a matter which surprises me. I do not at all wish to go into the merits of the measure at the present moment. I say, to say the least of these measures, they are inopportune and they should not have been brought forward at this juncture. There is almost a quietus in the country, and a tremendous agitation such as I fear to contemplate, is looming. I pray and trust this Council will consider the consequences that will result out of the passage of this Bill.

"I may be asked why I want the postponement of the consideration of this measure for the period named in the amendment. My idea is that a measure of this kind should be discussed, if at all, by the Council which would come into existence under the Reforms Scheme. I do not mean to say that this Council is in any way incompetent to deal with this question or will not do justice to it, but I do maintain that so far as this Council is concerned, its very existence is entirely at the mercy of the Executive. You can extend its life or, if you like, you can terminate it. As your Excellency said in your opening speech, by an executive order without even consulting this Council, our existence has been recently extended till the 20th of July, 1920. So in this country the Executive is all powerful, and the Council is so impotent even as regards the question of its existence. In these circumstances, and particularly if the reforms are to be given a fair trial and they are to be well received in this country, I think it is absolutely necessary, particularly when crime is at a standstill, that Government should not press this motion of reference to a Select Committee at this stage, but wait till the new Councils come into existence. As I said, I do not wish to go into the merits of the Bill. It would be sufficient for my purposes to say that we are mightily afraid of it, and we think that all our constitutional agitation for any reforms whatsoever will die if these Bills are passed into law."

12-52 P. M.

The Hon'ble Mr. Surendra Nath Banerjea:—"My Lord, I have given notice of an amendment on somewhat similar lines to those of my friend's amendment, and with your Lordship's permission, I may be allowed to make my observations at this stage of the discussion. My Lord, I confess to a sense of regret and disappointment that a Bill of this kind should have been introduced at this moment. I complain of its inopportuneness; I complain of the principles which underlie some of its provisions, and, my Lord, in saying this, I do not express my own personal views, but the considered opinions of those of my friends with whom I am accustomed to act in public life. My Lord, the leaders of the great party to which I belong (a growing and an increasingly influential party) have given this matter their careful consideration, and I am here to lay before this Council our deliberate and matured judgment upon these two Bills. My Lord, it is no use disguising the fact that the Bill has created widespread anxiety, and even alarm, in the public mind of India, and I must say there is abundant justification for this feeling. It is feared that if this Bill be passed, it will cripple our political activities and bring about the stagnation of our public life. My Hon'ble friend has read out some of the provisions of the Bill and as I was listening to them, it struck me that they contained matter which constitutes a peril to the sacred rights of personal liberty which Englishmen value so much; which I am confident this Council cherish dearly; which you, our masters in the great art of constitutional government, have taught the people of India to prize. My Lord, one of the provisions—I think it is section 21—which my friend read out, says that in a notified area the Local Government may declare, after an inquiry, executive in its character and complexion, that a person should abstain from any act. If this provision means anything (I am not a lawyer but a common-sense man

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accustomed to interpret provisions of the law in my own blunt common-sense fashion), if this means anything, it means that after this executive inquiry, a journalist may be prohibited from following his avocation, that a public man may not be allowed to address public meetings. My Lord, I consider this as a grave menace to public liberty, a serious encroachment upon the rights which have been guaranteed to us and which we prize. If a right of this kind were taken away by a duly constituted court of law, no one would have the slightest objection, but to place such dangerous, illimitable powers in the hands of executive authority, deliberating in secret, discussing in secret, deciding in secret, seems to me to be an infraction of personal rights which I almost shudder to contemplate. My Lord, in making these observations, I desire to guard myself against any misapprehension which they may give rise to. We are as anxious as the Government could possibly be for the maintenance of law and order and for the eradication of anarchical and revolutionary crimes. My Lord, they are pregnant with mischief, they can do us no good; we have witnessed in other countries the horrors which have followed in their train. We have no desire that there should be a repetition of these horrors in our dearly-beloved motherland. We abhor revolution from the bottom of our heart; we are the friends of evolution, and if I could be convinced that this law was necessary, this drastic law was required, I should certainly accept the challenge which was thrown down by my Hon'ble friend the Home Member and support his Bill. But I hope to be able to show in the course of the arguments which I am about to address your Lordship, that there is another way of getting out of the difficulty in which we are at the present moment. I am free to confess that there is, I will not say a party, but a fringe of our population, who support revolutionary ideas, but, my Lord, they are to be counted by hundreds. They are a handful as compared to the myriad millions of our vast population, and are the sins of the few to be visited upon the heads of the countless millions of the people of India? My Lord, my friend the Hon'ble Home Member has admitted that the forces of revolution are now dormant, the Government has got them well under control. Those reports of murders and lootings which we were accustomed to hear are now steadily receding into the dim mist of past history. You have, my Lord, in your armoury a weapon, offensive and defensive, which is amply sufficient for all purposes. The Defence of India Act is there, and it is now in force and will be in force until six months after the conclusion of peace. The Peace Conference has just started its sittings. The peace negotiations are going on from day to day. I take it, my Lord, that on a moderate computation, these negotiations must last at least for three or four months. That brings us down to the month of June.

"The Defence of India Act will be operative six months after the conclusion of peace. That will take us down to the end of the year. Therefore, at least up to the 31st of December, 1919, no such law as the one that you are now proposing to enact is needed. Then, my Lord, there is the power of Ordinances which you have used so freely and so frequently and to such good purpose. You can revive the Defence of India Act by an Ordinance which will continue it till June, 1920. Therefore, my Lord, having regard to the powers with which you are armed, having regard to the powers which the Government of India at present possess, and which can be easily continued, it seems to me that no case has been made out for enacting a law of this kind, at any rate at this stage.

"Nor is this all. You have got in your armoury Regulation III of 1818. It is a part of the permanent law of the land, and you can set it in motion at any time you like. As a matter of fact, I think my Hon'ble friend the Home Member will bear me out when I say that the most dangerous characters have all been interned under Regulation III of 1818.

"Therefore, my Lord, I submit with all deference but with the utmost emphasis that no case has been made out for the enactment of this law at this stage. On the contrary, it seems to me that there are very weighty reasons why you should not proceed with this legislation. By the time that the Defence of India Act expires—by the efflux of time, I will take it on the 31st

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December, 1919, or the 30th of June, 1920—by that time the Reform proposals will have been introduced in Parliament, and I am sure, I feel confident, that they will be embodied in the law of the land. And, my Lord, let us contemplate the situation as it will then be developed. A new atmosphere will have been created surcharged with the spirit of mutual esteem, of mutual confidence, of mutual co-operation between the rulers and the ruled. A new order of things will have been inaugurated, an order of things, I take it, more favourable than what now prevails for the consideration of a contentious measure like this. I ask, therefore, is it necessary, is it wise, to go on with this measure? My Lord, Burke has observed in one of those illuminating passages which abound in his immortal works that in the great task of government conciliation must precede coercion, and that when conciliation fails, then, and then only, must coercion be resorted to. My Lord, I regret to have to say that the Government of India have reversed this order of things. Repression first, conciliation next. In the first place, you place before us this Bill and ask us to pass it into law, and then come the great constitutional reforms. My Lord, furthermore, if there is one truth which should be burnt in upon the souls of the rulers of men it is this, that no measure, be it administrative or legal, can be successfully worked except with the willing concurrence and co-operation of the people. If a measure alienates popular sympathies, sets up the people in arms against you, gives rise to the fiercest agitation, it is doomed, foredoomed to failure. I very much fear that that is the case with the present Bill. The agitation has already commenced; it is growing, and it will grow, day by day. My Lord, I cannot help thinking that by passing these two Bills, or this one Bill, you will be placing a very formidable weapon in the hands of the revolutionaries whom you desire to suppress and in the hands of the reactionaries in England who desire to wreck the reforms. This measure will foster excitement, uneasiness and public discontent, and these are the impulses upon which the revolutionary instinct feeds and from which it derives its sustaining and vitalising influence. The revolutionary will say in his secret leaflets, which he circulates with strenuous persistency, 'All this talk about the Reform proposals is moonshine. It means nothing; it implies nothing. Here you have got this drastic Act symptomatic of the spirit of the administration.' All this may be grotesque, wild exaggeration, but, my Lord, in a state of popular excitement it is bound to appeal to the popular sentiment. And then what will Lord Sydenham and his followers say. Referring to this Act, they will say 'Here the Government of India by the enactment of this law tells you that India is seething with discontent and sedition, and that it is necessary to pass a law of this kind for the purpose of grappling with the situation. Tranquillise India first, and then it will be time enough to talk of Reform proposals. Look at Ireland. What has happened there? Irish discontent, the disturbed condition of Ireland, have indefinitely postponed the prospects of Home Rule.' 'Apply the same principle', Lord Sydenham and his followers will say, 'to India'. What then, my Lord, becomes of our Reform proposals? Your Excellency's Government and the authorities at home have staked their credit and reputation upon the passage of the Reforms Bill through Parliament without any attenuation, without any whittling down. The passage of that Bill will be seriously handicapped by the Bill which the Hon'ble the Home Member desires to enact.

"My Lord, I need not detain the Council any longer. I appeal to your Excellency's Government to reconsider the whole situation and to drop the Bill, or at any rate to postpone it until the Reform proposals have become the law of the land. My Lord, the agitation against the Bill has already commenced. We are receiving telegrams every hour. Last night, I was awakened at midnight by a peon with a telegram purporting to be the proceedings of a public meeting protesting against the Bill. I am sure my friends over here are being troubled in the same way every hour of their lives. The agitation has commenced; it will grow. My Lord, we want—certainly an old man like myself wants—peace, freedom from agitation, from conflict and controversy. I therefore appeal to your Excellency's Government with all the emphasis that I can command to save us from being precipitated into the vortex of an

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agitation which is bound to excite the fiercest passions, which will be a source of embarrassment to your Excellency's Government and will dissipate that atmosphere of peacefulness, of tranquillity, of mutual trust and mutual confidence, which the Reform proposals have helped to create, and which we of the moderate party have tried to deepen, to extend and to promote. I do trust, therefore, that my appeal will evoke a sympathetic response in the heart of my Hon'ble friend the Home Member."

The Council adjourned for lunch till 2-15 P.M.

The Hon'ble Mr. Kamini Kumar Chanda:—"May I inquire ^{2-15 P.M.} the dates of the letters which the Hon'ble the Home Member referred to in his speech?"

The Hon'ble Sir William Vincent:—"I am afraid I cannot give the Hon'ble Member the information he requires."

The Hon'ble Mr. Kamini Kumar Chanda:—"My Lord, I whole-heartedly associate myself with the remarks of my Hon'ble friend Mr. Patel and the Hon'ble Mr. Banerjea. I feel, my Lord, that I will be failing in my duty to your Excellency's Government, that I shall not be mindful of the best interests of my country or the dictates of my own conscience if I do not enter a most emphatic and earnest protest against this Bill. My Lord, this Bill admittedly aims at curtailing the liberty of the subject—the right of speech and action, and some of the provisions have certainly no precedent in the jurisprudence of any other civilised country. It is my bounden duty to bring to your Excellency's notice that the introduction of this Bill has given rise to a widespread belief among the people of this country that they are going to get this as the first instalment of reforms. Surely, the Government cannot be ignorant of the amount of strong feeling that has been evoked in the country on the subject of this Bill. There have been public meetings at almost every important centre—I have read newspaper accounts of some of the meetings, and since our arrival in Delhi, as the Hon'ble Mr. Banerjea has told us, we have been receiving telegrams almost hourly from almost every place urging us strongly to oppose this Bill. The other day there was a public meeting in the Calcutta Town Hall just a few hours before I left by the Punjab Mail, and it was such a large assembly that the big hall could not hold all the people and an overflow meeting had to be held outside the hall. So far I do not think I have come across anybody whose opinion is worth having who does not seem to feel alarmed that if this Bill is passed into law, untold misery will be brought on this land. My Lord, last Saturday I had the pleasure of meeting a gentleman in the Senate House in Calcutta, a gentleman who is universally esteemed for his deep learning, his unblemished character and the sobriety of his views, a gentleman who never mixes in politics, and this is what he told me: 'What will all these reforms of His Excellency the Viceroy and the Right Hon'ble Mr. Montagu be worth if this law is passed? Better try to save the country from this law rather than have these reforms.' Now I submit, my Lord, that that is a typical case. We all know that at the present time the 'Bengalee,' which is edited by the Hon'ble Mr. Banerjea, and the 'Leader' of Allaha-bad, admittedly two of the most influential moderate newspapers, differ from the 'Amrita Bazaar Patrika,' 'New India,' the 'Hindu' and the 'Bombay Chronicle' very widely as regards Constitutional Reforms. But what is their attitude towards this Bill? Both sets of papers write in absolutely the same strain, and it is difficult to say which of them condemn this Bill more strongly—the 'Bengalee' and the 'Leader' or the 'Amrita Bazaar Patrika' and the 'Hindu.' Last Sunday the 'Bengalee' published the considered opinion in a signed article of Raja Kishorilal Goswami, the first Indian member of the Bengal Executive Council—a gentleman whose views, I believe, are held in respect by Government, a gentleman who, if anything, errs on the side of ultra caution; and he strongly urges the Government not to proceed with this measure. My Lord, I do not think there can be any manner of doubt that

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persons of all shades of opinion are absolutely at one as regards this Bill. There may be one or two solitary exceptions, but even they have not come forward to offer anything in support of this Bill. It is obvious, my Lord, that whatever other results may follow if this Bill is proceeded with, Government will lose the goodwill and support of the people and communities whose support is at all times a most valuable asset. My Lord, there seems to be a class of critics, English gentlemen, both official and non-official, who persist in misunderstanding the attitude of our leaders and politicians in regard to this matter. While coming up here I read an article in the 'Englishman' of the 4th instant which seems to be typical of this view. This is what it says:—

'In spite of the established fact that a large number of policemen, chiefly Indian, have been fatally shot or bombed, in spite of numerous dacoities in which Indians were killed and Indians robbed, in spite of many evidences of political crime, the average Indian politician and his mouthpiece, the indigenous press, have shown only sympathy for those who have, in order to prevent further political murders and dacoities, been interned in one fashion or another. Indian politicians and newspapers have never attempted really to defend their attitude. All the excuse they had to offer was embodied in the suggestion that the gangs who have been held in restriction for the good of the country were not guilty of the crime.'

"My Lord, that is not true. It is a libel on Indian politicians who are not in sympathy with these criminals. It is Indians themselves, as this article says truly, who are killed, Indians who are victimised, and Indian politicians would be demented, would be lunatics, if they sympathised with these anarchists. My Lord, it is not the anarchists that they sympathise with, but the innocent victims of police oppression. It is assumed that the persons who are hauled up before the Magistrates are always the miscreants who are guilty of the crimes which are sought to be established against them. This is what is at the back of our minds when we oppose the measure. I will not waste the time of the Council by quoting a large number of cases, but I will quote one instance from the Report of the Sedition Committee, on the findings of which the Bill is based—the attempt on the life of Basanta Chatarji, Deputy Superintendent of Police. The case is known as the Musulmanpara bomb case and is referred to in paragraph 66.

The report says:—

'From information now available it appears to be clear that this was the work of the Dacca Samiti and that the bombs had been procured from Chandernagore.'

But what was the judgment of the High Court? A young lad, a student of the Presidency College, was sent up for trial before the special tribunal presided over by the Chief Justice and Justice Sir Asutosh Mukerji. Lord Sinha (then Sir Satyendra Sinha) who was Advocate-General conducted the case for the prosecution. His conduct of prosecutions was always marked by extreme fairness, and he was impressed with the innocence of the lad, and he himself called the respected Head of the Oxford Mission to prove an *alibi* for this young man who was acquitted in spite of the attempts of the Criminal Investigation Department to swear away his life. The judgment of the High Court stated that 'the attempt of the police to connect an innocent lad with a dastardly crime had failed.' The Chief Justice and Mr. Justice Mukerji made strong comments, and in fact suggested an inquiry into the police evidence; but up to now we have not heard that anything has been done. As I said, my Lord, I could quote other cases from this Report, but it would be tiring the patience of this Council. I shall therefore only refer to one more—the Sindhubala case in which two innocent respectable young ladies were subjected to all sorts of atrocities. They were kept in confinement for days and days. Has any notice been taken of the persons who were responsible for that? My Lord, if it is an offence and a crime to have sympathy with people like the Sindhubalas and the Musulmanpara case's accused, I must plead guilty. But that is what is really at the back of our minds when we oppose the Bill. My Lord, this Bill is admittedly based on the recommendations of the Sedition Committee. We all know that that Committee was presided over by an eminent Judge of the

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English High Court, and that with him was associated another eminent Judge, the Chief Justice of the Bombay High Court.

“ We shall always speak of their findings and their recommendations with the utmost respect. But, my Lord, I cannot help saying that as I read some of their findings and recommendations I was reminded of an anecdote I read somewhere, probably in Serjeant Ballantyne's *Reminiscences*. A man was tried on a charge of stealing a horse; the case against him was very strong and everybody expected that he would be convicted. But his Counsel, a Serjeant-at-Law or Queen's Counsel, I forget which, made a strong appeal and the Jury returned a verdict of not guilty. Of course he had to be acquitted, because fortunately or unfortunately—I do not know which—our Criminal Procedure Code is not in force in England. The Judge after acquitting him addressed him ‘ Now that you are acquitted, there is no fear of your being put on your trial again. Will you tell me whether you did not steal the horse ? ’ The man replied ‘ well, my Lord, I always thought that I did it, until I heard the address of my Counsel, and now I begin to think that I did not do it. ’ This is my feeling, my Lord, after reading some of the findings and recommendations of this Committee. I think it will be not in order, at any rate it would be taking up the time of the Council unnecessarily, if I were to refer to the findings I had in my mind. I shall simply mention this fact that the circumstance that their decision is based upon expert evidence which was not sworn and which was not sifted by cross-examination is bound to detract somewhat from the value of their recommendations. Apart from that, it appears from the report (paragraph 176) ‘ that proposals for legislation for the period after the war were, however, drafted and had been under consideration when it was decided to appoint our Committee. ’ I submit, my Lord, that this must have tinged to a large extent their decisions in this matter.

“ Before coming to this legislation four points have to be considered. The first is whether there is any need for this legislation; secondly, whether it is wise or expedient to introduce it at this moment; thirdly, the provisions of the Bill itself, and fourthly, whether this Council has the power to pass this legislation. My Lord, I will not dispute the findings of the Committee at this moment. I will accept their findings, that there was a revolutionary party and that there were criminal activities and anarchical movements, and that there were difficulties in dealing with them. Accepting all this, I submit, my Lord, no case is made out for this legislation. What is the present state of things? Is there any clear finding in the Report that the state of things which led to the passing of the Defence of India Act and the regulations thereunder is still in force, still in existence? Is there any clear finding that after that law lapses automatically there will be a recrudescence of crime which we will not be able to deal with unless we have this law? So far from that being the case the Committee say (paragraph 175).

‘ This as expressed appears to us to be applicable to the state of circumstances under which the difficulties referred to were encountered. These difficulties have, however, been circumvented for the time being by special temporary legislation and they have not been in operation at the time of our inquiry. When this legislation lapses, circumstances may have altered and the position may be better or worse. We do not think it is for us to speculate nicely on these matters. ’

Is this a clear finding that after this legislation lapses the state of things in the country will be such as to require the special law? They simply say they do not know what it will be; they do not speculate. Is there clear ground for launching into this special legislation in anticipation of what may happen? Is there any instance, my Lord, of anticipatory repressive legislation like this in any country? You have heard the Hon'ble the Home Member say that it appears from evidence furnished by these criminals themselves that this movement is still in force. Unfortunately for me I could not get at the evidence and gather for myself whether it was important. May I point out that the presumption of the law is that evidence that is not produced, if produced, would be adverse to the prosecution? Well he admits in his statement that the Bengal Government have taken advantage of the improvement in the situation and let off more than one thousand of these persons who were

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detained. Is that not conclusive to show that the position has much improved in spite of the letters which the Hon'ble Member referred to? Furthermore, the *Bengalee* in its editorial column took the responsibility of making this statement last Sunday:—

'Men like Arabindo Ghosh and his brother Barin, enemies of British rule like Savarkar and men of his ilk, are coming forward to stand by *par Britannica* and all that it stands for. There are a host of respectable men in the country who are prepared to stand security for a very large number of our deportees and internees and have, on more than one occasion, signified their intention to do so to the powers that be.'

In the Town Hall meeting that was held in Calcutta Mr. B. C. Chatterji, a well-known counsel practising at the High Court, openly stated that there were letters received from leading anarchists who are now in jail and in the Andamans, letters which were passed by the Censor, in which they expressed the same thing, namely, that they would stand by the Government. Mr. Chatterji also placed before the meeting an extract from an article in a *Bengalee* magazine called the *Prabartak* published from Chandernagore and which he attributed to Arabindo Ghosh wherein the writer took the same view, namely, that all ought to combine and co-operate with the Government, now that the reforms are going to be granted. Ought not this to be taken into consideration, my Lord, before we think of passing this repressive measure? My Lord, is there any investigation about the root cause of this movement? This was not referred to the Sedition Committee, and they do not come to any finding upon the point. Unless the root cause is removed, can you possibly put down by mere repressive measures this movement? My suggestion is that it is clear from the evidence of these anarchists, which I read to the Council just now and which is referred to in the article in the *Bengalee*, that we might take note of these facts and see what effect the reforms would have before we launch into the repressive legislation which is now contemplated. It is a case of history repeating itself. My Lord, may I refer to what Lord Morley said in his 'Recollections' at the time of the proposal to appoint Lord Kitchener as Viceroy. He said:—

'The ground on which I object is that the impression made on India by sending the greatest soldier to follow the reforms would make them look a practical paradox.' (Page 333, Vol. II.)

"Now, my Lord, you are going to give us reforms and side by side with them and in fact before them, you are going to give us this repressive law. Will that pave the ground for the reforms in this country? If this measure is passed it is bound to create considerable agitation. I read the other day that Mr. Asquith in his election campaign was questioned by a soldier in regard to Home Rule, and this is what he said: 'The best way to get rid of the Sinn Fein is to grant self-government to Ireland. This will make short work of Sinn Feiners'. Lord Morley said with regard to the Irish Crimes Act 'If I know anything in this world it is the record and working of Irish Coercion Act since 1881, and the Irish Crimes Act was the most egregious failure in the whole history of exceptional legislation', page 328. What is there to show that what failed there will succeed in this country? Given the same cause the same result will follow whether it is Ireland or Italy or Russia or India. My Lord, our humble submission is that before you pass this measure let us see what will be the effect of the reforms in India. Where is the danger? In the first place there is the Indian Defence Force Act and that will be in force for some time yet. Peace has not yet been signed and even after it is the law will be in force for six months more. Apart from that you have got the 'rusty sword of 1818,' namely, the Bengal Regulation III of 1818. If in spite of these measures you find there is an increase of crime which cannot be dealt with by the ordinary law, surely your Lordship can pass an emergency measure, an Ordinance or even an Act in a single sitting, as was passed in the time of Lord Lytton and in the case of the Press Act. The Government would then be in a much stronger position than they are now, as your Lordship's Council would be bound to give the measure their whole-hearted support. My Lord, it will be a great misfortune if the Government

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wishes to go on with this legislation. Then I doubt if the Council has got the power to pass this law. In paragraph 200 of the Rowlatt's Committee's Report this is what is said: 'In making suggestions for legislation we have not considered at all whether it could be argued that such legislation is in any respect beyond the competence of the Governor General in Council. We have no authority to lay down the law on any such point, and any provisional assumption as the basis of our proposals would only cause embarrassment. We have proceeded therefore on the basis that any suggestions of ours which it may be decided to adopt will be given effect to by some legislature competent for the purpose'. Reading between the lines is there any doubt that the Committee was sceptical about the competency of the Council? It comes to this, my Lord, that the eminent judges were not satisfied that you have the power. Couple this with the findings of the Joint Parliamentary Committee presided over by Lord Loreborn and there is room for the submission that the matter ought to be considered further. I do not refer to the provisions of the Bill as it is not necessary for my present purpose: admittedly it is a repressive law which has created grave alarms in the country. My Lord, I have nothing more to add. I trust your Lordship's Government will be pleased to take these facts into consideration and see whether you cannot get on without this legislation. If you find it necessary to pass an emergent law, you can do so at a moment's notice, and this Council will then be bound to give it their whole-hearted support. With these words I support my Hon'ble colleague Mr. Patel's motion."

The Hon'ble Mr. M. A. Jinnah:—“ My Lord, in the first place I 2-12 P.M.
 may say that I was very glad to hear from the Hon'ble the Home Member, I do not remember his words, but I think he gave expression to this feeling that the Government were introducing this measure with considerable reluctance. I fully expected that and a great deal more from the Hon'ble the Home Member who has been, at any rate for a number of years, in the judicial line and once sat on the Bench of the High Court of Calcutta. My Lord, to any man who believes in law and justice, these measures must seem abhorrent and shocking. The Hon'ble the Home Member said, 'we have got to do this; show us some other remedy and we shall consider it.' Now, before I deal with these Bills and the speech of the Hon'ble the Home Member, I shall place before the Council the grounds on which I am opposed to these Bills. My first ground is this, that it is against the fundamental principles of law and justice, namely, that no man should lose his liberty or be deprived of his liberty, without a judicial trial in accordance with the accepted rules of evidence and procedure. My second reason is, that this is a wrong remedy for the disease, namely, these revolutionary crimes, although I for one am prepared to accept as correct the findings of facts of the Rowlatt Committee that the crimes of the nature indicated have been committed. My third ground is that the powers which are going to be assumed by the executive, which means substitution of executive for judicial, such powers are likely to be abused, and in the past we have instances where such powers have been abused. My fourth ground is that there is no precedent or parallel that I know of in any other civilised country where you have laws of this character enacted. My fifth ground is that this is a most inopportune moment. At this moment I can tell you that high hopes have been raised among the people of this country because we are on the eve of great and momentous reforms being introduced. My sixth ground is that the proposed measures are of a permanent character and not temporary measures intended only to deal with an emergency of a temporary character. And the last ground why I oppose this measure is that, my Lord, I do not wish to state it by way of any threat or intimidation to Government, but I wish to state it because it is my duty to tell you that, if these measures are passed, you will create in this country from one end to the other a discontent and agitation, the like of which you have not witnessed, and it will have, believe me, a most disastrous effect upon the good relations that have existed between the Government and the people. ✓

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“ Now, my Lord, it is not a matter in which you can put one, two or three lawyers on one side and three or four lawyers on the other side and argue this matter out. The question, my Lord, to my mind, is this. First, is it or is it not a fact that these are unheard of and novel measures. That is a fact which cannot and will not be denied. Your justification for coming here and asking this Council to give you sanction to pass them into law is this. The Hon'ble the Home Member will correct me if I have misunderstood him. We had these revolutionary movements and it was difficult for us to cope with them at first, but as soon as the Defence of India Act was passed in 1915 (though the Government for the time being took those powers for the period of the war) you were able to utilise those powers for the purpose of dealing with revolutionary conspiracies and with more success. That being so, the Government is now so enamoured with these powers that it boldly asks the legislature to enact measures of this character permanently, which to my mind is subversive of all principles of jurisprudence. Now, my Lord, there is no doubt, I think, it is common sense that by these powers you can more effectively deal with conspiracies. Nobody will dispute that. But then you will ask me, why do you object to it; why don't you give us these powers? My answer is this, my Lord, that by these powers of an executive character you may be able to get hold of more real offenders but at the risk and at the cost of many other innocent men who will be persecuted and who will have no chance, no opportunity, of a proper trial. Now that is the fundamental difference between you and as far as I am concerned. You say these powers can be effective, and so they can be. But what guarantee is there for the innocent? Then you will ask, don't you trust the executive? My answer is that I certainly cannot trust the executive, because I am a firm believer,—I do not care how many Rowlatt Committees will decide and recommend,—I am a firm believer that no man's liberty should be taken away for a single minute without a proper judicial inquiry. I say that by these executive powers you may be able to lay your finger on the real offenders, but in trying to get at the real offenders I venture to say, that you would clap many innocent people, and you will clap many innocent people who will be unable to resist the executive orders. Now that, to my mind, is the root of the whole question. And what is your answer to that? and I say, my Lord, remember you are responsible; remember, once you have passed this law in this Council, your Excellency's Government is responsible, because these laws will then be put into force; they will be put into force by Local Governments, they will be put into force by officials, they will be put into force in various ways by the police; you are giving this power, and I want you, my Lord, to consider whether such a case has been made out as to enact these measures. I am now dealing only with the preventive measures. The Rowlatt Committee themselves admit it, and they also feel embarrassed; they also recognise the fact that it will involve the infringement of liberty of the subject. Take, for instance, your first clause, the important clause in the Bill section 21, which reads thus:—

‘ Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of the nature referred to in section 20, the Local Government may, by order in writing containing a declaration to that effect, give all or any of the following directions, namely, that such person—

- (a) shall within such period as may be specified in the order execute a bond
- (b) shall notify his residence and any change of residence
- (c) shall remain or reside in any area in British India so specified.
- (d) shall abstain from any act so specified which, in the opinion of the Local Government, is calculated to disturb the public peace or is prejudicial to the public safety; and
- (e) shall report himself to the police at such periods as may be so specified.’

Then come the more drastic preventive measures, clause 33, which says:—

‘ Where in the opinion of the Local Government there are reasonable grounds for believing that any person has been or is concerned in such area in any scheduled offence, the

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Local Government may make in respect of such person any order authorised by section 21, and may further by order in writing direct—

- (a) the arrest of any such person without warrant ;
- (b) the confinement of any such person in such place and under such conditions and restrictions as it may specify ; and
- (c) the search of any place specified in the order which, in the opinion of the Local Government, has been, is being, or is about to be used by any such person for any purpose prejudicial to the public safety.

I do not know what is the meaning of the word 'movement,' the word might mean anything. Well now, who will give the information to the local Government that a person is concerned with a movement of the kind defined? Who will furnish the local Government with materials upon which the local Government will make its order? I venture to say, my Lord, it will be some police officer. Who else can it be, except somebody in the Criminal Investigation Department, or the police? It is the police who will furnish the local Government with information, *ex-parte* information, and upon that information, furnished by the police, the local Government will say, 'well, here we have got this information, we will make the order', and the order is made and it is final. I am fully alive to the fact that my friend the Law Member was a little bit annoyed when I was speaking on the Rowlatt Committee Resolution of the Hon'ble Mr. Khaparde, and he pointed out to me that these orders are made subject to certain conditions. I can ensure my Hon'ble friend that I was fully alive to the existence of those conditions. I would have dealt with them, but my Hon'ble friend forgets that when one is speaking on a Resolution he has only got 15 minutes of life and cannot go into every possible detail. And what are the conditions? After the order is made, after the man's liberty is taken away, under the second and more drastic preventive measures which are enacted, you have an investigating authority. After the man is either in jail, or has been arrested and is detained somewhere, you have the investigating authority. And, my Lord, what is that investigating authority? Here again I am fully alive to the fact that it is suggested that there will be one non-official member on that investigating authority. But what is that investigating authority? It will have the same materials, though it may call for more materials, but the inquiry will be anything but a judicial inquiry. The person who is either under arrest or has been detained will not be there. He may be called by the investigating authority, he may be questioned, but he may not be there. The whole inquiry will be *in camera*, most probably behind the back of the person accused and the investigating authority is then to make a report. I ask you, my Lord, again what is the good of that report, is it worth anything? I venture to say that the Hon'ble the Law Member, for whose fairness I have the utmost respect, if he were there and if 20 statements were placed before him, and if the accused were not called before him, and he was to investigate behind the back of the accused, without the assistance of any advocate or barrister, I venture to say, my Lord, that even he, with his great experience of the Courts, is likely to be misled. How are you really going to come to any decision? You know that even in a court of law, where you have sometimes the ablest counsel on both sides, it is difficult to decide whether a person is really guilty or not, and we know that juries, men of common sense, men of business, have differed. We know that judges have differed. We know that a Court sometimes convicts a man of murder, and you go to a court of appeal and on the same evidence the man is acquitted. This is a very serious matter when you are dealing with the liberty of the subject. How can you expect this investigating authority, sitting *in camera*, behind the back of the person accused, to come to any really useful conclusion? What happens then? This investigating authority will make its report and the Government is not bound to accept that report. What is the good of it? The Government will say 'we have considered it.' Now this is the condition; this is the most valuable safeguard, the great condition precedent which is made so much of. The same thing will apply in the more drastic preventive measures. Therefore, my Lord, it is no use shirking the issue, it is no use hedging round the whole of this question. It

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is quite clear and it is obvious that this measure is of a most serious character. It is dangerous. It imperils the liberty of the subject and fundamental rights of a citizen and, my Lord, standing here as I do, I say that no man who loves fair play, who loves justice and who believes in the freedom and the liberty of the people can possibly give his consent to a measure of this character. You have got to make out a very very strong case indeed, and then alone you can come to us and then I can assure the Hon'ble the Home Member that I will tell him 'yes you have made out this case, I shall co-operate with you.' What is the case you have made out? Because there are some revolutionary conspiracies; because, as the Hon'ble Mr. Banerjea said, you have a small section, a few hundreds, or a few thousand if you like, who have taken to revolutionary methods, who have taken to anarchical methods, you come here and say that we are going to enact laws of this character, permanently placing them on the Statute-book, the result of which would be that no man's liberty will be safe in this country. I shall even go so far as to say this, my Lord, that there will be an end to political life and freedom in this country. No man will be safe. Supposing, my Lord, in some province some offences are committed. The Government of India is appealed to and the Government of India says 'very well, some offences have been committed—and mark you I have not dealt with the offences here, but the Schedule of Offences includes grievous hurt, rioting, and all sorts of other offences. If to-morrow, for some reason or another, there happen to be three or four riots in the Bombay Presidency, mind you nothing to do with politics at all, the Government of India may be asked to apply this Act to Bombay and the Government of India might intervene and make it applicable to Bombay.....

The Hon'ble Sir William Vincent :—"Is the Hon'ble Member quite correct in his citation from the Schedule? Will he read it? He has omitted the sentence 'if, in the opinion of Government, such offence is connected with any movement endangering the safety of the State.'"

The Hon'ble Mr. M. A. Jinnah :—"I know that perfectly well, but how is this to be ascertained. I know that the draftsman has put it in this way that provided they are connected with any offence against the State, but I say supposing you have offences of this kind. I will give you an instance. Supposing we have somebody who is dissatisfied with some individual official and happens to attack him and causes hurt....."

The Hon'ble Sir William Vincent :—"May I point out that section 323 is not in the Schedule at all; the offence of simple hurt is not included."

The Hon'ble Mr. M. A. Jinnah :—"I said 'grievous hurt'."

The Hon'ble Sir George Lowndes :—"No, the Hon'ble Member said 'hurt.'"

The Hon'ble Mr. M. A. Jinnah :—"I said 'grievous hurt' just now."

The Hon'ble Sir William Vincent :—" 'Grievous hurt' is also not in the Schedule. Section 326 deals with grievous hurt caused by a deadly weapon."

The Hon'ble Mr. M. A. Jinnah :—"I always understood that grievous hurt is grievous hurt with any kind of weapon. Therefore, I say that you have got a Schedule of offences to which there is no limit. Of course I can go into the whole list and take up the time of the Council unnecessarily. But you will find you have got a regular list of offences. They are not offences really confined to offences against the State. Therefore, what do you find? You

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find that once you get this Act made applicable to any province, then in that province if there is a particular person who is not liked or who is supposed to be undesirable, by some official, I say that person is not safe. If he happens to incur the displeasure of a few high officials in that province, I say that man is not safe, and he has got no remedy. Apart from these details, I say, as I said before, that this is not a matter which you can argue out like two lawyers arguing out a case on one side or the other. As I said before, the question to my mind is this. What case have you made out for these powers to be given to the Government? The answer I give to the Hon'ble Member who appealed to me and said the Council must consider its responsibilities, the Council must realise its position, is this, that you have made out no case. The only case that you have made out is this, that by means of these extraordinary powers which happened to be placed in your hands owing to the war, perhaps you have been able to deal with this particular kind of crimes more efficiently than otherwise you would have done. Now that is no reason for placing these Statutes permanently on the Statute-book. I say you have ample powers as it is; use them by all means, because I do not wish for a single moment to be understood to say that I do not want you to deal with these crimes. Deal with them, but you must also remember this. Are you going to deal with these crimes in co-operation with the people, or are you going to deal with these crimes independently and in spite of the people? You may say that we do not care what the non-official Members think. I venture to say, my Lord, that there is not a single non-official Member that is going to support these measures. There may be one or two exceptions, but, as far as I know, barring one or two exceptions, the rest of them are going to oppose these measures. Not only that. Although the non-official Members in this Council certainly represent a very important volume of public opinion, you have also got the public outside, and I venture to say that the whole of the country is opposed to these measures.

"Then you say of course 'we have got the official block; we have got the official majority; we are going to carry this.' Well of course you can carry it because you have got the official majority. But I ask you, my Lord, and I ask your Government, do you or do you not accept our assurance when we say that nobody condemns these crimes more strongly than we do; nobody is more ready and more anxious to stop them than we are; nobody is more anxious to co-operate with you than we are? Therefore, will you not listen to us? Does our opinion count for anything or does it not? Does the opinion of the overwhelming majority of the non-official Members in this Council count for anything or does it not? I know it counted when you wanted £45 million. Is it or is it not going to count to-day, and, if so, why not? That is the question I ask. My Lord, we have got this question to face. As the Hon'ble Mr. Banerjea has put it, this Act is not going to expire for six months after the peace is signed. You have got Regulation III in your hands. You have got the power of Ordinance; you can enact this very measure, if necessary. And if in the new Councils, when they are formed, if we find and our conviction is this that there will be no occasion; we may be wrong, I am not going to be very emphatic on that point, we may be wrong, but we feel, and, my Lord, I feel convinced that this announcement of the 20th August by His Majesty's Government followed up by the visit of the Secretary of State for India and the fact that your Lordship and the Secretary of State for India went all over the country to ascertain the public opinion on the question of constitutional reforms and the publication of your Report which I for one had never any hesitation in recognising as an advance, and I have said so not in this Council but outside had tremendous effect on the people. And whatever differences there may be between your Government and ourselves with regard to those proposals, if we eventually get those reforms in the substantial form that we expect—and on that point we mean, my Lord, to fight to the end, we will do all that lies in our power, we will do our best, we mean to go further than that Report—but, my Lord, after we have fought the fight, whatever may be the end of it, once these reforms are introduced, I can assure you, my Lord, that you have got men in this country who will then say this: 'We have fought a constitutional battle, we have done all we could in our power, but we have not'

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succeeded to the fullest, but it is a real and substantial advance now these reforms are introduced, let us make the best of them.' And I hope that the Civil Service, on the other hand, will act in the same way. They may fight now, they may resist us now, they may think that they are going to be endangered and they may think that even these proposals go too far; but once the fight is over, I hope that you and we will work in co-operation and do our best to see that those reforms are made a success. At that time, I can assure you, my Lord, and I can assure the Government, if we find that there still exists these revolutionary conspiracies, and if we find in co-operation with your Government that measures of a drastic character are essential, I assure you that you will find men amongst my own countrymen who will stand side by side with you and will be ready to give their assent to laws however much they may dislike them. Even then I can assure you I shall be loath to give my consent, but I shall do so if it is necessary. Now, therefore, do you think that you will lose anything, do you think that anything serious is going to happen if you accede to this request of ours, namely, to postpone the introduction of the Bill? That is all that we ask. Do you think that you will gain more by carrying this measure by means of your official majority against the will of the people? I say it is against the will of the people throughout the country,—and mark my word, what I say is true and will be proved to be true—against the will of the people. Are you going to do that? And I say your only justification for that would be if you can say this to me: 'The danger is so imminent—after all, we are here as a foreign Government and we have got to protect ourselves and we have got to maintain peace and order in this country—it does not matter whether you like the method or not, we are absolutely driven to this desperation, that against the will of the entire people, against responsible opinion in this country, we find we are in such great danger that unless we arm ourselves with these powers our Government is in peril.' Is that so? I venture to say No; it is not what is going to happen. You have got already more than ample powers with you, I assure you have got, I would not care to go so far as to say the entire community—there may be a small section on whom you cannot count—but almost the entire community at your back; because, believe me, we do not wish, and nobody wishes, that there should be anything but ordered progress in this country. What have you found? I cannot, my Lord, quote your Excellency's actual words in your speech to-day; but what has India shown during this War? The good sense of India, the loyalty of India—not loyalty in that stupid sense in which it is sometimes used, but free sincere co-operation—have been acknowledged. Has India failed during these last few years? Then, my Lord, what is the danger, what is the necessity, that calls for pressing on with this Bill at this moment? My Lord, I do not wish to take up the time of the Council unnecessarily. I say, first of all, as I said before, the Bill is really opposed to the fundamental principles of British justice; secondly, I say it is not opportune; thirdly, I say it will create a most disastrous effect on the public mind.

"Then, with regard to the details, the Hon'ble the Home Member said that in the Select Committee, if there are any suggestions made on matters of details, they will be considered; but the difference between us is not so much a difference as to details. The difference, as I have pointed out, is with regard to the principles,—the fundamental principles. If there were only a difference with regard to details, I have no doubt that the Select Committee would be able to solve it; and there are many matters of detail which might be suggested to the Select Committee. Take, for instance, the question about the statements of persons who are either spirited away or cannot be found and so on by the accused. You say these statements should be allowed as evidence. Well, personally I think that would be a most dangerous thing, and I will give you my reasons for it shortly. First of all, you will admit that this is going against the ordinary law of evidence—section 33—which lays down that you cannot have statements of this kind. But without

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the test laid down in section 33 you propose that these statements should be admitted in evidence if the person who made the statement has been spirited away by the accused. Now, how is this to be proved to begin with? If the police or those who are interested in putting in these statements without being tested, without being cross-examined upon—if they want to put in these statements, the simplest thing for them to do is to say, if the people who made the statements do not appear, that they have been spirited away. How is this to be investigated? And instead of the real investigation whether a man is guilty or not, you will ask the Court to investigate whether three or four persons who made statements have been in fact spirited away by the accused or not. In other words, you will have a trial within a trial. That is a most objectionable thing at any time, and in matters of this kind you will simply encourage a practice which might be abused. And therefore I say that in the first instance that provision should be taken out altogether. Then you have got many other matters of detail, but I do not want to weary this Council. I have no doubt the Select Committee—if the Bill goes to the Select Committee—will consider these matters.

“ My Lord, therefore in conclusion I would again make an appeal to your Lordship's Government as a man, my Lord, who is a lover of the Constitution, as a man, my Lord, who is a lover of law and order, as a man who believes in discipline and authority, I would appeal to you to reconsider your position before you proceed with this Bill any further, and I hope that when the new Councils come into existence, there will be no occasion for the enactments of such subversive laws, but I can tell you this that if things do not improve, if things do not change, if things get worse, believe me, you will get responsible men who will stand by you and who will stand by you as strongly as anyone can. I still hope that the Government will consider this, and I say that your persistence with this Bill will be most disastrous.”

The Hon'ble Pandit Madan Mohan Malaviya :—“ My Lord, before I proceed to discuss the Bill, may I, under rule 13 of the Rules for the Conduct of Legislative Business, ask that any papers or returns relating to the Bill which is before the Council, any Minute which may have been recorded by your Excellency's Government, and any correspondence that may have passed between your Government and the Secretary of State, may be supplied to me? That rule says—

3-25 P.M.

‘ Any Member may ask for any papers or returns connected with any Bill before the Council.’

I beg to ask for these papers.”

His Excellency the President :—“ There are no papers or returns in the custody of the Secretary to the Council.”

The Hon'ble Pandit Madan Mohan Malaviya :—“ My Lord, my request is that if your Excellency's Government has minuted upon this Bill, and if any correspondence has passed between the Secretary of State and your Excellency's Government, copies of these may be supplied to me.”

His Excellency the President :—“ Rule No. 13 says—

‘ The President shall determine, either at the time or at the meeting of the Council next following, whether the papers or returns asked for can be given.’

I will give the Hon'ble Member an answer to-morrow.”

The Hon'ble Pandit Madan Mohan Malaviya :—“ Thank you. My Lord, at the conclusion of his speech in introducing this Bill to-day, the Hon'ble the Home Member reminded us, non-official Members of the Council, of the great responsibility which rests upon us in dealing with this matter. He went further and he told us that we shall be judged as to our capacity for having a large measure of responsibility by the attitude that we take up in relation to this Bill. My Lord, I entirely endorse that view, though I do

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not agree with the Home Member as to his object in making this remark. I hope that not only we non-official Members but that we all of us, official as well as non-official Members, will approach this question with a full sense of the responsibility which rests upon us in dealing with such an important matter.

“ Now, my Lord, the motion before the Council is that the Bill in question be referred to a Select Committee. In the first instance, I raise my respectful protest against the manner in which Government have proceeded in connection with this Bill. My Lord, I cannot imagine any Bill of greater or graver import than the Bill which seeks to deprive His Majesty's subjects of the protection for their liberty which they at present enjoy under the law. This Bill proposes to substitute for the judicial machinery that is provided under the authority of Parliament and of the Imperial Legislative Council for dealing with cases affecting the liberties of His Majesty's subjects, an extra-judicial authority, an executive authority, to deal with such cases. I submit, my Lord, that if there was any Bill which required to be proceeded with strictly according to the forms and methods laid down in the rules relating to legislative business before this Council, this was one. Those rules provide that ordinarily when a Bill is introduced, a motion is to be made in the first instance that the Bill may be published in the official Gazette or Gazettes as the Council may direct. In the present case action has been taken under the exceptional provision contained in rule 23; which says : ‘ The Governor General, if he sees fit, may order the publication of a Bill, together with the Statement of Objects and Reasons which accompanies it in such gazettes and languages as he thinks necessary, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and if the Bill be afterwards introduced, it shall not be necessary to publish it again.’ My Lord, I take it that this provision has been incorporated into the rules to meet cases other than the one which is now before us. The departure from the ordinary method prescribed has resulted in this : here is a measure of very great importance. If a motion was made for leave to introduce it in the ordinary way, it would have been followed by a motion that the Bill should be published in the gazettes and circulated for opinions. The Bill would have then been circulated in the country and among public bodies for opinion ; the opinions of High Court Judges, of other Judges and Magistrates, of the various Local Governments and of public associations interested in the question would have been elicited. These opinions would have been circulated to Members of this Council, considered by your Excellency's Government and possibly also by His Majesty's Government; and after all this had been done there would have been a motion made in this Council that the Bill should be referred to a Select Committee. But what has actually been done here ? The Bill was published in the Gazette, if I am not mistaken, on the 19th January or some date about that.....

The Hon'ble Mr. A. P. Muddiman :—“ On the 18th January. ”

The Hon'ble Pandit Madan Mohan Malaviya :—“ Thanks. Now, a fortnight after that the Bill is introduced here to-day under the provisions of rule 23, without any motion for leave to introduce it. I would not have concerned myself about the formal motion to ask for leave to introduce it, but for the fact that the great advantage which the legislature intended to secure by such a motion in the first instance, namely, the publication of the Bill in the Gazette and its circulation for opinions before it should be referred to a Select Committee, has been lost to us by the course followed.

“ The second thing which I complain of is that, while rule 25 provides that ‘ after publication of a Bill in the Gazette of India, the Select Committee to which the Bill may have been referred shall make a report thereon. Such report shall be made not sooner than three months from the date of the first publication in the Gazette of India, unless the Council orders the report to be made sooner ’; here is a proposal emanating not from an ordinary Member, but from

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the Home Member, who held judicial offices for many years, disregarding that very useful provision and proposing that the Select Committee to which it is proposed to refer this Bill should report on or before the 6th March 1919. I submit, my Lord, the Home Member owed it to the Council and the public to explain what reasons of State existed which justified or led the Government to adopt a procedure which violates the ordinary rule which has been laid down for dealing with legislation. He has not done so; I hope he may yet do so. But I submit in the absence of any such explanation, the public have a right to complain that the procedure which has been followed has been followed. Your Lordship is aware, the whole Council is aware, that these Bills have fallen like bolts from the blue upon the public. Your Lordship is aware, most of us are aware, how numerous are the meetings which have been held and are being held in different parts of the country to send up protests against the introduction of these Bills. Is it fair to the public to hurl such measures as these over their heads without the slightest attempt at justifying the procedure?

“ My Lord, I have no sympathy with sedition; I am sure no Member has. We hate sedition, we reprobate it. We do so for two reasons, it is bad in-itself, and it hurts my own countrymen. I am sincerely sorry for the young men who have been misled into the paths of sedition; I grieve their fate. I would do anything reasonable which it were possible for us to do to save them from their fate. We have no sympathy with either anarchical crime or revolutionary crime. When necessity for legislation to deal with anarchical or revolutionary crime has been shown, the proceedings of this Council bear witness to the fact that we have given our whole support to the measure that was introduced. I will refer to the passing of the Defence of India Act. When Lord Hardinge's Government found it necessary to introduce the measure known as the Defence of India Act, every Member of this Council lent his support to that proposal. We supported it as a temporary measure. I will invite attention to a few passages in the debate on it which made this clear, one from Lord Hardinge and another from Sir Reginald Craddock. Speaking on it, Lord Hardinge said: ‘ You will observe that it is a war measure, to last during the period of the war and for six months afterwards. There is no one in the land more jealous than I am of the honour of India and of the striking reputation of India for loyalty that India so rightly deserves, and I am not disposed to allow the honour and fair fame of India to be tarnished by the criminal acts of a few ill-balanced minds at a moment when India's sons are shedding their blood on the battle-field for the King-Emperor and country.’ Sir Reginald Craddock, who introduced the Defence of India Bill, said in the course of his speech: ‘ In the first place, my Lord, it is a great tribute to the loyalty of India and the peaceful behaviour of the vast majority of her people that, while the British Government passed a Defence of the Realm Act at the outbreak of the war, we are now in India half way through the eighth month of the war, before we have found it necessary to enact a similar measure in India, for, though under another name, it is really a Defence of the Realm Act to which we are to-day inviting the assent of the Council.’ Sir Reginald Craddock went on to say: ‘ The powers that we are now asking for are the powers which in our opinion are required for the purpose of securing the public safety and the defence of British India, and we require these powers only during the continuance of the war and for six months thereafter; that is to say, until the excitement and disturbance of the general calm, which the state of war engenders, have had time to subside.’

“ The position having thus been made clear, every Member of the Council gave his whole-hearted support to the proposal. I need not quote from the speeches of all the Members who spoke, but I beg to quote one short sentence from a speech of mine on that occasion. I said:—

‘ The living present demands from us that in the exceptional circumstances which have been created by the war, we should lend our loyal support to the Government in adopting every measure which is necessary in order to prevent and crush mutinous acts, to preserve public peace and to protect the civil population, the law-abiding people from the evils of the misguided action of a few ill-balanced minds. We are all agreed, as the debate has shown, to the principle of the measure so far as it is needed by the exigencies of the situation for securing the public safety and the defence of the realm.’

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“I think it cannot be questioned by any Member of this Council or by anybody outside that we have given cordial support to the Government in passing a very exceptional measure such as the Defence of India Act when its necessity was made clear to us. We did so because we were told and realised that it was an exceptional measure needed by the exceptional times of the war, and that as a temporary measure it was to come to an end six months after the war. Now, my Lord, what is it that we are now asked to do? We are asked by the Hon'ble the Home Member to give our support to this exceptional measure being placed permanently on the Statute-book, and we are told that if we shall not do so, we shall be regarded as not sufficiently responsible men. I ask the Hon'ble the Home Member, and I ask every Member of the Government to tell us, what are the facts which justify such a course. I agree with Mr. Jinnah that no case has been made out for such a measure. I submit that we must have a case made out for placing provisions of such an exceptional character in the permanent Statutes of the land.

“What is the position we have to deal with? There are two kinds of crimes, revolutionary and anarchical, which the Rowlatt Committee have dealt with. Let us analyse the two. The Rowlatt Committee have not said that there was any such crime in existence in this country up to the year 1897. The first crimes to which they have referred were the unfortunate murders of two English officers in Poona in 1897. They have shown that the murder of one of these was the result of an accident, and that of the other was accountable by the fact that strong feelings had been excited against him among the people by the maladministration of plague measures in Poona. Now before I proceed further, I may say at once that so far as the findings of the Rowlatt Committee are concerned, I accept the facts which they have stated largely as they have stated them. We have to exercise caution because, as the Rowlatt Committee have themselves pointed out, they have not placed before us all the evidence upon which they based their conclusions; and without any disrespect to any Member of the Committee, without any reflection against them or any suggestion of a want of a desire on their part to do the right, we may not accept their conclusions as entirely satisfactory. The Committee have pointed out that the great mass of the statements which they had to rely upon were statements which, unfortunately, with few exceptions, they felt themselves bound to treat as confidential and that they were not able to place them before the public. The reasons which they have stated for not doing so are, I submit, not satisfactory. They have pointed out that there would be difficulty created if they had published their statements. I submit, however, that that is not a sufficient reason. In paragraph 35 of their Report they mention the reasons why they have not been able to place the statements as a whole before the public. These may have been very good reasons in their judgment for withholding the statements, but I submit that if the evidence had been made public, it is possible that the public might have come to different conclusions from those at which the Rowlatt Committee arrived. We had no doubt a Judge of His Majesty's High Court, presiding over the Committee. We also had several other experienced officers on it, one of whom I have the pleasure of seeing on my right; we also had on it an Indian Judge and a non-official Indian lawyer; all very honourable and capable men. But we know that judgments of the Judges of the High Courts have been set aside by His Majesty's Judges of the Privy Council. It is possible that the conclusions at which the Rowlatt Committee had arrived might not have been accepted by other Judges if they sifted the evidence. Take another instance: A special tribunal that sat at Lahore three years ago recommended that a certain number of persons, I think 24, should be hanged; as the result of the appeal that was made to your predecessor, 17 of these persons were saved from the gallows, because your Excellency's predecessor and his advisers felt satisfied that the tribunal in question had not sifted the evidence correctly. Therefore, granting that the considerations which prevented the Rowlatt Committee from publishing the statements may be very weighty, the fact does stand in the way of our accepting all their influences and conclusions. But with this reservation, I may say at once that I accept the statements of facts they have arrived at. They have

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been very careful in making those statements, and these will help us in deciding what should be our attitude in regard to the Bills before us.

“ Now what is the position disclosed by the Committee's report with regard to this class of crime ? There was a little crime in Poona in 1897; the Rowlatt Committee have dealt in their report with the prevalence and growth of revolutionary ideas in the Bombay Presidency. Their report shows however that the movement is practically dead in that province; they do not refer to anything that has happened since 1914 so far as Poona and the Bombay Presidency are concerned. Obviously therefore so far as Bombay is concerned, there is no need for legislation of the kind here proposed.

“ Let us now take another Province, let us come to the United Provinces. The Committee have gone exhaustively into the state of things that exist in the United Provinces. They have come to the conclusion that though a little trouble was imported into the United Provinces, there was no indigenous anarchical tendency in the provinces. Their statement is to be found in paragraph 124 at page 136. After citing a few incidents that had taken place, regrettable and deplorable incidents though they were, they say :—

‘ These incidents show clearly that so far the revolutionary movement has not taken hold of any section of the people of the United Provinces, but that the position and circumstances of Benares will always render that city a point of peculiar peril.’

This does not show that in the United Provinces there is any need for perpetuating this legislation.

“ Let us now look at the case of Bihar and Orissa. The Committee in paragraph 119, at page 130, say :—

‘ We find that the province of Bihar and Orissa has been slightly affected by the revolutionary movement, although it has been the scene of two of its worst crimes.’

Even assuming that these crimes were revolutionary, I submit that so far as Bihar and Orissa are concerned, they have not made out a case, at least the Committee's Report does not lend support to the proposal to perpetuate this extraordinary legislation there. The Committee go on to say : ‘ This province, however, has been used, and will in all probability continue to be used—’ there I beg to differ from them because they have not stated any reason for it—‘ both as a seed-bed for propaganda and as a harbour for absconders.’ This might be said of any part of the country. But what is more important is, as the Committee observe, that ‘ hitherto the character of the general population and the vigilance of the authorities, assisted by the operation of the Defence of India Act, have been able to prevent graver mischief.’ That is an assumption which we can always make in favour of any province. But there is no ground shown to justify a supposition that Bihar and Orissa stand exposed to any danger of anarchical crime being revived or taking root in that province.

“ Let us now come to the Central Provinces. In paragraph 126, at page 139, of their Report, the Committee say : ‘ The Central Provinces did not, so far as we are aware, again come into contact with dangerous movements until February 1915.’ The first was in 1908. From 1908 to 1915 they did not notice any trouble in the Central Provinces ‘ until in February one Nalini Mohan Mukharji, one of the Benares conspirators, was deputed by Rash Bihari to induce the troops at Jubbulpur to join the rising planned by the *Ghadr* party for that month.’ But in the next page, in concluding the chapter, the Committee say :—

‘ The incident is a neat illustration of the way in which a revolutionary from outside sows evil seeds in a place free from indigenous disaffection and also of the way in which, by firm action taken in time, mischief can be arrested.’

Clearly, the Central Provinces do not support the case for proposed legislation.

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“Then, my Lord, let us look at the case of Madras. Regarding Madras, after reviewing certain events that took place there, the Committee have stated their conclusion in paragraph 153 of their Report. They say :

‘ Since the trial of the Tinnevely conspirators (in 1911) there does not appear to have been any trouble from criminal revolutionary conspiracy in the Madras Presidency. We do not consider that there was any indigenous revolutionary movement in Madras, and but for the influence of a certain gentleman and the revolutionaries plotting in Paris and Pondicherry there would have been no trouble in Southern India.’

“ Now, my Lord, whether the inference that the trouble in Southern India was due to the influence of a certain gentleman is correct or not, I cannot say; but the fact to which I wish to draw attention is that the Committee do not consider that there was any indigenous revolutionary movement in Madras, and that there had been no trouble there since 1912.

“ I shall next take the case of the Punjab. In the Punjab, as the Committee have pointed out, the trouble arose in 1914 because of the return of certain emigrants from Canada and other countries. Now, my Lord, we know how that trouble arose. We know that there has been for a long time past a real genuine grievance in the minds of those Indians who have gone out of this country regarding the treatment which has been meted out to them in other parts of His Majesty’s Empire. A certain number of Indians returned very much dissatisfied with the treatment they had received, and there were the incidents generally known as the Komagata Maru incident and the Budge Budge riot wherein a number of His Majesty’s subjects were shot dead. With great respect, I submit that the fault for that deplorable incident did not lie entirely upon those poor people who died or were interned or otherwise suffered, but upon those also who could have taken steps to prevent misunderstanding. However, these and other emigrants returned to the Punjab and disaffection spread through some of them amongst a certain number of people. There was trouble, therefore, due in this case not to any indigenous revolutionary tendencies in the province, but to the return of a certain number of Indians from Canada and other countries. Then the Government of India was requested by the Punjab Government to pass the Defence of India Act and to frame rules under it by which they could deal with the situation. The Government of India did help the Punjab Government by passing that legislation at one sitting of this Council. The result was that by the application of the rules passed under the Defence of India Act, those unfortunate tendencies, these evil tendencies subsided in the Punjab. A number of persons were tried and punished by Special Tribunals; a certain number of persons were interned; there were other measures taken. But the trouble such as it was soon subsided. On the 31st January 1916, the Punjab Government reported that the returned emigrants were settling down, and that the feeling among the Sikhs was reported to be more satisfactory than at any time for some years. And the great fact which stands out in connection with the whole episode is that the people at large helped the Government, they co-operated with the Government in tracing these misguided men, and even in trying to bring them to justice. In paragraph 145 of the Report the Rowlatt Committee say :—

‘ Under the Defence of India Act 30 persons were interned in jail, 113 were restricted to their villages, 25 were restricted to other villages. Under the Ingress into India Ordinance 331 persons were interned between October 1914 and December 1917, of whom 224 are accounted for by the period of October 1914 to April 1915. Two hundred and forty-two of the 331 have been released. Of the emigrant revolutionaries, 2,576 in all have been restricted to their villages. We are informed that so valuable has been the work of the Sikh advisory committees in regard to restrictions, internments, relaxations and releases, so strong has been their influence on the side of law and order, that although a considerable number of suspects continued to arrive in the Punjab after the troubled period, especially from the Far East, at the end of 1917 the total of persons restricted in any way under the Ingress Ordinance was only 914, while the number of these at first restricted and then released from restriction had risen to 1,513, and releases were steadily progressing.’

The Committee say that there was a Sikh official witness who said that there were thousands of persons who had returned to India with revolutionary ideas still at liberty. That may be the caution which an official anxious to show his zeal

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or show that he is a very far-sighted man, might express. But the fact remains that in the Punjab, what little disaffection was imported from outside has subsided, under the operation of the Defence of India Act, and I submit, my Lord, no justification has been shown—I should not say shown because I do not think the Committee could be accused of being anxious to show such justification,—no justification is to be found in the Rowlatt Committee's Report for perpetuating an extraordinary piece of repressive legislation in the Punjab. I will invite attention to what they say in paragraph 146. They say :—

'It is evident that the *Gadhr* movement in the Punjab came within an ace of causing widespread bloodshed. With the high-spirited and adventurous Sikhs the interval between thought and action is short. If captured by inflammatory appeals, they are prone to act with all possible celerity and in a fashion dangerous to the whole fabric of order and constitutional rule.'

Now I draw attention to this to show that the action taken by some Sikhs ought to be judged in the light of these remarks. They had cause for irritation, and to that irritation which they brought back when they landed in India other irritation was unfortunately added, as I submit with great respect but with a clear mind, by the action which was taken by the authorities at the time. The Sikhs being an impressionable people, if they were to be misled.....

The Hon'ble Sir James DuBoulay :—"The Komagata Maru incident !"

The Hon'ble Pandit Madan Mohan Malaviya :—"Yes, the Komagata Maru and the whole of the incidents which took place at Budge Budge. Now, my Lord, I draw attention to this to show that the Sikhs being the impressionable people that they are and the action of the Sikh Advisory Committee having led to calm being restored, the existence of any ill-feeling among the Sikhs does not justify the perpetuation of the Defence of India regulations

"Then, my Lord, we come to Bengal. Every one knows that there was no revolutionary or anarchical crime in Bengal until 1905. Your Excellency and your distinguished colleague Mr. Montagu have dealt with the causes that gave rise to discontent in Bengal. In considering the present diseased state of the minds of a few persons in that province, we ought to bear in mind all that has preceded. The facts which have been stated by the Rowlatt Committee and which have been referred to in the Reforms Report show how discontent arose in Bengal. Up to 1905 Bengal was entirely free, I submit, from any revolutionary tendency. In 1904, Lord Curzon introduced the Universities Bill. As has been pointed out by the Committee that unfortunate measure marked the beginning of a period of misunderstanding between the Government and the people. Following closely in its wake, came the Partition of Bengal, carried out, violently carried out despite the protests of the people, and the evil effects of that measure are too well known to require any mention. Everybody knows what the people of Bengal did after that event. Everybody knows how memorials went up from a hundred platforms, from numerous associations, how meetings of respectful protest were held all over the Province of Bengal; how deputations waited on the Lieutenant Governor, how every effort was made in this country and in England to have that measure rescinded, but the attitude unfortunately taken up at that time was that the matter was 'a settled fact,' and that it should not be unsettled. Now, my Lord, in view of the attitude taken up by the Government, the people of Bengal were driven, in the first instance, to adopt every constitutional measure which it was open to them to adopt to impress the justice of their contention upon the Government. They adopted the vow of *swadeshi*, they adopted the vow of boycott. Their object was to draw the attention of the English public and the English Ministry to their piteous cry, that their province should not have been cut asunder as it had been, that it should yet be re-united. Those cries did not succeed in drawing the attention of the

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authorities. The authorities kept up a *non-possimumous* attitude; they would not be moved. The result was that all the leading men, the men who were in the forefront, the men of the most moderate views who had waited upon the Governors and the Government in deputation, who had sent up memorials, who had sent up reasoned objections, found themselves unable to satisfy the people why the Government should not reconsider the matter. It was then that ideas of a new character began to force themselves upon the minds of some people. As the attitude of the Government stiffened, the attitude of the younger men also stiffened. The young men were naturally more impressionable than the older people. Those of us who are growing old know that this is a natural law. Now the younger men could not bear what the older men could bear, therefore naturally but regretfully, I say they were led into paths of unconstitutional agitation. And we know what happened in subsequent years. With the prosecutions and the punishments of students the feeling between the authorities and the general public grew from bad to worse from day to day. It was in this state of things that some of the young men were led into the path of unconstitutional agitation. As I have said before, nobody deplors that this should have been so more than we Indians do. We regret it for the sake of the country generally, and for the sake of the young men in particular. We wish they had not been so misled. But in dealing with an evil, it is not statesmanship to shut one's eyes to the facts which gave rise to the evil, to propose remedies without recognising the root cause which gave rise to the disease. Now, my Lord, this state of things went on in Bengal. And though the partition was undone, was unsettled by His Majesty the King Emperor when he visited this country in 1911, the evil ideas which it had given rise to were still left behind. There were some men who had been led into the wrong paths of revolutionary ideas and methods, and they continued in them. This is a matter to be deplored, to be provided against and not to be overlooked in dealing with the situation. Then the war, which broke out in 1914, brought in another trouble. We had then the *Gadhr* party also making an effort to create mischief in India. Now, my Lord, I beg the Government to keep these two causes, or rather these two movements separate in considering the questions. Such disaffection, such sedition as existed before the war could be traced to causes, which one could understand. The attempts which were made during the war by the *Gadhr* party and by the Germans to mislead Indians also was a cause which contributed to disaffection and to evil results. Now the war has ended, and happily with it are ended all German plots and all the evil which they gave rise to. Therefore, we can thankfully brush aside all the incidents relating to the *Gadhr* party, and we can fervently and reasonably hope that none of its evil results will be seen in India any more. So far as the problems created by the war are concerned, we are entitled to ask the Government to consider that the war being over, and a new state of things having come into existence, the evils which the war gave rise to will not be heard of again.

“ We have then the other class of revolutionary ideas and crimes which did not, entirely according to the Report of the Rowlatt Committee, spring out of the war. Now here, too, my Lord, let us fairly and squarely look facts in the face. Let us recognise, as your Excellency and Mr. Montagu have done in your Report, what is the real state of things in the country. Your Excellency and your noble colleague have in the first chapter of your Report taken a survey of the political situation in India. You have pointed out how the desire of Indians to have a larger and larger share in the administration has been growing; you have pointed out how pledges have been unredeemed and promises unfulfilled, except partly; you have pointed out how good measures like those of self-government which have been promulgated have not been allowed to fructify; how grievances which Indians have been repeating year after year in a constitutional manner have not been attended to.

“ Now, my Lord, for thirty years since the Congress came into existence in 1885, the thoughtful people of India, the most responsible men among the educated Indians, have year after year brought a number of grievances before the Government in this country and in England. They have stated in a most

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reasonable form what those grievances are, and they have in the most reasonable spirit asked for the remedy of those grievances. Some of them have been remedied; some reforms have been introduced for which we are thankful; but the measures that have been introduced have not been sufficient. The causes for complaint have not been sufficiently removed. There are three factors which have come into prominence out of this state of things. There are the economic causes of discontent, there are the social causes of discontent, and there are the political causes of discontent. The economic causes have been partially noted by the Rowlatt Committee where they point out how the *bhadralog* in Bengal have found it more and more difficult to find suitable employment; that the schools have not been sufficient; that the education has not been of a varied character, and that new avenues of careers have not been provided for young men which might relieve the pressure so far as the Government services and offices are concerned. They have received a largely literary education and the two doors open to them, namely, Government service and the Bar, are both overcrowded, and cannot accommodate a limitless supply of men. That has given rise to serious hardship and discontent. Then there is the social factor. We know, unfortunately, that the dealings between Europeans and Indians in this country are not altogether as they should be. We know that even in the matter of the services the distinctions of race which ought to have been obliterated, which it was promised would be obliterated so long ago as 1833, which it was promised would be obliterated when the gracious Proclamation of Her Majesty was issued, have not been removed. We know that scholars and students in Bengal saw that a man so distinguished as Dr. P. C. Ray, now happily knighted, though he was acknowledged to be one of the finest scholars in the country, was still rotting in the Provincial Educational Service when men far inferior to him had been put into the Indian Educational Service. Young Indians saw many such cases. They saw their own countrymen, eminent and honest, devoted to learning, devoted to the cause of education, passed over in favour of younger men from England. All this tended to add to the discontent which was felt in Bengal. So also in regard to other matters. Then there were political causes. They found that there was much in the state of things in the country which the Congress had long sought to remedy, which the best men in the country had long endeavoured to rectify by constitutional appeals to Government which had not been rectified. The Committee have taken note of a letter in which one of the revolutionaries condemned the Congress. I can very well understand why he should condemn it. The Congress would not encourage revolutionary ideas and unconstitutional methods. And, finding that the appeals of the Congress, repeatedly addressed to the Government, over the course of 25 years or so, had failed to achieve their purpose, it is a matter for regret but not for surprise, that some young men were misled into thinking that unconstitutional methods would be more efficacious.

“ Now, my Lord, what is the Rowlatt Committee's finding in regard to the origin of these revolutionary and anarchical ideas? They have found that the movement was the outcome of perverted religion and perverted patriotism. They have found that these men had got the idea that it was their religious duty, that it was their patriotic duty, to attempt to subvert the English Government. They have found that these young men were not prompted, at any rate in the beginning, by any sordid idea of personal gain. These young men made up their minds to sacrifice their lives in the cause to which wrongly they gave their adherence. Now that being so, what is it that should be done? I submit, my Lord, with great respect and with great reluctance, that the responsibility for this state of things coming into existence does not rest merely upon the young men who went the wrong path. It rests upon the Government, it rests upon the administration, both Provincial and Imperial, it rests upon all of us who failed to persuade the Government to adopt the right measures to remedy the grievances, to set them right. But while we take note of the causes, we do regret the effects. And why is it that I am asking your Excellency's attention and the attention of the Council to this fact now? It is for this reason, that, while we all deplore

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the existence of such anarchical tendencies, such revolutionary crime as exists in Bengal, we should take note of the root causes which have fed those diseases, and strike at those causes as well as their effects. It is only then that we can reasonably hope for a lasting improvement in the state of things which we all join in regretting and condemning. That is what I most respectfully and most earnestly submit to your Excellency's Government and to the Council. Let us adopt those measures which will be efficacious in removing these root causes as well as their effects.

"Now, my Lord, as I have shown, there are two classes of revolutionary and anarchical crimes. The one was connected with and sprang out of the war. So far as that is concerned, the existing provisions of the Defence of India Act are ample to deal with this class of cases. As my esteemed friend the Hon'ble Mr. Banerjea has pointed out, those provisions will continue in force for six months after the war. Any disaffection, any anarchical or revolutionary tendency arising out of or by reason of the war, can well be dealt with under the Rules made under the Defence of India Act. So far as this class of cases is concerned, therefore, it is not that we are running away from making provision for anarchical or revolutionary crime. There is neither veiled nor unveiled sympathy in the minds of any reasonable Indian with such crime. We all deplore, we all detest it. We want to root it out, but we want to apply the right methods, and not to foster it by adopting wrong methods.

"As regards the other class of revolutionary crime which has arisen out of and has been fed by political, social and economic causes of discontent, we reasonably expect that as reforms are introduced things will alter and improve. Now let us see what is the state of things in regard to that? Whatever was the position before the war, during the war, His Majesty's Government have made a most momentous pronouncement in regard to their relation with India. They have said that the goal of British policy is responsible government in India. Now that goal may be achieved in five years, in ten years, in twenty-five years; or even in fifty years. But the goal having been fixed I have not the least doubt, no reasonable man has any doubt, that that goal will be achieved. It must be. Your Excellency and your colleague, Mr. Montagu, have made a most memorable contribution, for which we are grateful, of proposals for progress towards that goal. These proposals are before the Government. Your own Report on constitutional reforms furnishes the most excellent reasons why we ought to take a fair, a judicial and even almost a lenient view of the misguided activities of the few men who have gone into the wrong path. You yourself have pointed out how many causes of complaint there have been; how many matters there are in which Indians have been complaining without their grievances having been redressed. You have formulated your proposals for redressing those grievances. The matter is before the Government. The Reform Committees which have been appointed will shortly recommend what should be the franchise, for the reformed Councils, and what should be the subjects which should be made over to them. We are expecting that the Statute which is to initiate the proposed changes will be introduced into Parliament about Easter.

"Now, my Lord, this is the hopeful state of things in which we find ourselves. There is another important circumstance to which I wish to invite attention. The war has come to an end. During the war India made a glorious contribution to the cause of the Empire. Whatever doubts, whatever misgivings some men might have had before the war about the loyalty of India, India has proved her loyalty by the blood which Indians have shed in the several theatres of war. India has proved her loyalty by the contribution in men, money and munitions which she has made, and to which your Excellency made a handsome reference even this morning. Now, in the face of that loyalty, in the face of that deep-seated, wide-spread, proved loyalty—loyalty which has been demonstrated beyond cavil or dispute, what is it that we, the people of India, expect of the Government of India? We expect that even if there should be some misguided youths who have not yet been influenced by the new trend of events, we should deal with patience with them. We should trust to liberal and just measures of reform in order to win them over to the side of constitutionalism and of the Government.

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“Now, my Lord, in the Report to which I have referred so many times, your Lordship and the Right Hon'ble Mr. Montagu said:—

‘We have tried to describe India's chief pre-occupations at the time when war broke out. The war has affected India in many ways, but above all it has become the predominant factor in the present political situation. Whatever qualifications may be needed in the case of particular classes, the people of India as a whole are in genuine sympathy with the cause which the Allies represent. The reasons of the entry of Britain into the war appealed to the educated classes, and they have never faltered in their allegiance. However much they may find fault with the Government, they are true in their loyalty to the British Crown, and, as it would be easy to show from their own lips, they fully recognise and value the higher aims of British policy.’

In the next paragraph your Excellency and your noble colleague said:—

‘The loyalty of the country generally was emphasised by the attempt made by very small sections of the population to create trouble.’

I submit, my Lord, that with that deliberate conclusion which you have embodied in the Report and which represents nothing but the fact, I submit that with that conclusion established beyond cavil or dispute, we were led to expect that even if the evil tendencies had not entirely died out, the Government of India would resist, most strongly resist, any suggestion for legislation of the character that is now proposed; that in recognition of the part that the people of India have played in this great war, the Government of India would stand forth boldly and firmly to oppose any suggestion that there should be a perpetuation of special emergency measures which were adopted for the period of the war under the Defence of India Act; and I must say, my Lord, with respect, but with regret, that we have been disappointed beyond expression that the Government of India itself should have come forward at this juncture with the proposed legislation. I ask, my Lord, that the Government should consider its position. I ask that the Government should not lead people to think that all the great sacrifices which they have made during the war have already begun to be forgotten. The Government should give no ground, no room for thinking that the magnificent effort of India during the war has already begun to be forgotten. The Government should show by their acts that they still do trust the people, and that what they say about the deep loyalty of the people is a reality which they believe in and not an unreal sentiment expressed to flatter the people. I submit, my Lord, with great respect, that that is the attitude which the Government of India should adopt. I fear that by taking up the attitude which the Government of India have taken up, they have already to a great extent destroyed—I regret to say it—the excellent results which had been produced by four years of joint effort during the war, four years of comradeship in the war, and all the sentiments of mutual trust and esteem which it engendered. But it is not too late yet to mend, it is not too late yet to rectify the mistake; and I appeal to your Excellency that the Government should, with that sense of responsibility which the Hon'ble the Home Member asked, and rightly asked, us non-official Members to display, I appeal with all respect and deference that the Government of India should reconsider the situation and as a very special measure withdraw the Bill. Now, my Lord, what would be the result if this recommendation is accepted? I know the Government of India, constituted as it is, does not easily go back upon any legislation which it has set its heart upon. We know that to our regret; but I submit that, if in view of the very special circumstances of the situation, in view of the very special circumstances which the war has brought about, if at this time the Government should unite with the non-official Members in burying the Bill, no evil will result to the country, no evil will result to anybody, and the Defence of India Act will continue in operation for some six months after the war. The ordinary legislation which stands in the Statute-book provides ample means for dealing with all classes of crime, and if six months after the war is over, if after-measures have been introduced to remove the causes which have fed discontent, which have given rise to revolutionary and anarchical tendencies, the Government should still find that there are young men who are working in wrong paths, and that the ordinary law is not enough to deal with them, then,

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my Lord, would be the time for the Government to consider what measures should be adopted—not a measure like the present one—but what other reasonable measures should be adopted.

“It is proposed that this Bill before us should extend to the whole of India. I have endeavoured to show that the Rowlatt Committee themselves have pointed out that revolutionary tendencies and crime have not been discovered in every province equally. They have shown that in some provinces there has been no indigenous activity of that kind, and I submit that with that Report before us we cannot reasonably legislate equally for all India. In the summary of their conclusions, paragraph 166, they set forth the conclusions at which they had arrived. They say:—

‘We have now investigated all the conspiracies connected with the revolutionary movement. In Bombay, they have been purely Brahmin and mostly Chitpavan.’

The report shows that it is not a living thing in Bombay now. There did exist certain individuals there, they were punished for their crimes and there was an end of their activity many years ago.

‘In Bengal’, the Report says, ‘the conspirators have been young men belonging to the educated middle classes.’ Now that is a statement to which I beg to invite your Excellency’s particular attention and the particular attention of the Council too. It is not that you are dealing with criminals or men addicted to crime. The Report says: ‘The conspirators have been young men belonging to the educated middle classes.’ I submit that a Government which has not been able to wean such young men from the evil tendencies in question, is not justified in blaming those young men alone for such tendencies. It is the part of Government, it is the part of statesmanship, to take every step which can rightly be taken to wean these young men, who a few years before did not show any criminal tendencies, from the path into which they have been misled. Then the Report goes on to say:—

‘Their propaganda has been elaborate, persistent and ingenious.’

True, but that only shows that they are men of intelligence, men of education, and it should be easier therefore to wean them from the path of evil:—

‘In their own province,’ the Report continues, ‘it has produced a long series of murders and robberies.’

This is unfortunately true; but we must try to adopt measures which will show these young men how very deplorable it is that they should indulge in any such activities, that they should commit murders and robberies, measures which will show them that a new chapter has opened, a new day is dawning on India—a day of liberalised administration, a day of greater recognition of the rights of Indians, of more adequate provision of careers for them, and of the treatment of Indians generally as they should be treated in their own country.

‘In Bihar and Orissa’, the Report says, “In Bihar and Orissa, the United Provinces, the Central Provinces and Madras, it took no root, but occasionally led to crime and disorder. In the Punjab the return of emigrants from America, bent on revolution and bloodshed, produced numerous outrages and the *Ghadr* conspiracy of 1915.’

“But I think we can safely say that it is not now a factor in the Punjab which would justify the proposed legislation.

“There is another sentence, my Lord, in that part of their Report to which I beg to invite attention. After stating that ‘all these plots have been directed towards one and the same objective, the overthrow by force of British rule in India’; a silly attempt—‘sometimes they have been isolated; sometimes they have been interconnected; sometimes they have been encouraged and supported by German influence.’

“But the Committee go on to say—‘all have been successfully encountered with the support of Indian loyalty.’ I ask you, my Lord, I ask whether in fairness, whether in justice to that loyalty, the Government should not say ‘No’ to the proposals of legislation before us, whether it should not still rely upon

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that loyalty to curb these evil tendencies and to eradicate it from the land. They go on to say: 'It is not surprising that in dealing with conspiracies so elusive and carefully contrived Government has been compelled to resort to extraordinary legislation.' But that work has been done; that extraordinary legislation will still be available for six months after the war; let it have its course till then and be done with it. Let us hope and pray that the evil will be dead in the new state of things which will dawn.

"My Lord, in the presence of this report, I cannot understand how the Government could make up its mind to propose legislation of the retrograde and repressive character, subversive of the principles of justice for which England has always stood up, which are the glory of the English constitution subversive of so many ideas of justice for the protection of the liberty of individuals? How could Government have made up its mind to introduce such a legislation and to propose that it should extend over the whole of India? I shall not be content with a mere general statement of the character of the legislation. I would invite the attention of your Excellency and of the Council to the actual proposals which the Committee have to put forward and show how they themselves looked at this question. In the first instance they have rightly raised a doubt to which attention has already been drawn by Mr. Chanda, about the competence of the Indian Imperial Legislative Council to introduce and pass a measure of such extreme severity and so far inconsistent with the established rules of evidence and justice. In paragraph 200 they say 'In making suggestions for legislation we have not considered at all whether it could be argued that such legislation is in any respect beyond the competence of the Governor General in Council. We have no authority to lay down the law on any such point, and any provisional assumption as the basis of our proposals would only cause embarrassment. We have proceeded therefore on the basis that any suggestions of ours which it may be decided to adopt will be given effect to by some legislature competent for the purpose.' I should like the Hon'ble the Home Member to tell the Council whether any note was taken by the Government of this paragraph in the report of the Rowlatt Committee, and, if so, whether any reference was made to His Majesty's Law Officers in England, to consult them on the question raised by the Committee.....

The Hon'ble Sir George Lowndes :—"I should like to intervene, my Lord, at this stage and state that no reference has been made to the law officers in England. There is no basis upon which such a reference could be made. If either of the two learned lawyers who have suggested that this Council is not competent to legislate would give us something more to go upon than merely that paragraph in the Report, we shall be glad to meet them; but at present there is not in my mind the faintest shadow of doubt that we have got the power to legislate. Whether we should do so is another question."

The Hon'ble Pandit Madan Mohan Malaviya :—"I thank the Hon'ble the Law Member for telling us that no reference was made. I take that as a fact, but I think in view of the fact that a doubt was raised by a committee which the Government themselves had appointed, a committee that was presided over by a Judge of the High Court of England and consisted of three other gentlemen whom the Government had selected to advise them, this matter deserved to be treated with greater consideration than evidently the Government treated it with. However, I am not going at present—possibly I may do so later—to give my friend all the reasons upon which a doubt has been raised as to whether this Council is or is not competent to deprive any fellow-subject of ours of the safeguards of liberty which the English law provides for him, which ensure that no man's liberty shall be interfered with, that none shall be deprived of it for a day without a regular trial according to the ordinary rules of evidence and procedure laid down therefor. We have heard a great deal of the British character of the Indian administration. We have heard a great

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deal of the British sense of justice and of fair-play. I ask the Council, I particularly ask my Hon'ble friends, who are members of the British community, I ask them to say how they can really reconcile themselves to proposals which are embodied in the legislations we are dealing with. It seems to us impossible, incredible, that the British members of the Government should have without the fullest consideration agreed to such a course being adopted.....

(At this stage His Excellency the President left the Chair and the Hon'ble Sir George Lowndes took the Chair)

The Hon'ble Pandit Madan Mohan Malaviya:—"May I ask, Sir, whether the Council may not now adjourn? The rules provide that the Council shall ordinarily go on till 4 o'clock and it is now half past four. I have not gone through two-thirds of what I have to say, and I shall not be able to....."

The Hon'ble the Vice-President:—"I am afraid you must go on with the remaining third."

The Hon'ble Pandit Madan Mohan Malaviya:—"I do not know that I shall be able to finish."

The Hon'ble the Vice-President:—"I hope you will."

The Hon'ble Pandit Madan Mohan Malaviya:—"I definitely propose, Sir, that the Council should now adjourn. If you will kindly turn to the rules, rule No. 3 of the rules for the Conduct of the Legislative Business of the Council says 'The Council shall ordinarily meet at 11 A.M., and shall not prolong its sitting after 4 P.M., unless the President otherwise directs.' There has been no direction that it should be prolonged, and I submit therefore that under the imperative words of the rules, namely, that the Council shall not prolong its sitting after 4 P.M., the Council should now adjourn."

The Hon'ble the Vice-President:—"If you think it necessary I will direct that the Council shall continue its sitting."

The Hon'ble Pandit Madan Mohan Malaviya:—"I again submit a point of order as to whether that direction should have been given before my motion was made. I submit if the direction had been given before the motion was made, it should have been unquestionable, but as it has been made upon my motion, I request the Vice-President to consider whether my motion ought not to prevail."

The Hon'ble the Vice-President:—"It is not open to the Hon'ble Member to question my ruling. I rule that the Hon'ble Member must proceed."

The Hon'ble Pandit Madan Mohan Malaviya:—"Mr. Vice-President, I have dealt before with the conditions which the end of the war has brought into existence, and I have submitted that in view of those conditions the Government should reconsider its decision. I have also submitted that when a question has been raised as to whether this Council is competent to deal with this legislation, it is at any rate a matter which should not be rushed through in the way in which it is proposed to rush it through the Council. In regard to the question as to whether this Council is or is not competent to deal with the Bill, I will deal with this matter later. Now, Sir, the position being what it is, I submit that the Government should consider the situation. I ask the Government to consider what are the provisions of the Bill to which it asks the Council to give its support. Let us look into them. In the

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first place as I have already said it says—'Whereas it is expedient to make provision that in special circumstances, the ordinary criminal law should be supplemented and emergency powers should be exercisable by the Government.' Now, Sir, to make provision in special circumstances, to supplement the ordinary criminal law is a matter which, I think, is open to exception. If it was meant to pass a special Bill providing for a special procedure, as the Defence of India Act did, we could understand it. It would have been a measure of a temporary character, it would expire by efflux of time whenever that time was fixed. But, in this case, it is sought to make the measure a part of the permanent law of the land; it is sought to incorporate it in the Indian Penal Code and Criminal Procedure Code. My first submission is, that if there was a clear necessity for such a measure, if the Defence of India Act was not in existence, a special measure of a temporary character should have been passed, and this attempt to incorporate the measure in the permanent law of the land should have been abandoned. Then by sub-clause (2) of clause 1 the provisions are extended to the whole of British India. I submit that in view of the Report of the Rowlatt Committee, the Government should seriously consider whether there is any justification for passing any all-India legislation of this character. Let us assume for one moment, which I hope will not be the fact, that in Bengal tendencies of an evil character will not entirely disappear after the war. I am very sorry to make such an assumption, but let us do so. In that case it might be left to the Bengal Government to introduce legislation to deal with the crime that may show itself in that province. Does that justify the casting of a slur on the loyalty of the whole of India; the passing of a measure which would lead the outside world to think that India was seething with disloyalty and discontent. The Punjab, the United Provinces, Bombay and the Central Provinces need not be grouped together with a province where revolutionary crime may be shown to exist. That is my second point. Part III says 'If the Governor General in Council is satisfied that scheduled offences have been or are being committed in the whole or any part of British India to such an extent as to endanger the public safety, he may, by notification in the Gazette of India, make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.' What are these scheduled offences? They include offences which constitute grave charges against the person and honour of people. Is it right that they should be tried in that fashion? You want to provide for a speedy trial of such offences. It is evident to anybody that the Government of this country and of England have provided a most elaborate and careful procedure for the trial of grave offences; summary trials are restricted to ordinary petty offences, trials of a grave character are to be Sessions Court trials or High Court trials; a very elaborate procedure has been provided, the question of delay has not been overlooked and the mere circumstance that it would cause delay need not lead anyone to propose legislation of the drastic character now before us. May I ask the Hon'ble the Home Member, or any member of the Government, what will be the gain on the one side by a speedy trial of such offences? There are certain offences the speedy trial of which is contemplated. It is not said that there shall be no trial, all that the Act seeks is a speedy trial, there is no suggestion to the contrary. It is not shown that there will be such a large number of offences of the character contemplated that the Courts will not be able to deal with them. The Rowlatt Committee have themselves shown a judicial mind when they state that they cannot say what the state of things will be after the war. In Chapter XVII they say 'The last part of our task is to advise as to the legislation, if any, necessary to enable Government to deal effectively with the difficulties that have arisen in dealing with conspiracies. This as expressed appears to us to be applicable to the state of circumstances under which the difficulties referred to were encountered. These difficulties have, however, been circumvented for the time being by special temporary legislation, and they have not been in operation at the time of our inquiry. When this legislation lapses, circumstances may have altered and the position may be better or worse.' They have not shut their eyes to the possibility that circumstances may

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so alter as to make it unnecessary to have legislation of a special character. They say it may be worse, no doubt, no sober, no responsible man can definitely and firmly say that there shall be no crime in India after the war, no crime of a revolutionary or criminal character. England herself has not been entirely free nor have other European countries, while the bulk of the population has remained loyal. A maniac, a misguided man, one suffering from some aberration of the mind may commit some evil act, but that would not justify the passing for the country as a whole of such drastic legislation. They also say that when this legislation lapses circumstances may have altered and the position may be better. There have been two possibilities foreshadowed, one is that circumstances may alter and the position may be better; if that possibility should happily be realised, then there will be no need from the point of view of the Rowlatt Committee for such legislation. If unfortunately the other alternative should be realised, that is to say if circumstances should show that the position is worse then, as Mr. Jinnah has pointed out, the Council will regretfully but firmly lend its support to any special legislation which may be necessary.

(At this stage His Excellency the President resumed the Chair.)

After referring to the special legislation which has enabled the Government to deal with cases of a special character by the help of the special temporary legislation which has been passed, the Rowlatt Committee go on to say in paragraph 175 of their Report.

'When this legislation lapses, circumstances may have altered and the position may be better or worse.'

"Now, I submit, my Lord that there are two possibilities which they hold before themselves. One is that circumstances may so alter and things may be so much better that the need for legislation may not arise. I submit we should hope and pray that this happier alternative may be realised. If it is realised then there will be no cause for such legislation as is proposed. If unfortunately the other unhappier alternative should be realised, then as my Hon'ble friend Mr. Jinnah has pointed out, it will be time for Government to propose a measure like the one before us or somewhat on the lines of the one that is proposed, less drastic I hope, but more amenable to the rules of justice than the present measure, but such a measure as may be needed to deal with the special circumstances which may have been found to exist. The Committee go on to say :—

'We do not think it is for us to speculate nicely on these matters.'

True, my Lord, it was not for them to speculate, but it is a serious thing and the Government and the Council have to speculate very carefully upon these matters, and they cannot in fairness to the people shut out, they cannot rule out, the other possibility, the brighter, the more hopeful possibility, of things improving. Then the Committee go on to say :—

'We must of course keep in view that the present war will have come to an end, but cannot say with what result or with what ulterior consequential effects or possibilities of consequential effects upon the situation.'

They did take note, my Lord, that these were possibilities. They did bear in mind that these possibilities might be realised, and I submit, therefore, that it would be fair and wise to hope for these possibilities and to work for these possibilities, and not to legislate in the conviction that these happier possibilities will not be realised and that evil will come. The Committee further say :—

'On the other hand, the persons interned under the Defence of India Act will be due for release and the terms of imprisonment of many dangerous convicts will be coming to an end.'

True, my Lord. But has not the Government already released a large number? Were we not told to-day that a large number has been released and a growing number is going to be released? Is there any danger or apprehension that they would again fall into bad ways? If danger should arise, the Statute-

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book does contain any number of laws, preventive and punitive, which should enable the Government to deal with cases that may arise. Then the second thing the Committee say is 'Further, there will, especially in the Punjab, be a large number of disbanded soldiers, among whom it may be possible to stir up discontent.' This, my Lord, is a most unkind sentiment. In view of the sacrifices which the soldiers of the Punjab have made, in view of the deep-seated loyalty which they have shown by sacrificing their lives and everything else that they could in the cause of the Empire, I must say, with due respect, that it would have been well that Government had not taken this view. I no doubt see that they have said that 'it will be possible to stir up discontent.' But men who have stood the trial, men who have withstood all temptations and all efforts to mislead them during the prevalence of this great world-wide war, may be trusted to stand firm in their loyalty if later on anybody should wean them away from their loyalty to the King Emperor. These soldiers, my Lord, have seen something of the world. They have seen what a war is. They know better than people who have not been to the front what a war is, and I am sure they have also seen the majesty and the might of the British power. They are the least likely persons among whom discontent can be aroused now, and if the Government will take the right measures to recognise in practice, in reality, with generosity, the sacrifices which they have made, to improve the conditions under which they live, to educate their sons, to find more food for them, to make it possible for them to have more clothing, to provide them with better comforts, to enable them to live lives better than the lives of mere ordinary animals, I am sure no efforts will succeed to wean them away from their loyalty to the King Emperor and the Crown. At any rate, my Lord, sufficient unto the day is the evil thereof. Let us wait in patience. It is only just and fair that we should wait with patience until these soldiers who have fought in the cause of the Empire show any tendency to be carried away by evil counsels, then it will be time, not to adopt miserable measures like the one that is before us now, but to devise measures of a gentle character, the object of which should be to prevent them from falling into wrong hands and to keep them in the path of duty and honour. However, the Committee go on to say:—

'Nevertheless if we thought it clear that the measures taken against the revolutionary movement under the Defence of India Act had so broken it that the possibility of the conspiracies being revived could be safely disregarded, we should say so.'

They could not say so. I do not quarrel with them for their not being able to say so. But they say, 'if we thought it clear'. They do not think it clear, but they do not say that it is clear that the measures taken against the revolutionary movement under the Defence of India Act have not broken that movement. They do not say so. They simply say that they are not clear that the measures taken against the revolutionary movement have so broken it. Well, it is for the Government to consider whether it is clear that the steps that have been taken under the Defence of India Act and also the other circumstances which have come into existence, whether the changes that the world has seen, that India has seen, and that the people of India expect that they are going to see, whether those changes and those circumstances will not bring about such a change in conditions as to make it impossible that the revolutionary movement should again have any life in this country. They say 'if they felt clear' that the possibility of the conspiracies being revived could be safely disregarded, they would not have recommended such legislation, and I submit, my Lord, that the Government and the Council should not shut out that possibility from their purview and therefore should hesitate to legislate.

'That is not our view, and it is on this footing that we report,' say the Committee. Well, I do not quarrel with the view of the Committee which they honestly believe to be their view. But the Committee may possibly have come to a wrong conclusion. It often happens, I mean no disrespect to the Committee when I submit that the path of those who have to deal with certain events and to advise as to those events is different from the path of the Statesmen who have to consider what measures should or should not be introduced in the country. Judges of the High Court may be very eminent men to express an opinion as to what alteration should or should not be made in the

law, but it is not for them to suggest policies ; their function is to decide cases and not to devise or suggest policies or legislation of so large, comprehensive and drastic a character as the one you have proposed.

“ With due deference to the Committee, therefore, I submit that they were wrong in recommending that this legislation should be undertaken, and think that they should have leaned more to the possibility of a happier alternative being realised rather than considered the other possibility was greater.

“ Then, my Lord, the next thing to which I shall invite attention in the report of the Committee is in paragraph 177. They have said clearly—‘ The measures which we shall submit are of two kinds, namely, *Punitive*, by which term we mean measures better to secure the conviction and punishment of offenders, and *Preventive*, i.e., measures to check the spread of conspiracy and the commission of crime. We may say at once that we do not expect very much from punitive measures.’

“ Now, my Lord, they say they do not expect very much from punitive measures. That being so, it was well that these punitive measures had not been suggested, but they are there and they rely upon the preventive measures. It is the preventive measures which they rely upon, and it is with these that the Council is at present dealing. Now, my Lord, what do the preventive measures recommend and what are the difficulties which the Committee felt confronted with in suggesting these remedies. I will invite attention to those difficulties. One great difficulty they have felt has been the want of evidence. In Chapter XVI they say, in paragraph 169 :—

‘ The main reason why it has not been possible by the ordinary machinery of the criminal law to convict and imprison on a larger scale those guilty of outrages and so put down crime is simply want of sufficient evidence.’

That is the conclusion they have arrived at. Now, my Lord, they refer to the cases in which this difficulty was felt. Now, if there is want of sufficient evidence, the right thing to do is to make provision for getting that evidence in a reasonable, just and proper way, and not by allowing evidence which by ages of tradition of British justice has been excluded as evidence. It is want of sufficient evidence which they are confronted with. Is it better that some persons who are guilty should escape or that many men should be exposed to the danger of their liberties, their honour being affected by a wrong piece of evidence being accepted. Evidence which has not hitherto been acceptable to British Courts should not become acceptable simply because a want of evidence has led to the acquittance or discharge of certain persons who are accused. This is not the only country where a number of persons who have been suspected of crime have been discharged or acquitted for want of evidence. There are other countries where this difficulty has been felt. The English lawyers and jurists have jealously guarded against any attacks upon the rules of evidence which constitute the best guarantee that justice, pure justice, shall be administered to every subject of His Majesty. Another difficulty which they have mentioned is the difficulty in establishing proof of possession of arms. They say :—‘ Where incriminating articles such as arms or documents are found, it is often hard to bring home the possession to any particular individuals. This occurs where the same premises are occupied jointly by undivided families, or even where a house or garden is used as a mess or meeting place for a number of youths.’

“ Now, my Lord, what is the remedy? They go on, and I will quote the portion that follows :—‘ The latter difficulty is illustrated by the following passages from the judgment of the Sessions Judge of Dacca in the Adabari arms affair :—

‘ I hold it safe to infer that there was a close connection between the young men seen running away and the arms found, and that the garden was used as a meeting place for young men banded together for an illegal purpose. I also think it safe to infer that the appellants were members of this band. But I do not think it safe to infer that every member of the band had control of the arms and ammunition concealed in the garden. Unless this inference can be drawn the charge against the appellants has not been established There is no evidence of the appellants being leading members of the band From Lakhau

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chankidar's evidence it appears that the teacher called Sarada was their captain, who used to teach them *lathi* play. For the reasons stated I hold that it had not been proved that the appellants had the revolvers and ammunition in their possession or under their control.'

That is a quotation from the judgment of the Sessions Judge of Dacca and then follows the following remarks by the Committee :—

'It is also true that evidence as to identity has in practice to be overwhelming. Having regard to the difficulties to which we have adverted, it is possible that the principle is a sound one. The same may perhaps be said of the feeling which seems to pervade these trials that there is but a slight presumption that a witness, however serious his testimony, is telling the truth. Indeed, even where a prisoner has confessed before a Magistrate in a way that makes his statement evidence under the Indian Evidence Act, it is common for his advocate at the trial formally and seriously to 'retract' the statement for him. This is treated as making some difference. Even this may be a sound practice. But if it is, it only shows how difficult it is to establish anything.'

"It may be difficult; it may be regrettable; it may be that some criminals will escape punishment; but, as the Committee have themselves observed, it is possible that the principle is a sound one, it is possible that this is a sound practice and it is proposed that this practice should be departed from, should be given up, and evidence should be admitted which has hitherto not been treated by English judges and jurists either in this country or in England as proper legal evidence. I submit, therefore, my Lord, that the recommendations of the Committee are not such that the Government are bound to accept them. They felt a difficulty, they did not feel clear that the state of things which would come into existence after the war would be sufficiently satisfactory to make it unnecessary for any special legislation to be continued. They did not feel clear about it. The Government might feel clearer. They have made the recommendations on the basis that possibly the other alternative might come into existence. But, I submit that there is very slender ground upon which to base proposals of the drastic character which have been presented to the Council to-day.

"Now, my Lord, let us examine these proposals in some detail. In Part I it is said that 'if the Governor General in Council is satisfied that scheduled offences are prevalent in the whole or any part of British India, and that it is expedient in the interests of the public safety to provide for the speedy trial of such offences, he may, by notification in the Gazette of India, make a declaration to that effect.' Now, I have submitted before that the attainment of a speedy trial is not a need sufficiently grave, sufficiently serious, sufficiently in the interests of justice and the public interests to justify the introduction of a measure the object of which is to curtail the length of trials. It is not a sufficient justification. Even under the special procedure that is proposed in this Bill a trial may be protracted for several months. There may be any number of witnesses called; there will be three High Court Judges sitting. They will not record the evidence *verbatim*, but still there will be three High Court Judges sitting, they will take time in examining witnesses, and as there will be no appeal, a person who has the misfortune to be accused will have to do all that he can to strain every nerve, to spend every pice that he has, in order to procure the most excellent counsel's aid, to defend himself. I am not at all sure, my Lord, I say it with confidence. I am not at all sure that really, in practice, the length of the trials will be shortened. It will be that there will not be trials in the ordinary course, first before the Magistrate, then before the Sessions Judge, then before the High Court. It will be so, and possibly some time may be saved. But I am not at all certain that the time saved will be at all commensurate or at all worthy of the consideration of being weighed in the scale against the danger of injustice to the accused. Besides, my Lord—I can understand that during the time of war, when there are possibilities of contagion spreading in the country, the Government might desire to have trials speeded up. That may be possible, but when we come to normal times, when the war has come to an end and when peace has been fully restored, I cannot understand why there should be this desire for speedy trials. I ask you, my Lord, to consider what it means. It may mean that while you are following your motor car

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procedure, there may be some poor innocent soul crushed under the weight of that car, under the speed of that car. To him it may be the end of his life, his liberty and everything he holds dear. It will be no consolation to the State, it will be no gain to the public interests, that a man's trial was finished in 2 months rather than in 6 or in one month rather than in 3; but it may mean the loss of everything that a man holds dear, and I would ask any Member of the Council how he would like to contemplate the matter if he found himself placed in that position. I submit let us not secure a speedy trial at the sacrifice of doing an irreparable injury to a fellow man.

"Besides, looking at it from another point of view, as I have said, if a single Joint Magistrate hears a case and makes a preliminary investigation, if the matter comes into the Sessions Court, many matters and much of the evidence is weeded out, and by the time the case comes before the Sessions Court, both the prosecution and the defence know where they stand. If the matter comes straight before such a tribunal as is contemplated, I am not at all certain that that will not involve longer delay, for the man knowing that he has no appeal from the judgment which that Court may pass, will be anxious to produce every possible evidence that he can and will have to summon all the witnesses that he can, and I therefore apprehend that the trial will not really be a speedy trial but that it will be prolonged.

"Now, my Lord, assuming that this condition for the application of Part I is found to exist, what follows? The Governor General in Council declares that certain scheduled offences are prevalent in the whole or any part of British India. I ask you, my Lord, seriously to ask yourself whether, after the war, it is likely that the offences which are mentioned in the Schedule or which it is proposed to put in the Schedule, are likely to prevail in the whole or any large part of British India? I submit that it is not likely. There may be spasmodic cases; there may be some few instances here and there of misguided young men or other people falling into wrong paths; but it is not likely that offences of this kind will prevail over a large area in any part of the country. Well, suppose that the Governor General is satisfied that such offences are prevalent in any part of the country, then what happens? In this country, my Lord, the Government has to take its information from the subordinate Government. The Governor General in Council is not directly in touch—except in very small parts of the country—perhaps with the local administration. The Local Governments are the Governments which must supply information to the Governor General as to whether scheduled offences are prevalent in the part of the country which is under them or not. The Local Governments must gather their information from the Police Department and from their subordinate officials. Now, my Lord, in this country we know what has happened in the past. While we deplore the evil tendencies which some young men have betrayed, while we deplore the crimes into which some young men have been betrayed, while we deplore the crimes that have been committed, we cannot forget that the Police has not a thoroughly clean record in this country, and the police, my Lord, have been guilty in the past of outrageous crimes which I do not want to refer at greater length. They have been brought to the notice of the Government in this Council, they have been brought to the notice of Parliament in England. Now, I do not want to say that those things will be repeated. I hope and pray they will not be; but is it right to shut out the possibility and to think that the police will always act in absolutely the right way, that there shall not sometimes be mischief created in order to show that in certain parts of the country certain crimes are prevalent? I do not say that it will be—I hope it will not be—but I beg the Government and the Council to remember the possibility of such ideas being circulated. And what will be the result? In that area, under clause 4 of the Bill,—

'Where the Local Government is of opinion that the trial of any person accused of a scheduled offence should be held in accordance with the provisions of this Part, it may order any officer of Government to prefer a written information to the Chief Justice against such person.'

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"Now, my Lord, the clause says 'where the Local Government is of opinion that the trial, etc., etc.' I ask you, my Lord, how is the Local Government to arrive at a decision? It must have the fullest evidence before it before it can come to a safe and satisfactory conclusion that a fellowman should be deprived of the safeguards of justice which the ordinary law provides. I should like to know how many members of the Government would like to take that responsibility upon themselves, and I should like further to ask that if, such cases should be numerous, is not the danger of their coming to wrong conclusions one which ought to be taken into account in dealing with this legislation? The Local Government being of opinion that the trial of any person accused of a scheduled offence should be held in accordance with the provisions of this part, it may order any officer of Government to prefer a written information to the Chief Justice against such person. What follows?"

'No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court, but, save as aforesaid, an order under that sub-section may be made in respect of any scheduled offence whether such offence was committed before or after the issue of the notification under section 3.'

"What follows, then, my Lord, is that this man is not given an opportunity before the Chief Justice to show cause why his case should not be tried under the special provisions herein referred to. He is not to be given that opportunity. His fate is sealed. The Local Government being of the opinion that he should be tried under the special provisions of this Bill any officer can give written information to the Chief Justice and the Chief Justice is powerless. The Chief Justice has not the power to ask the man to show cause why he should not be tried according to the ordinary law, or why he should be tried according to this law. The Chief Justice has no option; he must try the man according to the special provisions of this Bill.

"Now, my Lord, what is the material upon which this order is to be passed? Sub-clause (3) of clause 4 says:

'The information shall state the offence charged and so far as known the name, place of residence, and occupation of the accused.'

The Hon'ble Mr. A. P. Muddiman:—"I desire to draw your Excellency's attention to the fact that this debate is on a motion to refer the Bill to Select Committee, and the general principles of the Bill only should be discussed at this stage, but it seems to me that the Hon'ble Pandit is taking each clause separately."

The Hon'ble Pandit Madan Mohan Malaviya:—"May I explain, my Lord..."

His Excellency the President:—"You are not at liberty to discuss the details of the Bill."

The Hon'ble Pandit Madan Mohan Malaviya:—"I beg your pardon, my Lord. I want to explain the matter from my point of view for your Excellency's consideration."

His Excellency the President:—"There are certain rules and principles of debate which are usually observed on these occasions, and on this particular motion the principle of the Bill only is to be discussed, and then subsequently you will be able to discuss questions of detail. I think you are abusing the patience of the Council in pursuing any other course this afternoon."

The Hon'ble Pandit Madan Mohan Malaviya:—"My Lord, I am sorry that you think I am abusing the patience of this Council."

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I think I am doing my duty. I submit for your Excellency's consideration—I will stop if your Excellency wishes—that here is a Bill which it is proposed to refer to the Select Committee; a special procedure has been followed; I can only speak once on this motion; and I am giving all the reasons I can for saying why this proposal to refer the Bill to Select Committee should be defeated, should be dropped by the Council. I submit, my Lord, with great deference, that I am entitled to give every single reason that I can in support of my proposal; but if your Excellency thinks I should not, I will stop.....

The Hon'ble Mr. A. P. Muddiman :—“ I only meant to suggest that the Hon'ble Pandit was taking every individual provision and discussing it separately. I did not suggest that the general principles should not be discussed by the Hon'ble Member.”

His Excellency the President :—“ No one has suggested that the Hon'ble Member should not discuss the general principles of the Bill; but as the Hon'ble the Secretary to the Council pointed out, you are dealing with each particular provision of the Bill separately. I hope the Hon'ble Pandit will obey my ruling and discuss the principles and not the details of the Bill.”

The Hon'ble Pandit Madan Mohan Malaviya :—“ I bow to your Excellency's ruling. I shall refer to the provisions of the Bill only in so far as they involve a consideration of the principles. I shall do that and in doing so my reference to the provisions will be only for that purpose and to that extent.

Now, the next point —may I continue, my Lord?”

His Excellency the President :—“ Proceed.”

The Hon'ble Pandit Madan Mohan Malaviya :—“ The next point to which I would invite attention as another matter of principle involved is that referred to in section 6.

That section says :—

‘ The Court may sit for the whole or any part of a trial at such place or places in the province as it may consider desirable :

Provided that the Governor General in Council, if he is satisfied that such a course is expedient in the interests of justice, may, by notification in the Gazette of India, direct that the Court shall sit for the whole or any part of a trial at such place or places as he may specify in the notification.’

“ Now, I submit, my Lord, that one of the principles of British justice is that the trial of a person who is accused of a crime shall be held in open Court at a place which is open to the public, and I submit that this provision which gives power to the Court to decide that a trial shall be held in a particular place, is an infringement and violation of that principle. To that extent, I submit, it goes against the principle which is at present embodied in the Codes.

“ Then, my Lord, I come to another very important principle which is embodied in section 10. I should be very sorry if I should give the impression by any of my remarks that I am not fully respecting your Excellency's ruling. I am trying to limit myself to questions of principle, and I hope your Excellency will please take it from me that I have no wish to say one word more so far as the details are concerned, except in so far as they refer to principles. Now, my Lord, in section 10 it is said that :

‘ The Court shall be required to make a memorandum only of the substance of the evidence of each witness examined and, subject to the adjournment provided for by section 9, shall not be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice.’

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“ Now, my Lord, one of the most important principles relating to the recording of evidence has been that the exact words uttered by a man when he was arrested or by other men who were examined at a particular time should be before the Court. I have myself had the honour of practising the profession of law for many years, and I know, my Lord, how careful, how jealous the Court is in noting down the exact words which have been used by an accused person. This practice has been so strongly insisted on in the United Provinces that the record which is kept of the statement of an accused person, made in the vernacular, is looked into to find out exactly what he said. Sometimes a single word makes a great deal of difference; the insertion or omission of a word may lead to his being deprived of his liberty or to his being able to save his liberty. So I submit, my Lord, that this principle which is proposed to be introduced is dangerous. I submit, my Lord, that anybody who is charged with such serious offences as will be put into the schedule should have the opportunity of having every word of the statement which affects his life or liberty recorded. Now, my Lord, sometimes a trial takes months, sometimes it takes weeks. I have known some Judges who can carry a great deal in their heads of the evidence they have heard; but they can carry after all only a small amount. I do not think that any Judge will take it upon himself to say that he will be able to carry all the nice points that arise in evidence in a long trial in his head, and that, therefore, there is no danger of his being led into error by the exact language used by a witness or an accused person not being recorded by the Court. I submit that here is a departure of principle which is worthy of consideration.

“ Then, my Lord, I will not go into any more details, but there is one of a cardinal character, namely, that which is embodied in section 17. That section lays down that—

‘ The judgment of the Court shall be final and conclusive, and, notwithstanding the provisions of the Code or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of the Court, and no High Court shall have authority to revise any such order or sentence or to transfer any case from such Court’

“ I submit, my Lord, that this is a very grave departure in principle from the rules which have been hitherto laid down for the trial of offences, which enable a man to know what the charges are that are brought against him. Then the matter goes before either a Sessions Court or a High Court. There a judge or judges sit to hear and record the evidence and to come to a conclusion. We are all human beings, and judges also are liable to err like everyone else. It is possible that two or three or more judges sitting together to hear a case in the first instance may attach too much weight to certain evidence which they ought not to, and may not attach the weight to some other evidence that they ought to. If they are to try the case from the beginning they start with ideas relating to the accused from the beginning to the end; and there is the possibility. I do not say more, there is the possibility of their judgments not being correct. Where a man's life is concerned, where a man's honour or liberty is concerned, is it fair to deprive him of the opportunity of having his case considered by another tribunal, by another two judges who will be able to bring a more detached mind to a consideration of the circumstances? I submit this is a very great departure from the principles of justice which have hitherto been embodied in our Codes. Then, my Lord, another important thing is that one embodied in section 18. Now, the result of section 18 is that a statement which was hitherto not regarded as admissible in evidence will be regarded as admissible in evidence; and the condition imposed is this: where the statement of any person has been recorded by a Magistrate and such statement has been read over and explained to the person making it and has been signed by him, or the statement of any person has been recorded by the Court, but such person has not been cross-examined (at present this will not be admissible, my Lord, under the existing rules of evidence in the Evidence Act and of the best Codes that we have) such statement may be admitted in evidence by the Court if the person making the same is dead or

cannot be found or is incapable of giving evidence and the Court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused. I submit, my Lord, this is a very dangerous and novel principle introduced in the Bill. Hitherto, the Courts have insisted upon the accused having had an opportunity to cross-examine the man whose statement was to be used against him. If that opportunity was not available that statement was not used against the accused. Now, my Lord, it is urged that if the Court is of opinion that such death or disappearance or incapacity to give evidence has been caused in the interests of the accused—that, my Lord, as my friend Mr. Jinnah points out will create a case within a case and that lets in a great deal of danger and injustice being done if this novel principle is accepted. I can at least understand that under section 114 of the Evidence Act if evidence which should have been produced is not produced, there may be a presumption made against the person who does not produce it, or if the Court is satisfied that the accused had had a hand in the disappearance of this evidence it may make a presumption against him and it may take that into account; but I submit that to admit the statement of a man, who out of enmity or out of any other evil motive or under the influence of some enemy of the accused makes a statement is going too far, the person who got him to make that statement knows or suspects that it is not the true statement. Now if this man by any chance happens to die or is removed, and if some evidence is given which satisfies the Court that the man was removed in the interests of the accused person, the statement of that man becomes evidence. I submit, my Lord, it is a very great wrong which lurks there to the accused person; hitherto the Courts have stuck to the principle that the person against whom a piece of evidence is to be used must be given an opportunity of cross-examining the man who has made the statement against him, and this section proposes to depart from that principle. This is wrong.

“ Thus far I have dealt with Part I of the Bill. I will now go on to Part II. Now, my Lord, this is more dangerous than even Part I, and the principles, which are involved in it are such, my Lord, that I submit with great respect Government should not accept them and should reject them. These are preventive measures. ‘ If the Governor General in Council is satisfied that movements which are, in his opinion, likely to lead to the commission of offences against the State are being extensively promoted in the whole or any part of British India, he may by notification in the Gazette of India make a declaration to that effect, and thereupon the provisions of this part of the Bill shall come into effect in that area.’ Now, what does happen? If in the opinion of the Local Government there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of the nature referred to in section 20, the Local Government may by order in writing containing a declaration to that effect give all or any of the following directions, namely: Then follow the directions. I submit, my Lord, that this is a very dangerous provision. Hitherto the principle has been as it is reiterated in the Criminal Procedure Code, that if the Government has any reason to suspect that a man is concerned with offences and the evidence cannot be proved against him, there is a procedure provided to ask him to give security or to bind him over or to make investigations about it, and when material has been found to justify a prosecution being launched against him, to prosecute him. Hitherto it has been the judicial Magistrate who has been asked to deal with such cases; a complaint is made by the Superintendent of Police or the District Magistrate or by any private individual against a certain man; then the Code provides that the Magistrate shall call upon that man, that he shall record evidence and call upon the man to give evidence against it, and where there is ground to bind him over or to direct him to furnish security or some such thing. The Magistrate would deal with the case, in which case there is an opportunity for a revision against the order of the Magistrate by a higher authority. What is substituted for that is the opinion of the Local Government. Now, my Lord, I will give you one instance. Mr. Tilak was bound over to give security in a certain case a couple of years ago, or less than two years ago. The Magistrate asked him to give security. He appealed and had the order revised by the High Court. The High Court set aside that decision and let him free. Now, if this Act comes into force, if

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in the opinion of the Local Government any person is in that position the fate of that person would be sealed ; he will have no chance of going to the High Court. The Local Government's opinion is law ; it will have deprived him of liberty, locked him up without giving him a fair chance of having the matter tried in a judicial way. I submit, my Lord, that is a dangerous principle and ought to be eliminated from the Bill. The Bill bristles with principles of a very novel and dangerous character. What the Bill does is this : the Local Government has to express the opinion first that a man is of that character and thereupon that opinion being formed, the Local Government has to issue orders which under the existing Code a judicial authority would do. Having done that, the Local Government goes to the investigating authority and that investigating authority has to investigate the matter as to whether the Local Government's order is right or wrong. I submit, my Lord, that is putting the cart before the horse ; it is a preposterous procedure. The right thing to do is to give the man a chance before you shut him up ; here you shut him up, you pass that order, create a black mark against him and then constitute an investigating authority to consider. What is it to consider ? After the Local Government makes the order under section 21, such Government shall (it is imperative ; it is not left to the discretion of the Local Government) as soon as may be, forward to the investigating authority to be constituted under this Act their statement in writing setting forth plainly the grounds on which Government consider it necessary that the order should be made, and shall lay before the investigating authority all material facts and circumstances in its possession in support of its action.

“ Then, my Lord, the investigating authority shall hold an inquiry *in camera*. That is a departure from existing principles. It is said ‘ the investigating authority shall then hold an inquiry *in camera* for the purpose of ascertaining what, in its opinion, having regard to the facts and circumstances adduced by the Government, appears against the person in respect of whom the order has been made. Such authority shall in every case allow the person a reasonable opportunity of appearing before it at some stage of its proceedings and shall, if he so appears, explain to him the nature of the charge made against him and shall hear any explanation he may have to offer, and may make such further investigation (if any) as appears to such authority to be relevant and reasonable.’ The right thing is to let the matter go before a Magistrate or before a High Court Bench ; why should there be executive officers in place of judicial officers ? Is there not a danger of injustice being done when the Local Government arrives at conclusions on materials set before it ? This is a principle which is novel and ought to be discarded. Then, my Lord, there is another principle of a novel character which is incorporated in the first proviso which says that ‘ the investigating authority shall not disclose to the person whose case is before it any fact the communication of which might endanger the public safety or the safety of any individual.’ I submit that my liberty is all to me, and unless I am found to be unworthy my liberty must be protected. I submit that this is a wrong procedure. If a man is assaulted or accused, he has the right to know by whom and there is a danger of injustice being done if these facts are withheld. This is another case of the subversion of principles which have been always honoured in the United Kingdom and wherever British Courts have been established. The next sub-clause says ‘ subject to the provisions of sub-clause (2) the inquiry shall be conducted in such manner as the investigating authority considers best suited to elicit the facts of the case ; and in making the inquiry, such authority shall not be bound to observe the rules of the law of evidence.’ Now, your Excellency, as a member of the Bar you know what the rules of evidence are and how jealously judges have guarded against any attack upon these rules, and here the Bill lays down on behalf of Government that the investigating authority shall not be bound to observe the rules of the law of evidence. That is connected with the statement of the Rowlatt Committee that many persons were unpunished simply for want of sufficient evidence. If some persons went unpunished for want of sufficient evidence let them go unpunished, the world will suffer less by that than that one innocent person should be punished and deprived of his honour and liberty under a wrong procedure.

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This Bill wants to put this on the Statute-book. Now, my Lord, I come to the third part, the whole Bill is in progression, the second part is stiffer than the first part and the third part is stiffer than the second. Now in the third part it is said 'if the Governor General in Council is satisfied that scheduled offences have been or are being committed in the whole or any part of British India to such an extent as to endanger the public safety, he may by notification in the Gazette of India make a declaration to that effect and thereupon the provisions of this Part shall come into force in the area specified in the notification.' Then the next clause goes on 'where in the opinion of the Local Government there are reasonable grounds for believing that any person has been or is concerned in such area in any scheduled offence the Local Government may make in respect of such person any order authorised by section 21.' This is a plain and unvarnished attempt to substitute the executive for the judicial. I submit that is subversive of all principles of justice. How is the Local Government to decide whether any particular person has or has not been concerned in scheduled offences without giving him an opportunity of defending himself by the law as provided; no Local Government should be permitted to sit in judgment upon him in the manner proposed. Then the Bill goes on to say that the Local Government may order '(a) the arrest of any such person without warrant; (b) the confinement of any such person in such place and under such conditions and restrictions as it may specify; and (c) the search of any place specified in the order which, in the opinion of the Local Government, has been, is being or is about to be used by any such person for any purpose prejudicial to the public safety.' I submit that this is arming the Local Government with very great powers; the judicial and executive have been separate departments under British administration, let them continue so. You have claimed, and rightly claimed, a great deal of glory for your system of justice; do not, I pray you, touch that system in the manner in which it is proposed to touch it, let them stand separate; the constitution of England does not contemplate that any executive authority shall sit in judgment on any man or deprive him of his liberty or his honour; that function has been entrusted to the judicial Courts properly constituted. The Bill goes against that principle completely; this is in reality substituting the Local Government for the judicial Courts. The Bill next says 'the arrest of any person in pursuance of an order under clause (a) may be effected at any place where he may be found by any police-officer or by any other officer of Government to whom the order may be directed. Sub-clause (3) An order for confinement may be carried out by any officer of Government to whom the order may be directed and such officer may use any and every means to enforce the same.'

Clause 34 says :—

' Any person making an arrest in pursuance of an order under clause (a) of section 33 (1) shall forthwith report the fact to the Local Government and, pending receipt of the orders of the Local Government, may by order in writing commit any person so arrested to such custody as the Local Government may by general or special order specify in this behalf.'

" Now, my Lord, I am entitled, if I have erred, to have an opportunity of knowing where I have erred, and of defending myself. The Local Government issues an order and the man is not only arrested but is locked up in custody. I do not know, my Lord, how such a proposal has commended itself to any Member of this Council.

" At this late hour I shall not go into the details which are dealt with in the last part. Now I ask your Lordship to consider whether, in view of the very cautious way in which the Rowlatt Committee has put the case for legislation, in view of the fact that they have accepted one alternative which has been the unhappy and dark alternative, and that they have regarded the bright one, in view of all the changes that have happened and are going to happen, in view of the great part which India has played in the war, in view of the loyalty of the Princes and people of India which has been acknowledged in high quarters, I ask, my Lord, is this the time to introduce a measure of this kind?

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I would remind the Council of what the Government did in South Africa. In South Africa General Botha fought against His Majesty's Government in the Boer War. How did the Government treat him? They established self-government in South Africa and made friends with him, and in this great war the part which General Botha has played and the magnificent services which he has rendered have been acknowledged with gratitude by British Statesmen and the whole world has admired him. That, I submit, is the way to win people who are subjects of His Majesty who may be led into wrong paths; that is the way to win people by liberal administrative measures. Let race distinctions be obliterated; let the recommendations which have been made in your Lordship's and Mr. Montagu's Report be adopted with such further recommendations as have been made by public bodies and let the question of the Services be dealt with in the liberal manner in which it has been suggested in the Report. Let Commissions in the Army be thrown open to Indians. Let there be industries multiplied and encouraged. Let there be fresh courses of education and fresh careers provided to young men. Then there will be gratitude in the land; there will be satisfaction in the land; there will be contentment in the land, and we shall not hear any more of revolutionary crime. If there should be any crime still lurking anywhere, the way to deal with it will be a much gentler and a more parental way, and not the way which has been suggested here. For these reasons, Sir, I oppose the motion that this Bill should be referred to a Select Committee. I submit that the Bill should be dropped."

The Hon'ble Mr. K. V. Rangaswamy Ayyangar :—“ It is already high time, your Excellency. 5-50 P.M.

His Excellency the President :—“ You have 10 minutes Mr. Ayyangar.”

The Hon'ble Mr. K. V. Rangaswamy Ayyangar :—“ My Lord, we are very thankful to your Excellency for the toleration and forbearance with which you have heard the opinions of the opposite camp. Your Excellency went so far as to suspend all rules and allow the first two speakers 45 minutes and the third 150....”

His Excellency the President :—“ That is not the case, Mr. Ayyangar. Read your rules.”

The Hon'ble Mr. K. V. Rangaswamy Ayyangar :—“ My Lord, by objecting to a Bill like this a certain section of the press pronounces unjust judgment on us thus: ‘ Those who oppose the Bill lay themselves open to the obvious inference that they secretly sympathise with the rebel and the sedition-monger, and that only a wholesome regard for their own skins keeps them from openly throwing in their lot with these enemies of Indian Society ’. It was also regrettable that a responsible member of the Government gave vent to a similar sentiment some time ago. First of all, one should be devoid of any sense to seek the help of an assembly like this for the protection of the type of the individual who is sought to be tackled by this Bill. The absurdity of such a purpose should be apparent even to the least brained. Secondly, it is more the society that is the sufferer. It is the hands of the clock of their progress that are said to be set back. All the bad reputation is to the society, and it is the society that suffers from losses to person and property more than the members of the governing race. When all these should weigh with us to support any and every means to weed out the objectional elements, why should the whole of India without the wonted acrimonious party dissensions vehemently oppose these Bills? I should say that it is the result of the civilised century we live in and also due to the imbibing of the British spirit. Drunk deep in the methods of the British administration and assimilating the true spirit of justice, we cannot but oppose such a piece of legislation. Had a primitive Government three centuries ago

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commanded us to give them counsel as to how they should be guided in such a situation, unhesitatingly we would have advised them to resort to more imposing and summary forms of punishment that would at once go to the heart of the people and terrify them by these methods. As councillors of Timur and Nadir Shah we might have countenanced remedies of the most drastically deterrent character, such as burying the offender waist-deep in the market-place and causing him to be trampled upon by an elephant. But which is the Government that asks our assent? It is the Government that gives a place in the Cabinet to a Sinnfeiner, a Bolshevick and an open rebel. It is the Government with up-to-date liberal institutions and whose national pride lies in the best forms of the Government. We surely cannot give our counsel as a primitive ruler would expect us to give. The illustrious committee which has advised the Government to adopt such measures were furnished with at least a one-sided evidence to come to their conclusion. In the absence of even that evidence and with blanks and asterisks at our disposal, how could the Government really expect assent to this Bill from us. Further, we have seen how all the assurances that the Press Act and the Defence of India Act would be used only against controlling anarchism and enemy action, respectively, have been set at naught by the executive and how these Acts have been used to put a stop to political and constitutional activities. Many who supported these measures were said to have repented for their actions after it was too late.

“ When the recommendations of so many other Committees and Commissions await giving effect to, to hurry up the recommendations of the Sedition Committee, especially at a time when the Peace Conference is sitting now, displays disproportionate attaching of value to activities of mushroom growth. It gives a handle to the traducers that India is badly governed and it has to be kept down only by repression. It also gives edge to political agitation and a section hails it as then alone there will be the counter-effect of strong sentiments and alienation of feelings.

“ Now what is it that we are doing? Admitting the existence of political crimes, are the terms of reference and the actions of the Committee thereon correct? Are private crimes less dangerous than the political crimes? Will not the approvers in private crimes be harassed in the same way as those in public ones? Will not the Jury and the evidence be obsessed even in crimes of private character? The differentiation by the Government between the two crimes is quite blameworthy and deplorable. The action suggests that the one crime is more serious and unpardonable while the other is not so. And is there any parallel to these measures to be found anywhere in any of these civilised countries? What must we say of the unheard of provisions which deny to the political offender the right of appeal and those ordinary safeguards guaranteed to the merest cut-throat and the murderer? Is political crime more heinous, more deleterious to society than the worst crime against property and person, that it is proposed to create special and altogether arbitrary Courts and arm the executive with unheard of powers to deal with it? Why must one who simply exceeds the bounds of restrained expression be treated as if he had forfeited all the rights and privileges ensured to common criminals? Why is the Government so suspicious of the ordinary rules of procedure and of evidence that it is proposed to suspend the most wholesome of them in dealing with political offenders? The Bill also displays an exaggerated suspicion not only on the people, but also on the Judges and the Jury. If not, why should there be the powers to create special tribunals and dispense with the Jury. Criminals who commit crimes for private purposes may harm the Jury in the same way as those for public purposes; the same number of cases where assaults are made on the Judges and the Jury even in criminal trials other than political may be cited if required. Does the remedy of a civilised Government lie in giving a differential treatment to different crimes and in dispensing with the ordinary laws of the jurisprudence which is, perhaps, the only pride of the British Government? By all means improve the methods of detection so that their reasons and arguments for implicating an individual may stand the test of the ordinary proceedings

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and cross-examinations. Because a branch of the Police Department is unable to stand to a certain test then the proper way is to make the department more efficient. It is certainly not to reduce the test. I am reminded of a member of a depressed class petitioning to some of the Educational authorities to reduce the standard of test in the University examinations for the convenience of their class. No other parallel can be cited. To meet the inefficiency of the detecting branch or to hide their inaccuracies, laws unknown to jurisprudence are invented, established rules of evidence and the jury system are set at naught and a great encroachment on the liberty of the people is made.

“ I think economic trouble it is that has made this section desperate. I do not come to their defence and suggest that they cannot but be otherwise, but I say these Bills are a worse remedy. These only aim at the summary ways of sending them to the prison and unless the root cause which is the economic trouble is relieved, it would be very difficult to cope with the existing accommodation in the prisons and the increasing defiance of authority necessitated by economic strain.

“ With these few words I beg to oppose the Bill.”

The Council adjourned to Friday, the 7th February 1919, at 11 A.M.

A. P. MUDDIMAN,

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

DELHI ;

The 12th February, 1919.

APPENDIX A.

Telegraphic correspondence regarding the Resolution moved by the Hon'ble Khan Bahadur Mian Muhammad Shafi, C.I.E., and unanimously adopted by the Indian Legislative Council on 25th September, 1918.

Copy of a telegram from His Excellency the Viceroy, to the Right Hon'ble the Secretary of State for India, No. 14812, dated the 1st November, 1918.

Following Resolution carried unanimously in Imperial Legislative Council on 25th September last :—

“ This Council recommends to the Governor General in Council that the thanks and congratulations of this Council be conveyed to the Allied Armies now so successfully operating on the various fronts.”

Governor General of India in Council strongly recommends that necessary steps may be taken for communicating Resolution to Allied Governments if you see no objection. Papers will follow.

Extract paragraph 18 of Army Despatch No. 82, dated the 22nd November, 1918, to the Right Hon'ble the Secretary of State for India.

We forward an extract from the proceedings of the meeting of the Indian Legislative Council held on the 25th September 1918 containing the discussions on the Resolution moved by the Hon'ble Khan Bahadur Mian Muhammad Shafi on the subject of conveying the thanks and congratulations of the Council to the Allied Armies operating on the various fronts. (In continuation of His Excellency the Viceroy's telegram No. 14812, dated the 1st November 1918.)

Copy of a telegram from the Right Hon'ble the Secretary of State for India, to His Excellency the Viceroy, dated the 15th November, 1918.

Your telegram dated 1st November, 14812. Resolution Indian Legislative Council. His Majesty's Representatives at Paris, Rome, Washington, Havre, Lisbon, Corfu, Athens, Tokyo, have been instructed to inform respective Governments.

Copy of a telegram from the Right Hon'ble the Secretary of State for India, to His Excellency the Viceroy, dated the 23rd November, 1918.

My telegram dated 15th November. His Majesty's Representative at Athens sends following message. Translation *Begins* :—Greek Government beg Indian Legislative Council to accept their cordial thanks for kind message and desire to express their admiration for heroism shown throughout war by brave Indian troops. *Ends.*

Copy of a telegram from the Right Hon'ble the Secretary of State for India to His Excellency the Viceroy, dated the 29th November, 1918.

In continuation of my telegram, dated the 23rd November. War Office transmit following message : (1) From General Milne, Salonica. *Begins* :—On behalf of British Army in Balkans I thank Imperial Legislative Council of India for their message of thanks and congratulations which I have made known to troops under my command. *Ends.* (2) From Lord Cavan, Italy. *Begins* :—Will you please convey to Imperial Legislative Council of India sincere and grateful thanks of British troops in Italy for congratulations they have transmitted through you to the allied armies. *Ends.*

Copy of a telegram from the Right Hon'ble the Secretary of State for India, to His Excellency the Viceroy, dated the 4th December, 1918.

In continuation of my telegram, dated the 29th November. Foreign Office communicate message from Belgian Foreign Minister expressing warm thanks of Belgian Government for congratulatory telegram from Indian Legislative Council which has been communicated to Belgian Army.

Copy of a telegram from the Right Hon'ble the Secretary of State for India, to His Excellency the Viceroy, dated the 10th December, 1918.

In continuation of my telegram dated 4th December. Foreign Office communicate note from Japanese Ambassador acknowledging Resolutions of Indian Legislative Council and expressing grateful appreciation of Japanese Government of cordial sentiments thus manifested towards Japanese Army and Navy.

Copy of a telegram from the Right Hon'ble the Secretary of State for India, to His Excellency the Viceroy, dated the 13th December, 1918.

In continuation of my telegram, dated 10th December. Foreign Office communicate despatch from British Ambassador at Rome asking that thanks of Italian Government may be conveyed to Indian Legislative Council.
