

10th February, 1925

**THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)**

**SECOND SESSION
OF THE
SECOND LEGISLATIVE ASSEMBLY, 1925**



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LEGISLATIVE ASSEMBLY.

Tuesday, 10th February, 1925.

The Assembly met in the Assembly Chamber at Eleven of the Clock
Mr. President in the Chair.

QUESTIONS AND ANSWERS.

DEPORTATION OF HAFIZ SAID AHMED FROM BALUCHISTAN.

828. ***Mr. C. S. Ranga Iyer:** (a) Is it a fact that Hafiz Said Ahmed a resident of Jullundur was the Imam and Mutwali of the Juma Mosque of Quetta since 1888?

(b) Is it a fact that he was nominated a member of the Quetta Municipality for over ten years and was a guest at the Coronation Durbar, Delhi, in 1911, and represented the Muhammadan community?

(c) Is it a fact that the Hafiz owned considerable landed property and occupied a respectable position in Quetta?

(d) Is it a fact that the Baluchistan Government granted a Jagir of Rs. 50 per annum for the life time of the Hafiz?

(e) Is it a fact that on the 5th May, 1924, he was turned out of Baluchistan escorted by a Sub-Inspector of the C. I. D. without giving him any chance to see his friends and relatives and making any arrangements for his journey?

(f) Will the Government give reasons for the deportation of the Hafiz?

(g) Will the Government be pleased to state if any order was issued for the deportation of the Hafiz? If "Yes," what is the text of the order? If "No," is the Hafiz permitted to return?

Mr. Denys Bray: The information is being obtained from the local Administration and will be furnished to the Honourable Member in due course.

WITHDRAWAL OF THE CONCESSION OF INCREASED PAY TO CLERKS AND SUPERINTENDENTS OF THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES, TRANSFERRED FROM CALCUTTA TO DELHI.

829. ***Mr. T. C. Gorwami:** (a) Is it a fact that, when a certain number of clerks and Superintendents in the Office of the Accountant General of Central Revenues were transferred from Calcutta to Delhi, with the removal of the office in the year 1921, they were clearly given to understand that they would, in consideration of the transfer, receive 25 per cent. in excess of the normal salaries; and, further, is it a fact that the Auditor General (Sir Frederic Gauntlett) admits that this increase was with a view to induce an adequate number to leave Calcutta.

(b) Is it a fact that this concession has recently been withdrawn, on the ostensible ground that the Main Office has now been removed to Delhi?

(c) Is it a fact that these (or some of these) clerks sought to memorialise the Governor General through the Auditor General and the Deputy Accountant General of Central Revenues, and that these memorials were withheld under Rule 11 (4) of the Memorial Rules? Is it a fact that the Rule does not apply to Government servants and relates to petitions "for employment from a person not in the service of Government"? If so, why were the memorials withheld?

(d) Will these clerks, in the alternative, receive the benefit of the additional "personal pay" and bonus sanctioned for the Main Office?

The Honourable Sir Basil Blackett: The information required by the Honourable Member is being obtained and will be supplied to him in due course.

AIKING OF GRIEVANCES OF GOVERNMENT EMPLOYEES THROUGH MEMBERS OF THE INDIAN LEGISLATURE.

830. ***Mr. T. O. Goswami:** (a) Will Government please state how many, and which, Departments still continue to keep in force circulars to the effect that Government employees should not approach Members of the Legislature in connection with their grievances? Are all these circulars more or less in the same terms?

(b) Will Government please lay on the table a copy of such a circular?

The Honourable Sir Alexander Muddiman: (a) Only one circular was issued on the subject. The circular merely warns the members of the Secretariat establishments against the breaking of rule 17 of the Government Servants Conduct Rules. The rule applies to all Departments.

(b) A copy of the circular was laid on the table of the Assembly in September, 1922, and the Honourable Member will find it printed at page 141 of Volume VIII No. 3 of the Assembly Debates for September 1922.

Mr. Devaki Prasad Sinha: What is the reason for issuing that circular?

The Honourable Sir Alexander Muddiman: The reason for issuing that circular is to prevent a breach of the rule.

Diwan Bahadur T. Rangachariar: May I ask the Government, Sir, whether they would reconsider that circular?

The Honourable Sir Alexander Muddiman: No, Sir, I have no intention of reconsidering the circular.

Mr. N. M. Joshi: May I ask whether this rule applies only to subordinates and not to men in the superior services who are able to approach Members of Parliament?

The Honourable Sir Alexander Muddiman: The rule applies to all Government servants as I have indicated.

Diwan Bahadur T. Rangachariar: Have the Government applied the order to the person who furnished the O'Donnell Circular to the press?

The Honourable Sir Alexander Muddiman: I have no information on the point.

Diwan Bahadur M. Ramachandra Rao: Does this rule include the members of the Indian Civil Service?

The Honourable Sir Alexander Muddiman: The members of the Indian Civil Service are Government servants and it applies to all Government servants.

ABOLITION OF THE POSTS OF DEPUTY POSTMASTERS GENERAL.

891. ***Maulvi Muhammad Yakub:** (a) Will the Government be pleased to state the duties and functions of the Deputy Postmasters-General?

(b) Do the Government propose to abolish the post of Deputy Postmasters General in the interest of economy?

Sir Geoffrey Clarke: (a) Deputy Postmasters General are attached to the larger Postal Circles to relieve the Postmasters General of immediate control over certain branches of work and to enable them to devote sufficient time and attention to the more important matters of administration. Officers also designated Deputy Postmaster General are placed in charge of Railway Mail Service or small Postal Circles, for the whole administration of which they are responsible.

(b) No.

ABOLITION OF THE POST OF SUPERINTENDENT OF INVESTIGATION IN THE POSTAL DEPARTMENT.

892. ***Maulvi Muhammad Yakub:** Is it really a fact that the investigation work in the Postal department is particularly done by the Inspectors and not by the Superintendent of Investigation? Do the Government propose to abolish the post of the Superintendent of Investigation?

Sir Geoffrey Clarke: In the Post Office there is no such appointment as "Superintendent of Investigation". A Superintendent of Post Offices is in charge of a Postal Division and is assisted in investigation as well as in general work by Inspectors of Post Offices.

HARDSHIPS OF SORTERS IN THE RAILWAY MAIL SERVICE.

893. ***Maulvi Muhammad Yakub:** Are the Government aware that the sorters of the R. M. S. are liable to be called to duty during the time of their rest, much to the detriment of their health and convenience? Do the Government propose to take necessary steps to remedy this hardship?

Sir Geoffrey Clarke: The sorters of the R. M. S. are liable to be called out for duty during their rest and they are paid an allowance to compensate them for the inconvenience caused to them. Steps are being taken with a view to increasing the leave reserve which will reduce to a great extent the chances of the men being thus called out for duty during their period of rest.

GRANT OF OUT-STATION ALLOWANCE TO SORTERS OF THE RAILWAY MAIL SERVICE.

894. ***Maulvi Muhammad Yakub:** Are the Government aware that there is a great deal of heart-burning and dissatisfaction amongst the sorters of the R. M. S. on account of the out-station allowance not being sanctioned for them? Do the Government propose to take steps in order to pacify them?

The Honourable Sir Bhupendra Nath Mitra: Representations have been received for the grant of out-station allowances. Government are not prepared to entertain the proposals.

ABOLITION OF THE POST OF MAIL SUPERINTENDENT.

835. ***Maulvi Muhammad Yakub:** Is it not a fact that the Mail arrangements are made at the initiative and by the personal knowledge of the Inspectors of the Mail? Under the circumstances do the Government propose to abolish the post of the Mail Superintendent?

Sir Geoffrey Clarke: There are no such appointments as "Inspectors of the Mail" or "Mail Superintendents". Mail arrangements in Postal and Railway Mail Service Divisions are made, respectively, by the Superintendents of Post Offices and Superintendents, Railway Mail Service, in charge of the Divisions. They are assisted in that as well as in other work by Inspectors.

PROVISION OF QUARTERS FOR SORTERS AND CLERKS OF THE RAILWAY MAIL SERVICE.

836. ***Maulvi Muhammad Yakub:** Are the Government aware that the sorters and the clerks of the R. M. S. are put to great inconvenience on account of not having residential quarters? Do the Government propose to provide residential quarters for the clerks mentioned above?

Sir Geoffrey Clarke: Government are not aware that any such general inconvenience exists. In certain places there is a difficulty in obtaining houses and in some of these quarters for Railway Mail Service sorters have already been provided and in others the provision of quarters is under consideration.

HOLIDAYS OF SORTERS AND CLERKS IN THE RAILWAY MAIL SERVICE.

837. ***Maulvi Muhammad Yakub:** Are the Government aware that the R. M. S. sorters and clerks are deprived of all sorts of holidays even on the days of their most important religious festivals? Do the Government propose to make some such arrangements that they may be able to avail themselves at least of some important holidays on the occasion of religious festivals?

The Honourable Sir Bhupendra Nath Mitra: It is not possible to give sorters, who work on running trains, days off on Post Office holidays, nor is it in the opinion of Government necessary to do so. These men generally get one or two days' rest between trips and are not badly off in the matter of holidays, in comparison with other Post Office officials. Sorters and clerks attached to offices of Superintendents R. M. S. and stationary R. M. S. offices are allowed Post Office holidays in rotation.

DEPORTATION OF HAFIZ SAID AHMED FROM BALUCHISTAN.

838. ***Lala Hans Raj:** 1. Is it a fact that Hafiz Said Ahmed a resident of Jullundur was the Imam and Mutwali of the Juma Mosque of Quetta since 1888.

2. Is it a fact that he was nominated a member of the Quetta Municipality for over ten years and was a guest at the Coronation Durbar, Delhi, in 1911 and represented the Muhammadan community.

3. Is it a fact that the Hafiz owned considerable landed property and occupied a respectable position in Quetta.

4. Is it a fact that the Baluchistan Government granted a Jagir of Rs. 50 per annum for the life time of the Hafiz.

5. Is it a fact that on the 4th May 1924 he was turned out of Baluchistan escorted by a Sub-Inspector of the C. I. D. without giving him any chance to see his friends and relatives and making any arrangements for his journey.

6. Will the Government give reasons for the deportation of the Hafiz.

7. How is it that no action was taken on his application to the Superintendent, Police, Political Agent and A. G. G., dated the 23rd May, 16th July and 18th August 1924, respectively, and why no copies were given to him, when he had applied for them.

8. What action do the Government propose to take against the public servants responsible for the deportation of the Hafiz? Is it a fact that he was not deported by the Baluchistan authorities?

Mr. Denys Bray: The information is being obtained from the local Administration and will be furnished to the Honourable Member in due course.

GRANT OF INCREASED PENSIONS TO OFFICERS OF THE SUPERIOR SERVICES, WHO RETIRED PRIOR TO THE 23RD JULY 1913.

839. ***Colonel J. D. Crawford:** Will Government be pleased to state whether it is their intention to address the Secretary of State on behalf of those officers of the Superior Civil Services (other than the Indian Civil Service), Indian and European, who retired prior to July 23rd, 1913, with a view to granting them similar rates of pension as have been granted to officers of the same Services retiring subsequently to the above date, *vide* Government of India Finance Department Resolution No. 1085-E.A., dated 15th November 1919, published in Supplement to the Gazette of India of same date; if not, will Government be pleased to state the reasons for the grant of increased pensions to the officers of those Services retiring subsequent to July 23rd, 1913, and the reason for the exclusion of those who retired prior to that date.

The Honourable Sir Basil Blackett: The answer to the first part of the Honourable Member's question is in the negative.

As regards the rest, the revised rates were applied retrospectively to officers who retired after the 23rd July, 1913, because a pledge to that effect had been given in an official letter of that date. It was only in order to redeem this promise that the practice of not giving retrospective effect to increases of pay or pension was modified in this case.

Colonel J. D. Crawford: Are the Government aware that Lord Hardinge has recently written to the memorialists stating that he fully intended that the concessions given in July 1913 should apply to all?

The Honourable Sir Basil Blackett: My attention has not been drawn to that fact.

EMPLOYMENT OF COTTON EXPERTS UNDER THE INDIAN CENTRAL COTTON COMMITTEE.

840. ***Mr. Jamnadas M. Mehta:** (1) Has the attention of Government been drawn to the statement recently made by the Vice-President, Indian Central Cotton Committee regarding the dearth of qualified Indian scientists and cotton experts?

(2) Are Government aware that there are many Indians with high European and American qualifications in chemistry and other sciences?

(3) What is the proportion of European scientists and experts and Indian scientists and experts at present serving under the Indian Central Cotton Committee and Provincial Committees?

(4) What policy do these Committees follow in making such appointments?

Mr. J. W. Bhore: (1) Yes.

(2) The Vice-President of the Indian Central Cotton Committee doubtless referred to the Committee's difficulty in obtaining a cotton research Botanist with special qualifications. The post was advertised twice in India and twice in England and has not yet been filled.

The difficulty experienced by the Committee is not an uncommon one. Indian science students who go abroad rarely take up plant-breeding or special cotton research, but either take the degree course of a University or specialise in purely laboratory work. As a result it has been found difficult just at present to get men qualified to initiate and carry out practical investigations in the field in plant-breeding, plant diseases or plant physiology.

(3) If the Secretary, who is appointed by the Government of India, and Mr. and Mrs. Howard, whose services have been lent by the Government of India, are included, the number of European experts is five. Excluding these three officers of the Indian Agricultural Service and including only experts appointed by the Committee the number of Europeans is two. The total number of Indian scientists and experts paid from the funds of the Committee at present is thirty-four. A further twelve posts, which are being advertised in India only, will be filled during the next few months.

(4) It will be obvious from the answer to (3) that the policy of the Committee is to appoint qualified Indians where obtainable. Their Research Studentship scheme, which has now been working for about eighteen months, is directly designed to provide Indian science graduates with better opportunities of obtaining a practical knowledge of scientific research methods as applied to the improvement of cotton growing.

Mr. V. J. Patel: What is the Honourable Member's ground for stating that it applies to Botanists only with reference to the second part of the answer?

Mr. J. W. Bhore: That is my impression, Sir. I have not been able to find that it applies to anything else.

Mr. V. J. Patel: Will the Honourable Member find out whether it does apply to Botanists only?

Mr. J. W. Bhore: I will certainly find that out.

UNSTARRED QUESTIONS AND ANSWERS.

Haj Pilgrim Traffic.

127. **Maulvi Mohammad Shafee:** Will the Government be pleased to place on the table a copy of the letter of the Government of Bombay, No. 2896, dated the 11th April 1913, with regard to the proposals relating to the conduct of the Haj pilgrim traffic, sent to the Government of India?

Mr. J. W. Shore: The Honourable Member is referred to the Department of Education Notification No. 886, dated the 20th May 1913, which appeared on pages 518-524 of Part I of the Gazette of India dated the 24th May 1913.

Haj Pilgrim Traffic.

128. **Maulvi Mohammad Shafee:** Will the Government be pleased to place on the table a copy of the letter of the Government of Bombay to the Government of India, Department of Education No. 3007, dated the 21st April 1914 together with the notes of the informal conference held on 31st July 1913 at the Council Hall in Poona for the purpose of considering the proposals in connection with the Haj pilgrimage formulated in the Bombay Government's letter to the Government of India No. 2896, dated 11th April 1913?

Mr. J. W. Shore: The Honourable Member is referred to the Department of Education Notification No. 1263, dated the 4th July 1914, which appeared on pages 1193-1220 of Part I of the Gazette of India, dated the 4th July 1914.

THE SPECIAL LAWS REPEAL BILL—*contd.*

Mr. President: The Assembly will now resume consideration of the motion by Mr. Patel moved on the 3rd February:

"That the Bill to repeal certain special enactments supplementing the ordinary criminal law, be taken into consideration."

Mr. W. F. Hudson (Bombay: Nominated Official): Sir, the House will recollect that when this debate was adjourned last week Mr. Patel was unfortunately only about half way through one of his characteristic speeches. Perhaps I ought to say his characteristic speech, for I have observed that whatever the subject matter of the debate may be, Mr. Patel always manages to do and say the same thing. He stands there like a prophet of old, denouncing the misdeeds of a tyrannical Government and warning them of the wrath to come if they do not mend their ways and turn to him for political counsel and advice; and I have also noticed that if the Front Bench refuses to look as dejected as men in such a perilous position ought to look, he thumps the desk in front of him, hoping thereby to lend to his arguments point and force which perhaps to the cynical observer they appear sometimes to lack. He was doing that for a good twenty minutes last Tuesday, when, if you remember, it was gently conveyed to him, not by a cowering Treasury Bench, but by some of his unsympathetic friends around him that, much as they liked his talk, they liked their tea better and meant to have it; and so we went home, knowing of course that Mr. Patel had not changed his views on the subject of Government, but knowing very little about the Bill,

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and less about the reasons why he had brought it forward, and still less about the kind of harm he thought had occurred, or was likely to occur, from the laws which he was proposing to repeal. Well, Sir, we have had the fire-works and we have enjoyed them. Now let us turn from bomb factories and round-table conferences and the fate of the next budget, and the other fascinating subjects which Mr. Patel dilated on in his speech, and let us come down to the Bill itself. It seems to me, on looking at it, that, short as it is, it is uncommonly like a massacre of the innocents, (Laughter) and I can well imagine Mr. Patel, as he put the finishing touches to the Schedule, chuckling to himself and saying "six at a blow!" I do not use the phrase the massacre of the innocents in quite the usual sense, because, as you will remember, the original innocents who were murdered by a frightened tyrant were babes of tender years, whereas the victims on this occasion have most of them reached a ripe old age in the service of the State. In fact so venerable are some of them, that one almost wonders that any one, even a prophet, should dare to lay hands upon them. The one in which I am specially interested, Bombay Regulation XXV of 1827, although the youngest of the three Regulations, has passed its 98th birthday, and it seems to me almost a pathetic circumstance that Mr. Patel, himself a Bombay man, should be proposing to strangle it, in its beautiful old age, just before it has attained to the dignity of its centenary. (Laughter). Sir, the Statement of Objects and Reasons says that the Indian Penal Code was not on the Statute-book when the Bengal, Madras and Bombay Regulations were enacted, and presumably the inference we are supposed to draw from that rather obvious fact is that, once the Indian Penal Code was passed, nothing further was or could be necessary. Now, Sir, I never can understand the rather slavish admiration which the Indian Penal Code appears to elicit now-a-days. Of course every one will admit that it is a very useful and handy piece of work, a practical Code which has made the administration of justice, by inexperienced magistrates and a not too learned bar, fairly efficient, but I am sure none of the eminent authors of the Indian Penal Code would ever have claimed for it that it had the sanctity of the Shastras or the finality of the Ten Commandments. It seems to me a complete *non sequitur* to say that because a certain provision of law is not to be found in the Indian Penal Code, therefore there can be no necessity for it, and I desire to put in a word for the continuance of the Bombay Regulation, which is one of the innocents which it is now proposed to slaughter. I call it an innocent advisedly, in spite of its hoary old age, because it is a perfectly harmless Regulation, which is only used under very special circumstances, and which when used against any one, is almost invariably the means of saving him from something a good deal more unpleasant. I do not know whether any one here has ever read Bombay Regulation XXV of 1827. I have been helping to administer the law in the Bombay Presidency for more than 25 years, and I confess that till last week, as far as I can remember, I had never read this Regulation. But I should like to enlighten the House as to the nature of this dangerous and repressive measure. This is the Preamble (I am not going to read the whole Regulation, so do not let any one be nervous):

"Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may

not be sufficient ground to institute any judicial proceedings, or when such proceedings may not be adapted to the nature of the case, or may for other reasons be inadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the measures adopted should emanate immediately from the Governor in Council; . . . the following rules have therefore been enacted :—

and the rules go on to say that, first of all, the warrant of commitment must be signed and issued by the Governor in Council. Then the Governor in Council (such is the solicitude for the State prisoner) has to fix a personal allowance for the prisoner, and every six months the officer in charge and the District Magistrate have to report to the Local Government on the health and treatment of the prisoner. Now, Sir, I do not know if any one has ever seen a State prisoner in Bombay. They are very rare birds indeed. And here I should like to point out that a State prisoner under this Regulation does not ordinarily mean a man who has committed an offence against the State in the sense in which that phrase is used in Chapter VI of the Indian Penal Code. The Statement of Objects and Reasons remarks that the ordinary criminal law is sufficient to deal with persons convicted of offences against the State, and that certainly seems to suggest that the Honourable Mover believes that this Regulation is primarily directed against those who are guilty of sedition or criminal conspiracy, or waging war against the King. But such is emphatically not the case. In the last 11 years in the Bombay Presidency there have been only two men incarcerated under this Regulation, both of whom had nothing to do with sedition. One of these men I knew personally for years, and, after hearing the story of his case, I think he was certainly one of the most fortunate men in India. He was not an Indian British subject at all, and he was not incarcerated for any of these offences of sedition or crimes against the State. He had been implicated in a particularly horrible murder, and although for reasons of State it was not desirable to bring him to trial in the ordinary way, it was certainly desirable to incarcerate him for a considerable period so as to discourage other people from repeating his crime. The Bombay Government accordingly appointed a special commission to try him, and when his guilt was established, the Governor in Council issued a warrant under Regulation XXV, (the one Mr. Patel proposes to repeal) and he is detained in a central prison in the pleasantest climate in the Presidency. He has no work to do, and is allowed all the privileges of a first class misdemeanant. Every three months the District Magistrate interviews him and politely inquires as to his health, and every six months the same officer submits a detailed report as to his condition to the Local Government. If it had not been for Regulation XXV, the Bombay Government would either have had to wink at an atrocious crime, or in the alternative to raise a serious political issue; and the result would probably have been that the man in question would have gone to the gallows or to the Andamans. That was the only case in the Bombay Presidency in the last 11 years, and the House may rest assured that this Regulation is only used in very exceptional circumstances. Of course no one likes what is called "special legislation", but in an extraordinary country like India where special circumstances continually arise, to meet such a case a Regulation of this sort, which was enacted nearly 100 years ago, is decidedly necessary, and I trust the House will think twice before it repeals it.

Now I come to the youngest of the innocents, the Prevention of Seditious Meetings Act, 1911. If Honourable Members will take the trouble to read this Act, they will see that it is so full of safeguards against hasty or ill-judged action, that at first sight it appears to contain more safeguards than

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prohibitions or penalties. The Act was extended by the Governor General in Council to the Province of Sind, the part of India from which I come, in the year 1919, eight years after it had been put on the Statute-book. I may say that this Act first of all has to be extended by the Governor General in Council, and even then it does not come into operation until the Local Government, with the previous sanction of the Governor General in Council, has applied it by notification in the Gazette to any particular district. That notification only lasts for six months, and can then only be revived with the previous sanction of the Governor General in Council. The safeguards are therefore obviously adequate against any ill-judged action. This Act was extended to Sind by the Governor General in 1919, but it was not found necessary for the Local Government to proclaim any area, so that it never really came into operation for a single day. The political situation improved so rapidly after the extension that there was no need for any further action, and there can be no doubt that the mere extension had a sobering effect. At the present moment there is not a single district either in Sind or in the whole of India, nor has there been for some years, where this Act is in operation; and if Honourable Members say, "very well, if these Acts are dead-letters, then why don't you let them die?" The answer is a very simple one. No one can say in these days when a serious emergency is likely to arise, and if Government could count on this House immediately and readily coming to their aid with emergency legislation, then these special laws might be allowed to disappear. Unfortunately, Sir, that is not at present the case. (*Voices*: "Why do you say so? How do you know?") I will explain if Honourable Members will give me a chance. Only last Thursday in the Bengal Ordinance Debate the House showed clearly that amongst its many gifts of statesmanship there is not yet to be reckoned the capacity to recognise and appreciate an emergency when it arises, or the readiness to deal with it adequately. And until those gaps in our political wisdom have been filled I am afraid that these laws must remain on the Statute-book. Sir, I oppose the motion.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadian Urban): Sir, after the very humorous defence of my Honourable friend of the Regulations, it requires only some little courage to stand up to support the motion of my Honourable friend in principle. Sir, it is not without some difference that I stand to move the motion which stands in my name, namely:

"That the Bill be referred to a Select Committee."

The difference arises out of the fact that like the proverbial peace-maker I may come to grief between two opposing, irreconcilable, impatient forces. On the one side, on my left here is Mr. Patel with his mandated majority thirsting to place on the Statute-book this Bill which has long been overdue in some respects. On the other side, there is the Honourable the Home Member, probably in the confidence of his entrenchment behind the Council of State, showing an implacable opposition to this measure. Sir, if it had been a Resolution moved by my Honourable friend and not a piece of legislation which he was attempting, I should have given my whole hearted and warm support to the motion in its entirety. But we are now acting, we are not merely recommending. In legislating on a subject we have to pause and consider what the effect of the legislation is likely to be. We should not easily give a handle to the Council of elderly statesmen to turn down our proposals and give them

apparent plausible excuse for such a course. That is my anxiety in coming forward with this motion that this Bill be referred to a Select Committee. I ask Honourable Members to realise the necessary implications of the Bill as it is if it is carried in its entirety. I wish to call attention to the simple nature of the measure; simple as it looks the implications arising thereout are rather serious. I wish to draw particular attention to the Punjab Murderous Outrages Act of 1867, which, for some reason I cannot understand, my Honourable friend Mr. Patel has chosen to include in his Schedule. Having been, Sir, on the Frontier and having had to examine these laws in some detail, I am rather staggered at the proposal made by my Honourable friend Mr. Patel when he wants to repeal the Punjab Murderous Outrages Act altogether. That Act, as Honourable Members perhaps are aware, had been applied only to six districts when the North-West Frontier districts formed part of the Punjab, namely, the border districts. Now, that Act, if I remember aright—I am subject to correction by the Home Department in that matter—so far as the Punjab is concerned, is in force only in the border district of Dera Gazi Khan. The other five districts which formed part of the Punjab since their formation into a separate province are governed by Regulation IV of 1901 which applies to the North-West Frontier Province, and it copies more or less word for word this Punjab Murderous Outrages Act. The operation of that Act is confined entirely to fanatics and I do not think any words are needed to remind Honourable Members of the existence of fanatics in the frontier tracts. They come from across; they live also in the province. They are a dangerous people. We need only recall the recent outrages in Kohat to recall to our minds what can be done by these fanatics. That Act provides trial for offenders or would-be offenders. The offences referred to are murders or attempts to murder by these fanatics. That Act provides for the speedy judicial trial of these people by competent judicial officers assisted by assessors. Only it provides for speedy trial in such cases. That Act also provides for putting such fanatic people out of harm's way. Sir, probably my Honourable friend Mr. Patel was led to include that in this Schedule by the existence of section 12 of that Act which makes a reference to the Bengal State Prisoners Regulation. That may be the reason why he has chosen to include that Act in the Schedule. I may mention to Honourable Members that in the numerous Acts and Regulations dealt with by the Repressive Laws Committee this is not one of the Acts included or considered. I may also remind Honourable Members that when the discussion took place last March in this Assembly on my friend Mr. Amar Nath's motion to repeal the repressive laws, this Act was not one of the Acts mentioned, and therefore if we repeal this Act, if we take away this instrument, in my opinion a wholesome instrument, from the hands of the executive, I cannot imagine what the state of affairs is likely to be. I therefore earnestly appeal to the House not to readily yield to the motion that the whole Bill be passed into law at once. It is a matter which requires serious consideration. I said that to my knowledge that Act is only in force in Dera Gazi Khan and in the Punjab. I have a hazy recollection that that Act was also applied to the tribe known as the Babar Akalis. But whether it was extended to any district outside Dera Gazi Khan, I am unable to say. I have been unable to trace that information. Recently, the Act was applied in other cases also. I do not know whether it has not been withdrawn since. But it is intended only for a special purpose, namely, for dealing with special cases of these fanatics who live both inside and outside the border. Therefore, it will be

[Diwan Bahadur T. Rangachariar.]
a dangerous step on our part to repeal the Act at once. Another matter to which I wish to draw the attention of the House and the serious attention of my Honourable friend on this side is: Is the country wholeheartedly in favour of the repeal of the Regulations so far as people who are not subjects of His Majesty inside the country are concerned? I do not know that the country demands that the Executive Government should have no power to deal with the aliens inside the land who may be creating trouble. Supposing, for instance, a Russian or a German comes into the country in the shape of a tourist and tries to create trouble inside our borders and also tries to disestablish our Government, is it the intention of my Honourable non-official friends that the Executive should have no power to deal with them?

Pandit Motilal Nehru (Cities of the United Provinces: Non-Muhammadan Urban): Yes; unless it is given that power by the Legislature and we can do that as occasion arises.

Diwan Bahadur T. Rangachariar: Now, the same Regulation unfortunately deals with both classes of cases. At the time when this Regulation was passed, the internal situation of the country was undoubtedly such that, if the British Government wanted to establish themselves, they should have armed themselves with this power. But, now, things have changed considerably, and the subjects of His Majesty should not be dealt with in that light-hearted fashion in which my Honourable friend Mr. Hudson would like to have them dealt with. I wish he were dealt with under these Regulations. If we had the power, we would not deal with him in that fashion. But, not having been dealt with in that fashion, he does not feel the force of public opinion behind this request that these Regulations which are archaic and unsuited to British methods and British instincts, should be repealed. Whether they should be repealed wholesale is a matter for our serious consideration. Whether those Regulations, which apply not only to aliens who create trouble, or to cases where persons create trouble for Indian States and live within our borders, but also in the same way deal with the subjects of His Majesty so far as internal commotion is concerned, should remain is a matter which requires deep consideration. The Repressive Laws Committee in making their report have made a reservation in that behalf. They have recommended the repeal of the Regulations so far as the subjects of His Majesty are concerned in respect of internal commotion inside our territory. In respect of internal commotion on the Frontier, they want to leave the Executive with powers as they are. But so far as internal commotion inside the country is concerned, you must depend upon the ordinary law and you must depend upon the Legislature to arm you with special powers when the exigencies arise. "These laws must go" is the recommendation of the Repressive Laws Committee and the Government, as it was then constituted, accepted those recommendations in September 1921. As one of the few links connecting the old Assembly with the new, I wish to tell the Government that it will be a breach of faith on their part both with the Members of the old Assembly and the Council of State if they do not carry out the recommendations of the Repressive Laws Committee in this respect. They undertook to do it and it is their failure not to carry out that undertaking that has landed them to-day into a consideration of this wholehogger Bill. The spirit of the Reforms and the spirit of the times require that the Government should take hold statesmanlike steps in order to remove from the

Statute-book these obnoxious laws, which no longer deserve to exist. You have got a Legislature the Members of which are sure to respond wholeheartedly if you only place confidence in them and they feel the responsibility for good government as much as the Executive Government do. It is fond imagination to suppose that you, the Treasury Bench, alone feel the responsibility for the good government of the country. It is that belief which has often landed you in trouble and it is that belief which will land you in trouble hereafter. I, therefore, appeal to the Government to take a broad statesmanlike view in these matters and not to go back upon their conclusions which they came to in September 1921 when they wanted our co-operation which we gave them wholeheartedly. Now, we are told that the circumstances have changed. What is the change in the circumstances which can induce them to go back upon their promise of September 1921 and say that there are serious questions to consider? What is the situation in Madras, what is the situation in Bombay, what is the situation in the United Provinces and what is the situation elsewhere that requires these old archaic weapons to remain in your armoury? Probably, if the Government of those days had instituted a Star Chamber, there would be advocates to-day coming forward to retain them. The argument that exigencies may arise and we may have to use these laws will never pay. You are dealing with the reformed government; you are dealing with a civilized people; you are dealing with an educated people. Now, to come forward and say that, although these may be rusty weapons, we want to use them when occasion arises, is an argument that can never be listened to. And I, therefore, ask the Government to seriously consider this Bill in the Select Committee. We on this side and they on the other side could meet and have a frank discussion as to what portion of the Regulation may go and what portion of it may remain. Therefore, I appeal to my Honourable friends on this side not to hurry this measure which involves serious implications and I appeal to Government on the other side that they should also give way to popular opinion. How long can the Council of State help you? It may help you once or twice, but how long can an Upper House protect you from these things? You have to meet the people's wishes. You have to meet the people's representatives and therefore I appeal strongly to Government to accept this motion for reference to a Select Committee.

Mr. President: Amendment moved:

"That the Bill be referred to a Select Committee."

Sardar Bahadur Captain Hira Singh (Punjab: Nominated Non-Official): Sir, I have now had the pleasure of sitting in this House with all my Swarajist friends for more than a year. Sir, what has struck me most in that time is the deep sympathy and the touching love that is shown by our friends in this Assembly for those who murder innocent persons, make bombs and throw bombs and who manufacture ammunition and smuggle revolvers and other arms. Sir, these are the persons for whom the sympathy of this House has again and again been asked for either by Resolution or Bill. Sir, we are told that these persons are noble men, misguided perhaps but still noble because they have sacrificed their lives for the sake of their country. We are told that they are patriots. All I can say is that God only can save us and preserve this country from this sort of patriots.

Sir, what strikes me is that more eloquence is spent on a handful of cowardly dacoits than was ever spent on millions of my truly brave countrymen who fought and shed their life-blood on the battle fields of Flanders and on the rocks of Gallipoli, as well as in Palestine and Africa. (*Pandit*

[Sardar Bahadur Captain Hira Singh.]

Shamlal Nehru: "For eight rupees a month".) Well, I have lived on Rs. 8 a month for 65 years and have brought up my children on that Rs. 8 a month which is more than any of you have done, and that is the reason you have so little sympathy with soldiers. All you think of is rupees—not of position, of honour or anything else. You better all go back and take up your practice in the courts where you can gather from me and my brother agriculturists all the money you possess.

To go back to what I was saying, Sir, when I was interrupted. And that eloquence has been expended not by street corner orators but by the leaders of our people, distinguished gentlemen, lawyers of great eminence, kings of finance, princes of commerce, great Pandits and Maulanas; but, Sir, and I thank God for it, not one a soldier. Perhaps, Sir, that is because our ideas of what is brave and noble are somewhat different and more simple; perhaps because our idea of sacrifice is to die face to face with the enemy and not at the end of a hangman's rope. But, Sir, simple as we may be and quite helpless when it comes to a war of words only, we can feel and we can understand the foundations upon which and upon which alone security can exist; and sitting in this Chamber, Sir, for the most part very quietly, I have sometimes thought that many of these learned gentlemen here put a little too much importance on words and phrases and too little on the realities of life. We have heard a great deal too much about the *ordinary law*, the *law of the land*, the *liberty of the subject*, and they sound very nice, too, Sir. But what has struck me is that we have heard nothing about the *life of the subject*. (*A Voice*: "Do you want the extraordinary laws to remain?") A little more amendment and a little more power certainly, but what has struck me is that we have heard nothing about the rights of the subject to the peaceful enjoyment of his property. To think differently about the Government, to perform the duties entrusted to him by the State, these also seem to me to be very important things. Surely, Sir, it is a very silly thing to secure a man's liberty and then to threaten his life. Surely, Sir, it is idle to talk grandly about the law of the land when that law has failed to protect the lives and property of the people. Surely, Sir, no law yet made was meant to bind a Government helpless for ever when times have changed and the demands are greater, when conspiracies, whether political or sectarian, have come into existence. Surely no Government in the world could exist for a month if it did not have sufficient power to suppress anarchy and murder and organised crime of that nature. And yet, Sir, in season and out my friends in this House have sought to deprive the Government of the powers whose cautious and limited exercise in special parts of the country has perhaps saved thousands of people from violence and robbery. How under the organised movement of the Babar Akalis innocent people were slaughtered by revolvers, guns and bombs is fresh in our minds. I need not go into that question now and take up your most valuable time; but, Sir, I venture upon a warning which I trust an old man may venture to give these young politicians like my friend Pandit Motilal Nehru! It has seemed to me and there are some who think with me, that the bomb which blows up the Government to-day will extend the disunity which already exists. The conspiracy against the official to-day will be used against the community to-morrow (*A Voice*: "Against the Swarajists too?"). You are quite right, against the Swarajists also. We hope at no distant date to assume the government of this country, and I think, Sir, for our own sake if for

no other motive we should here and now and not to-morrow, prove to all these social outlaws that anarchy and murder will no more be tolerated under our own rule than under the British Raj.

With these few remarks I oppose the Bill.

Lala Duni Chand (Ambala Division: Non-Muhammudan): Sir, it goes of course without saying that I rise to support my Honourable friend Mr. Patel. Not only do I support him; I offer my most sincere congratulations to him for having brought up this Bill. I know that even if these repressive laws are repealed, repression thereby will not be stopped. Repression will go on more or less so long as we are not given the right to govern ourselves, but all the same in repealing these repressive laws we shall have the satisfaction of representing the real mind of the people in this connection. The people are tired of repression though the Government are not tired of it. I know the Government have complained of late that there is a disposition, a tendency, on the part of a section of the people to defy and disobey the laws of the land. I know that the only way to prevent this tendency, this disposition, is to repeal all the bad and repressive laws. The only way in which you can crush the spirit of defiance and disobedience of the laws of the land is to make good laws and to repeal the bad ones. I am as anxious as anybody else that the spirit of real peace and order should prevail in the country. But that is possible only if we take away from the Statute-book laws of this kind. I represent the Punjab and I know a little about the Prevention of Seditious Meetings Act. We have had a taste of it, though a very bitter taste. I know it was applied to a meeting of the Punjab Provincial Congress Committee, which was presided over by my distinguished friend and countryman, Lala Lajpat Rai. A fairly large number of members of the Committee were prosecuted under the Prevention of Seditious Meetings Act and of course tried and unceremoniously sent to jail. The Government took full one year to know this much even with the help of all the legal advice that was available to them, that this Act did not apply to such a meeting. The conviction of Lala Lajpat Rai and several others was quashed by an order of the Government. We know how indiscriminately this Prevention of Seditious Meetings Act was applied in the Punjab. What is this Act? I invite the attention of this Honourable House to section 4 of this Act. What does it say? It says:

"No meeting can be held without the permission of the District Magistrate."

What is the kind of meeting that has been prohibited under this law? Any meeting which is held for the furtherance or discussion of subjects likely to cause public excitement. This will be sufficient to apply the law. I venture to think that there is hardly any public meeting in which there is not a certain amount of public excitement; if the public excitement is made a crime so much so that nobody can hold such a meeting without being sent to jail, can anybody with a grain of sense say that this is good law which it is necessary to preserve in the interests of peace and order? These are the kinds of laws with which we have been entertained of late. Of course there was a time when we could not raise our voices against such laws. But now it is our duty that we should raise our voice against such laws and say we have nothing to do with them. I also beg to say that so far as our experience goes during the last three or four years we can say that your Penal Codes, the Indian Penal Code and the Criminal Procedure Code, are sufficient to meet the situation. They are so elastic; even if they are not elastic enough at one time they become

[Lala Duni Chand.]

elastic enough another time and any object that the Government want to accomplish can be served by the Indian Penal Code and by the various sections of the Criminal Procedure Code. We know it that not only hundred, but, I think, thousands of people in this country have been committed to jail under what is called the security sections, the preventive sections of the Criminal Procedure Code. Why should you not use them? After all you can pretend in that case that you have applied the ordinary law of the land.

So far as these Regulations are concerned, the argument has been advanced that these Regulations should be considered as sacred things, because they are about a hundred years old. I beg to say that any law that was good fifty years ago or a hundred years back should cease to exist, simply because after this lapse of time it cannot be a suitable law. (Mr. H. Tonkinson: "Hindu Law") (Mr. K. Ahmed: "What about the Frontier?") I know that so far as the Frontier is concerned, I am as anxious as the Honourable the Foreign Secretary to maintain law and order there; in fact when I want that law and order should be maintained there, the Government do not want to maintain it. So far as the Frontier is concerned, of course we are not here to support outlaws. We are prepared to help the Government in any emergency to suppress outlawry or any serious crime; but I know even with regard to the Frontier, that even in the North-West Frontier Province a fairly large number of perfectly good, honest and I should say even harmless people were prosecuted. I have got personal experience of a gentleman—he was as good as any gentleman present here—and I can say on my personal testimony that he was kept in jail for three years; he was Mr. Abdul Ghaffar Khan, one of the important men in the Peshawar District. I have enjoyed his company and I can say that he was a better man than myself and as good as any Member of this House and yet for no reason he was kept in jail for three years. I know there are other cases also that have come to my notice from the North-West Frontier Province where perfectly harmless, perfectly honest and perfectly patriotic people were put in jails without any rhyme or reason. I know of other people who have been put in jails with justification; but at the same time the law has been abused and very many times abused even in the North-West Frontier Province. With these remarks I whole-heartedly support Mr. Patel. Some people think that the passing of this Bill will be confined only to the Assembly Chamber and of course will not receive the assent of the Governor General. I am perfectly indifferent, I do not care; this idea does not at all trouble me; the only thing I want to do really is to place the view of the country before the Government. It is open to the Government to respond to it or not to respond to it. With these remarks I strongly support the Bill that has been brought up by Mr. Patel.

Mr. Denys Bray (Foreign Secretary): Sir, I had thought that after the speech of Mr. Hudson and after portions of the speech of my Honourable friend, Mr. Rangachariar, it would be unnecessary for me to take part in this debate. But my Honourable friend, Mr. Duni Chand, has driven me to my feet. If I understood him aright, so keen was he for the maintenance of peace and order on the Frontier that he was quite prepared to come to the rescue of Government in case of any emergency. Let these laws and Regulations disappear and he would see to it that the Assembly came forward with special rules and regulations in cases of

emergency. That sort of thing, Sir, will not do for the Frontier or for India's foreign relations. Emergency is the normal condition of things on the Frontier and beyond.

Throughout his speech he harped on the word "repressive". Now, from the point of view of India's foreign relations the word
 12 Noon. "repressive" is a complete misnomer for Regulations such as these. My Honourable friend, Mr. Hudson, enables me to pass over this portion of the Bill lightly, for he read out the Preamble at large to the Bombay Regulation, which defines in very clear language the normal uses to which that Regulation and the kindred Regulations are put with regard to India's foreign relations. I am quite sure my friend, Mr. Patel, did not think out the implications of this little Bill. I am quite sure that had he thought out its implications, the Bill would not have appeared on the paper to-day. Now, it is only a few weeks ago that Regulation III of 1818 was put into force to enable Government to carry out a very ordinary international obligation. Some time ago, the base-born son of an ex-Amir surreptitiously made his way to the Frontier and as surreptitiously crossed it into the Afghan province of Khost, where a rebellion against His Majesty the Amir was raging. I myself, who knew the man's record thought that a week would be a long enough life for him in such a turmoil across the Frontier. I have rarely read the record of a more pitiful degenerate. He survived, however, for several weeks, joining the rebels against the Amir in the rebellion which was already at its height. He left Afghanistan as surreptitiously as he entered it and he found awaiting him a warrant under Regulation III of 1818. He is now interned in the Benares Jail. How else were we to carry out a very ordinary international obligation? We could not leave him at large, free to repeat his wicked folly. I have seen it suggested in the press that we should extradite this man to Afghanistan. What? Is India going to leave the society of civilised nations and extradite political offenders? I have seen it suggested elsewhere that we should put this man on his trial. That sounds plausible. But I have had to read his long statement, his diatribes against the ruler of a friendly country; I have read his glowing plaudits of the rebels to the Afghan Government, their aims, their ambitions, their plans and their deeds; I have read his long tirade against the Government of India for their machinations against this waster. Quite clearly, Sir, it is not by a trial that India's foreign relations would be conserved in a case like this.

But, if Mr. Patel has not, as I venture to think, thought out the implications of this little Bill of his, I am quite sure that he did not realise at all the real nature of the Punjab Murderous Outrages Act. This point was raised by my Honourable friend, the Home Member, and I listened with some interest to Mr. Patel in his speech for his justification for the inclusion of this Act in such incongruous company. Mr. Patel dealt with the point very fairly, for he read us out most of the contents of the Act. But, when you leave Mr. Patel's academic researches into the by-ways of the Statute-book and turn to facts and realities, then Mr. Patel's treatment of this Act bears not the slightest relation to realities and facts. The Act and the kindred Regulation which is in force in the North-West Frontier and Baluchistan, are designed for and are used for a particularly horrible crime which is endemic only, I rejoice to say, on the Frontier. It is that ghastly travesty of religious

[Mr. Denys Bray.]

ardour which finds vent in the murder of any man of another religion. It is a crime that requires special treatment for various special reasons. It occurs generally—not always but generally—in localities in which it would at times be dangerous, if not impossible, to put into force the ordinary procedure—in localities from which it would be dangerous, very often impossible, to transport the criminal to ordinary British India. When I cast my mind back over the grim roll of brother officers and unofficial friends who have been victims to this ghastly crime, that point strikes itself very forcibly on my memory; but I need not entertain the House with any particular examples. Then another point is the contagious character of this disease endemic on the frontier. For whatever reason, when you get one case, another case is strangely likely to occur. One reason, of course, is that this crime is committed by men under the delusion that they are thereby going to gain the crown of martyrdom, and that again points to one very special reason for this special procedure. As in the case of so many of our frontier problems, there are two schools of thought as to the right mode of dealing with this crime—the death sentence or life-long imprisonment. But both schools are unanimous on one point—that publicity and advertisement are the chief carriers of this dreadful disease. And Honourable Members must realise that in this crime there is this special feature almost always found in it, to wit, that there is no question whether the man did the deed or not. He is caught almost always, if he is going to be caught at all, *flagrante delicto*, and he continues to the last to glorify and glory in his deed.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I do not propose to add to the detailed discussion of the merits of the repealing Bill which my friend Mr. Patel has introduced. They have been dealt with already in detail. I desire, however, to deal with only two points which arise out of the motion of my Honourable friend Mr. Rangachariar for reference to a Select Committee. One of the points he urged before this House as to why a Select Committee was necessary was that there is at present no legislation in force which will enable the Government to deal with aliens in this country. Sir, I was startled when that statement was made and I was waiting to know what the Honourable the Home Member would say by way of reply. When I refreshed my memory through books, I found that this question of dealing with aliens in this country was for long, a most important matter for which during the days of the East India Company they took care to obtain powers from Parliament. Therefore, the Act of 1833, section 84, specifically directed the Governor General in Council as soon as conveniently might be to make laws or regulations providing for the prevention or punishment of the illicit entrance into or residence in British India of persons not authorised to enter or reside therein; and effect has been given to this requirement by Act III of 1864 passed by the Governor General in Council under which the Government of India and the Local Governments can order foreigners to remove themselves from British India and apprehend and detain them if they refuse to obey the order. Under the same Act, the Governor General in Council can apply to British India or any part thereof special provisions as to the entry, return and licenses of foreigners. There are other ample provisions under laws and Orders in Council issued under statutory enactments

of Parliament, by which aliens can be summarily dealt with in this country. There are first of all the Rules and Orders in Council framed under the Fugitive Offenders Act and under the Indian (Foreign Jurisdiction) Order in Council of 1902. There are also orders which have been passed under the Extradition Act. Sir, I do not think, therefore, that a jurisdiction for the maintenance of this Regulation can be founded on the contention that aliens could not be dealt with otherwise than under these Regulations, because, even assuming that the powers under these several Acts are insufficient, I do not think it can be contended even from the Treasury benches that it is impossible for this House to agree to deal with aliens in a manner which is consistent with the maintenance of good government in this land. Really, that is not the ground upon which the Government want to oppose this measure.

Then, again, we have been told that the question of the operation of the Punjab Murderous Outrages Act is one which ought to be dealt with in Select Committee. I do not know, Sir, why that Act should remain on the Statute-book and why the powers which now exist under the other Statutes could not be used by the Government to deal with those people whom they may want to come under the Punjab Murderous Outrages Act. If such powers are insufficient, it is the bounden duty of the Government to come to this House for powers which are restrictive of the elementary rights of ordinary citizenship. We feel, Sir, that so long as this House has been duly constituted, as the official reports so grandiloquently put it, as the Parliament of this country, it is this House that should legislate for the country and not the executive authority. These Regulations are merely rules, as they have been described in the Preamble to the Regulations. They are really rules passed by the executive Government of the country at the time to deal with a state of things which do not exist at all at the present time.

We have also to remember, Sir, that since the passing of the Government of India Act, the power of the Government to avail themselves of these obsolete regulations was impliedly expected to be taken away and the Repressive Laws Committee in pursuance of a policy which was supposed to lie behind the Government of India Act, 1919, recommended that these Regulations should be repealed and that resort should be had to this Legislature for such powers as the executive Government may need to deal with extraordinary situations. So far as the provisions of the Government of India Act are concerned, the Government have reserved to themselves extraordinary powers of making laws in defiance of this Legislature and ignoring the fundamental rights of this Legislature, as they have done in the past. They have power to legislate by certificate. Then they have legislation by Ordinance. When they have got all these enormous and ample powers, to contend that they would also like to have these old and obsolete Regulations to remain on the Statute-book, to get hold of every little thing that they can get to suppress the liberties of the people,—that is a claim, Sir, which no civilised Government ought to make on the floor of this House. I support the motion of my friend Mr. Patel.

Mr. T. E. Moir (Madras: Nominated Official): Sir, I only recently returned to this country and having been for a considerable period out of touch with current events I rise to speak on the motion before the House with a double share of that diffidence to which my Honourable friend

[Mr. T. E. Moir.]

Mr. Rangachariar referred. When he rose to speak I hoped that I should find it entirely unnecessary for me to say anything at all and that everything that had to be urged on behalf of the province from which we both come would have fallen from his lips. But Mr. Rangachariar has disappointed me. He has disappointed me before and I am afraid he may disappoint me again. But there is, I think, something to say on this Bill in so far as the Madras Presidency is concerned. When I arrived the other day from home it was quite by accident that I came across in one of the daily papers a reference to this Bill put forward last Tuesday by the Honourable Mover. The conclusion I came to was that, during the period which had elapsed between my departure from England and my arrival in Bombay, the promised millennium had arrived and that in honour of the event my Honourable friend Mr. Patel was having a bonfire of legislative rags and rubbish. But when I got to Madras I found that no intimation of the event had reached Madras and that in Madras opinion was not so consolidated in favour of this measure as the Honourable Mover would like to assume. (A Voice: "Question?") Now, Sir, I propose to confine my observations entirely to that part of the Bill which specially concerned my own province, namely, the proposal that Madras Regulation II of 1819 should be deleted from the Statute-book. Mr. Hudson quoted the Preamble of a like Regulation with which his province is concerned and I should like as introductory similarly to quote from the Preamble of the Madras Regulation; not in any spirit of rivalry, though I think that on the whole the Madras Regulation is perhaps in point of brevity somewhat superior to that of Bombay. It recognises that "reasons of State policy may occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding or when such proceeding may not be adapted to the nature of the case or may, for other reasons, be inadvisable or improper;" and as in the case of the Bombay Regulation it proceeds to make due provision for the revision of any orders passed under the Regulation for the health of the prisoner and for the sustenance of himself and his family. That Regulation Mr. Patel proposes to repeal. Now, I am no lawyer, but I think the repeal of a Measure is generally proposed either when it has become obsolete, such as those laws of which I believe one or two curious examples still exist on the Scottish Statute-book regarding the playing of golf on Sunday, or of football in the streets; or repeal is proposed when circumstances have so altered that the retention of a particular measure is no longer necessary; or lastly, when it is proposed to replace the measure to be deleted by another measure which has been brought up to date and improved. The Honourable the Mover has certainly not proposed to replace the Madras Regulation II of 1819 by an up-to-date measure, and I hope to prove that the circumstances which rendered a measure of that kind necessary when it was introduced over a hundred years ago have not, as the House has been informed, disappeared in the Madras Presidency. Now, I turned to the speech of the Honourable the Mover when he introduced this Bill to see whether I could find the grounds on which he included Madras Regulation II of 1819 in his Bill. I have nothing to do with the accusations or charges which he levelled against other Governments. I secured a copy of the Honourable the Mover's speech only this morning shortly before the House met, but as far as I can see, he did not bring any of these charges against the Madras Government. As far as that Regulation is concerned, his objection to it appeared to be that it had not been passed by this Legislature. I do not know how far the Honourable Member is going to carry his

campaign against all legislation which was not passed subsequent to the Reforms, but if that is his criterion, this House, I am afraid, will have a very heavy programme before it. He also said, what we want is that the Government should come to us for powers. Now I yield to no one, not even to Mr. Patel, in my regard and respect for this Assembly. But, I think the Honourable the Mover is a more recent convert than I am to a sense of the respect in which this Assembly ought to be held and I am not quite sure that the deep regard and deference to it which he displayed in his speech is evidence of a permanent revolution in his attitude.

I come now to what is, from the Madras point of view, a really important matter in connection with this Bill. We have in Madras two areas in respect of which all sober opinion in Madras would admit that the retention either of this Regulation or of some enactment containing similar provisions is absolutely necessary. I refer to the Malabar district and the Agency Tracts. The problems which these two tracts present are in one respect essentially different. In the Moplah population of Malabar you have a people who are naturally industrious, thrifty, admirable in their domestic relations, and display all the qualities which make a potential good citizen. But, unfortunately, they are ignorant, and their keen devotion to their religion has, owing to that very ignorance, and to that semi-isolation in which for so long they have lived, led them at times into strange paths. A fancied slight to their religion or a fancied grievance may suddenly flare up into deplorable and fanatical excesses. The tribes of the Agency are in a different category. They are, I am afraid it must be admitted, lazy, addicted to excesses, unthrifty; and their very simplicity and natural truthfulness which is perhaps their most attractive characteristic renders them exceedingly liable to be gulled by any plausible scamp who desires to exploit them for either political or economic reasons. But, although the characters of the two people in these two areas differ so materially, the problem is essentially the same. When trouble has arisen in these tracts it has not been the result of any mass movement or any united or organised attempt to better their position. It has originated from the secret leaven of one or two discontented individuals keeping in the background, seeking, without being discovered, to rally to the furtherance of their own purposes others whom they may find, in whom they can instil a feeling of grievance or in the case of the Moplahs of religious ardour. This danger is not of recent growth in the Malabar District. Such disturbances took place even in the times before the country came under the British Government and since the British occupation, I think I am right in saying, though I have no accurate particulars, that more than thirty outbreaks, spread over the last century, have taken place in the district and have been accompanied in almost every case by most appalling horrors and outrages. Now I do not propose to refer in any detail to the lamentable outbreak which took place in 1921. The House is perfectly familiar with the horrible history of the 18 months or two years during which one of the most beautiful tracts in the whole of India was laid waste and its people subjected to untold misery.

Mr. V. J. Patel: In spite of the Regulations?

Mr. T. E. Moir: Now, will any Member of this Assembly say that, if by the prompt application of the provisions of this Regulation these events could have been prevented, such action would not have been entirely justified. (There was some interruption at this stage.) I hear a Member dissent. I would suggest that he should go to the district of Malabar and ask the opinion of its inhabitants.

Mr. M. K. Acharya: I have been there seven years and know the place better.

Mr. T. E. Moir: I would suggest to you to go to Malabar and find out whether the people there do not agree with the opinion I have expressed. It is perfectly true, I do not propose to go into that wide question now,—that in that case action was possibly taken too late. The seeds of evil had already been sown. But there have been cases in Malabar and elsewhere where the taking of action or the intimation that action would be taken under that Regulation has been productive of good and possibly of preventing similar occurrences. I further claim that in another respect Madras Regulation II of 1819 is of much greater importance than has been indicated by the Honourable the Mover in his cursory Bill before the House. If it had not been for the existence of that Regulation it would not have been possible to deal with those who have been concerned in or affected by those outrages with so much leniency and consideration. The House will remember that one of the most deplorable features of the outbreak was the numerous conversions of innocent and unoffending Hindus to the Muhammadan faith. Now these people came complaining to the authorities. They were able to give the names of those who had taken part in those outrages. The Honourable Member would say “Why did you not put those men on trial?” Yes, but surely we were bound to take some course which would save those poor victims from a public degradation, save them from what they regarded as a shame and a disgrace to themselves and to their families that further if the men who committed these outrages had been put on their trial, in the conditions of the country at that time, evidence might not have been forthcoming through fear of intimidation and all that would have happened would be that the reputation and feelings of these families and these individuals would have been publicly smirched and lacerated and no purpose would have been served. The men who had committed these outrages might have been acquitted by the courts and allowed to return among peaceful and innocent citizens, to go back to their villages and live beside and be a menace to the people on whom they had perpetrated these wrongs. It was possible by means of this Regulation, without running these unnecessary risks and bringing more unhappiness on the wretched victims, to order that these people should first be interned and as time and opportunity permitted to be released but forbidden to return to Malabar itself or to the area in which their presence would have been a continuing danger. There are, I believe, men who are still kept out of the Malabar district on this very ground.

Mr. A. Rangaswami Iyengar: Not in the Andamans?

Mr. T. E. Moir: Not in the Andamans. What happened was that these people were merely forbidden to return to their own district. What would happen if this Regulation is repealed and these men are allowed to return? I had hoped that we had heard the last of the Malabar rebellion. The wounds which it has left behind are gradually healing. The best minds in the two communities want to settle down to live in amity together and the Honourable the Mover of this Bill would force the Government to take a step which might enable the men forbidden to come to the district to return and jeopardise all the ameliorative work that has been done since the rebellion.

Now, Sir, I propose to deal briefly with the other area, the Agency Tracts of the Madras Presidency. So far as I can gather, little interest

has been taken in the north of India in the events which have caused so much trouble to the Madras Government in that tract. I take it that interest has been concentrated on events in Kohat and Delhi and elsewhere which demonstrate how completely effective the ordinary law can be in anticipating, preventing and repressing disturbances. But, although perhaps not a spectacular event, the recent *fituri*, as it is called in the Agencies, lasted for a period of something like two years. It has cost the Madras Government a sum of something like 20 lakhs. I may say that in Madras we could not merely subsidise but we could permanently endow one of our small industries with that sum. It has resulted in the loss of the lives of promising officers. A force of over a thousand police had to be employed, many of whom were incapacitated, some for months, some permanently by disease, others were killed, others died; and the only satisfaction perhaps that we in Madras can point to in the whole wretched business is that our police forces displayed a gallantry, a readiness to undergo hardship and dangers of which we are proud and of which we shall continue to be proud in spite of the aspersions which the Honourable Pandit Motilal Nehru has cast upon the police forces of this country. Now, I may be asked, what have these events, what has this *fituri* got to do with Madras Regulation II of 1819? I can say this, that here again if early and timely resort had been made to the provisions of that Regulation that *fituri* would never have arisen. It is the reluctant use not the abuse of the Regulation to which exceptions might be taken. And further, if it had not been for the provisions of that Regulation that *fituri* might still be under weigh. The ordinary law can only function under those conditions which it postulates and to which it is adapted. How can the ordinary law function when, as was the case in the Agencies, those who were bound to assist the Government by the offices which they held, were in constant communication with the rebels, instigating them, abetting them, giving them shelter, giving them food; when any witness who dared to complain was liable to find himself attacked; when even villages were held under terror and intimidation: for they are small scattered villages in many cases with miles of jungle between them and the nearest police outpost: easily ambushed with no possibility of defending themselves against the attack of a wild gang of outlaws. Could the ordinary law function there? No. It was only by resort to the provisions of that Regulation that these unfaithful officers of Government, village headman, *mutladars* or others were brought to book and at last were made to feel that it was better to assist the law than to help in burking it. The Honourable the Mover would no doubt tell me that this is all past, that it will not recur again. Though I did not serve in Malabar I have served in an adjacent district and I have served in an agency district. I have from time to time met super-optimists who were confident that all the risings were over, that conditions were changed, that the great *fituri* of 1879 when something like 5,000 troops had to take the field was the last serious event of the kind that the Madras Presidency would ever witness. I was not and am not prepared to accept any such assurance. (Mr. V. J. Patel: "I do not want to give it.") Then in that case the Honourable Member will perhaps reconsider his attitude towards the Madras Regulation II of 1819. (Mr. V. J. Patel: "Get it passed through this Assembly.") The Honourable Member says "Get it passed through this Assembly." Then why did he not adopt the right course? The right course was to introduce a Bill giving those powers and saying "these are the powers we are prepared to give to the Government to deal with such cases," in which

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case the repeal of Madras Regulation II of 1819 would appear in the Schedule of an Act to replace it by better and up-to-date provisions.

Now, Sir, I do not wish to argue the matter of the necessity of the retention of these provisions in the Madras Presidency any further, but there are two more general matters to which I should like to refer. One of the problems, the constitutional problems, of the near future in this country will be the adjustment of the relations between this Assembly and the Local Legislatures. Now, Sir, we in Madras although we follow methods somewhat different from those of one or two other provinces that I could name, are equally keen in the matter of constitutional advance.

Mr. M. K. Acharya (South Arcot *cum* Chingleput: Non-Muhammadan Rural): On a point of order, Sir, is all this in order in connection with the motion to refer the Bill to a Select Committee?

Mr. President: Order, order. Mr. Moir.

Mr. T. E. Moir: I say, Sir, that we, in Madras, are as keen on political advance as any Member of this House, as the Honourable Member himself. But, Sir, when we in Madras talk of provincial autonomy, we mean provincial autonomy, and we do not intend when a local legislature with an Executive Government more fully based upon it comes into being that those checks, those restrictions, which at present exist under the Government of India Act shall be replaced by a despotism exercised by this Assembly. We hold that matters of that kind, Malabar, the Agency, how those problems are to be dealt with, are essentially matters for the Madras Presidency and that they will be matters essentially to be controlled and determined by the Legislature of the future; and I am afraid the introduction—I may call it the contemptuous introduction—of a Bill of this kind in which it is simply said “Abolish Madras Regulation II of 1819”, I am afraid that the action of the Honourable Member will merely increase in the Madras Presidency the feeling (*Voices*: “No, no”) that when the constitution is readjusted the claims of this Assembly to interfere in that manner in matters with which the Presidency is mainly or solely concerned will have to be strictly guarded against. The other matter to which I would refer, Sir, is this.

Mr. B. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Would you refer it to the Madras Council and would you abide by its decision?

Mr. T. E. Moir: I am referring to the general constitutional question, but if you ask me whether my attitude will be endorsed by . . .

Mr. President: The Honourable Member had better address the Chair.

Mr. T. E. Moir: I beg your pardon, Sir. It is very difficult to deal with these interruptions.

Sir, the last point to which I would like to refer is this and I would ask the Assembly seriously to consider it. The Honourable the Mover and those associated with him look forward within the space of a few years to become responsible—they demand to do so now—for all these matters and to become responsible for the internal security of India. Now, Sir, it is perfectly true that, when that consummation is achieved, the Honourable the Mover and his party or those who are associated with him in the Government of that time will enjoy advantages which the present Government do not enjoy. But, at the same time, they will suffer under disadvantages which do not apply to the present Government. Further, by a mere constitutional decree the

elements of the problem will not be altered. There will still be Malabars, Agencies, communal and other difficulties to deal with; and yet they are at present busy cutting away all those laws which, for the present to some extent, do enable the Government to deal with situations such as I have referred to. There is no guarantee that such incidents will not recur even when they take over the reins of Government, and it may be, Sir, that before very long we shall see the Honourable the Mover and those who are with him in proposing the repeal of these enactments coming to the Legislature—and coming in vain—to ask for the restoration of those powers which, wantonly and recklessly and without any prevision, they sought to take away from their predecessors.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban)*: Sir, when I listened to the last speaker and the amount of anger, the amount of rage and the very little of material in his speech, I really wondered what he would do if he had to exercise his powers under the Regulation. Very few people would be safe indeed, and that is one of the dangers which the Honourable Member has displayed. Sir, the official mind—I mean this in no disrespect—is so peculiarly constituted that it cannot possibly see the opposite view, and the Honourable Member worked himself up to a picture as horrible as it could be of Malabars, Agencies, and so on and so forth. I shall deal, Sir, in a moment with the issue which this Assembly has got to decide. Then, again, another example of that great Service and the mentality of that Service was Mr. Hudson. He made a speech, Sir, which was out of place after breakfast. (Laughter.) He even went to the length of saying—and I was surprised that he should have made such a damaging admission—that, although he has been an officer for so many years in the Bombay Presidency, although some prominent men in Bombay were regulated under this Regulation, he had never read the provisions of the Regulation. What a creditable thing for an officer who has been one of the rulers in the Presidency to make a confession like that before this Assembly! But why should he read it? What does it matter to him? He is safe. He knows he cannot be regulated out of his liberty. Why not? For the very good reason that he is a ruler. I listened to the speech of Mr. Denys Bray and with great respect, and it dealt with a point of view I recognise. I fully recognise it. Sir, that is one of the points which has embarrassed me to a certain extent in dealing with these Regulations. The question of the Frontier is one that does require very careful consideration.

Now, Sir, let us examine the issue before the House to-day. The first charge that is brought against us is that we are wanting in capacity to appreciate the necessity for maintaining law and order. I assure you, whatever may be your ideas, and I am speaking on behalf of a very large body of the Members of this House, there is no justification for that allegation. I have no hesitation in saying that anarchical crimes must be ended. We want to see the end of it; I want to see the end of it, and I have no hesitation in telling you that I am willing to co-operate with you whole-heartedly to put an end to this danger which is facing us. And when I say so, I honestly say so, and when I admit that, I honestly admit it; but it does not follow that, while I desire that, I agree with your methods. The real issue is the methods. What are the methods which you want to employ? Sir, these Regulations presuppose a personal rule. Do my Honourable friends there

* Not corrected by the Honourable Member.

[Mr. M. A. Jinnah.]

recognise that? You have governed this country by Regulations; you have governed this country by personal rule for the last 150 years. Do you recognise that that is slowly passing away? You have reached a different stage. We, on the other hand, desire that that personal rule should be replaced by the rule of law. We desire that the growth of citizenship should be encouraged, and we desire to establish a representative government. That is really the issue between us and you. Now, can we tolerate Regulations of this character on the Statute-book? And what can be the justification for keeping them on the Statute-book? You appointed a Repressive Laws Committee. That Committee made its report. It recommended that, if not all, most of these repressive laws should be repealed, with the exception of those affecting the North West Frontier. The Government agreed to it. We had a long, rignarole speech from Mr. Moir. Evidently he lives in Madras and is out of touch with things. The Government agreed to the repeal. And what is the justification now? As my Honourable friend the Home Member very rightly said, and so did Sir Malcolm Hailey in that debate last March on the Resolution to take steps to repeal the Regulation of 1818; his point was exactly the same as the Honourable the Home Member now makes. He says "Well, present conditions are such that we cannot possibly part with these powers. There is a recrudescence of anarchism in Bengal and the present is not a moment when we can possibly part with these powers." These are powers which are always welcomed by Madras. It is in their very nature. They like these powers; they would like more such powers. I say these are powers which are always welcomed by the bureaucracy, although my Honourable friend the Home Member may be an exception to that and I am inclined to consider his case on a different footing. But it is common knowledge that these arbitrary powers are always welcome. Why are they welcome? For the sake of administrative convenience. It is a very nice thing to have. Mr. Moir, if he is angry with me, can lock me up. That is a simple way of getting rid of me. I cannot claim a trial. He might send a doctor where I am who might come and examine my pulse and report to him that I am doing very well. All this is common knowledge, and you don't want to part with these powers, you want to stick to them. Now we want you to part with these powers; and at the same time let me assure you that I can give you proof. I ask you not to level this charge against us, that we do not appreciate the necessity or the desirability of maintaining law and order. I will give you an instance. In the Morley-Minto Reformed Council at the very first session, when it was called the Imperial Council, Lord Minto's Government brought in the Press Act. I ask you, do you remember that that was accepted by almost every non-official Member in that Council? I was a Member myself and I remember how we disliked it. It was abhorrent to me. My ideas of the freedom of the press, which I prize immensely, made me revolt against it; and yet let me tell you, Sir, that I was converted. I am not disclosing any secret when I tell you frankly and honestly why I was converted. Mr. Sinha, now Lord Sinha, who was the Law Member, discussed the matter with me. I was not converted. He then told me "I will send you my file; you read it; and then we will discuss it." He sent me his private and confidential file. I read it. The Honourable the Home Member seems to be amused at this. It did not contain anything else except all the extracts from various newspapers which were collected by Government. I read them and I assure you that when I went through them I felt that it was difficult

for me to resist that measure being passed. Well, if you really keep harping on this point that this Assembly is incapable of appreciating the necessity of maintaining law and order and cannot therefore be trusted, we keep on saying that this bureaucracy wants arbitrary powers for furthering their own ends and that after they have obtained those powers they are going to misuse them as they have misused them in the past and as they are bound in the very nature of things to do—they cannot help doing it. What did Mr. Moir say? I am surprised of course that he could have said it with so much gusto. What did he say? He said "There was no offence on the part of Government; we locked up so many people and we kept them there and prevented them from going to their homes. They are not allowed to go even now". He said that with great gusto: it is a very heroic thing to do indeed!

Mr. T. E. Moir: I protest, Sir, against the use of the expression "with gusto"; it was with the greatest regret that I referred to all these happenings in my speech.

Mr. M. A. Jinnah: Sir, I am quite willing to use any word that the Honourable Member would suggest to me, provided it is appropriate. I think that was the only appropriate word. What did Sir Charles Innes say on the Ordinance Debate? He said "If we had placed the facts which we had got before my friend, Pandit Motilal Nehru, he would have said 'Go ahead; hit them hard'." Hit whom hard? (*The Honourable Sir Charles Innes:* "The anarchists".) The anarchists? Are you hitting the anarchists now? That, Sir, is the mentality which I protest against. Here you have an Honourable Member, a Member of the Government of India, saying "Hit the anarchists". That is the whole question. Whoever says, you should not hit the anarchists? But you are hitting the innocents. I shall prove it to you. Sir Charles Innes read the opinion of Sir Narayan Chandavarkar and another Judge who examined certain cases on the police papers. Does he know that, as the result of that examination, even on the police papers—leave alone the test of cross-examination and the test of judicial trial—five per cent. were found innocent? Do you know that? I can prove that five per cent. were found innocent even on these police diaries. Are you hitting hard the anarchists? Sir, it is all very well for Sir Charles Innes to say this. What does he say? He recognises that he might be blamed by me—I am glad he is afraid of me at least. He said "That stern cross-examiner would have held us up and brought forward an indictment and would have held us responsible for the lives of the people". There would have been an impeachment of Sir Charles Innes by me in this House—I wish I could impeach him. Therefore he said. "We had to do this." Is that an argument? However, that is beside the point. But I wish to say this. Sir Charles Innes when he wound up appealed to this House and said "I ask you to show sanity of judgment, political sense and moral courage." Yes, Sir, I assure you that this Assembly has got moral courage; this Assembly has got political sense; this Assembly has got sanity of judgment (*Mr V. J. Patel:* "And self-respect") and self-respect, if you will only act in the same way and show it by your actions.

The Honourable Sir Alexander Muddiman (Home Member): Sir, when leave was asked to introduce this Bill, I took the very unusual course of making a long speech in order to oppose it. That is a course that I should very rarely be inclined to adopt. My ordinary rule in dealing with legislation would never be to oppose a Bill on introduction. If I did so it

[Sir Alexander Muddiman.]

was because I felt that the policy of Government was determined in this matter and I must do so at the earliest possible opportunity to indicate to the House the line that I proposed to follow. Mr. Jinnah has said, and I think said rightly, that I attacked the present Bill for exactly the same reasons as my predecessor. I sought in my introductory speech (and I was charged I believe with warmth and, Sir, I did feel warm—I admit it—I will endeavour not to transgress in that way this morning) to show that the situation in this country was a very serious one, was increasingly serious, and that something must be done to deal with it. In the last few days, I have spoken almost continuously in this House dealing with the Bengal situation. In my speech dealing with this Bill I did not and I will not again refer to it. If the House are not satisfied by me, if they are not satisfied by their own investigation, that there is a serious and dangerous conspiracy in Bengal, then indeed I have wasted my breath. It was admitted by everybody and I think my Honourable friend, Mr. Duraiswami Aiyangar, was alone in contradicting it. So much for the Bengal situation. Then, Sir, I gave to the House an account of recent interference from outside in India. I assured the House that there is such interference, that we are confronted with an organisation outside India, which is endeavouring to sap all government. I was much pleased to hear that we can rely (though the applause might have been louder) that we can rely on the support of this House in dealing with and stamping out that menace, and I thank Mr. Jinnah for having voiced that view so clearly. Very good, Sir. If that is the case, what is the position in regard to this Bill? Two main arguments have been advanced—I do not propose to go into them in great detail as I have already spoken on the point. Two main lines have been taken. One is: what about the Repressive Laws Committee and their report? It is said that Government pledged themselves as a result of that Committee to repeal this legislation, that is as regards the Regulations, and that that pledge should be fulfilled forthwith. Now, what, Sir, were the circumstances under which that Committee met? It met in the year 1921 and it said:

“As it has not been found necessary to resort in the past to these measures save in cases of grave emergency we advocate their immediate repeal. In the event of a recurrence of any such emergency we think that the Government must rely on the Legislature to arm them with weapons necessary to cope with the situation.”

Well, Sir, that was the Report of the Repressive Laws Committee. And if Members will look at that Report, they will see a most significant footnote. The ink on that Report was not dry before the Repressive Laws Committee had to add this rather remarkable footnote:

“After this Report had been drafted, we received information of the grave and widespread disorders in Malabar which in our opinion has more than justified the apprehensions leading to this conclusion.”

Well, Sir, that was at least significant. Before the Committee had even signed their Report, these disorders had broken out.

Then, Sir, it is said that we should come to this House for legislation. Sir, we have had experience—little experience—of coming to this House for legislation of this kind. In the last few weeks, we brought before the correct forum, the proper body to enact that legislation, we brought before the Bengal Legislature certain measures which we considered necessary. What was the fate of those measures? They were rejected, not after discussion—they were rejected on a motion for leave to introduce. That was a Bill brought forward with all the weight of His Excellency Lord Lytton's

Government, brought forward with the sanction and support of His Excellency the Viceroy's Government, and the Bengal Legislature rejected that Bill—they would not even consider it. They said: take it away. In fact—the waste-paper basket policy.

Mr. V. J. Patel: And therefore you would act unconstitutionally.

The Honourable Sir Alexander Muddiman: Therefore, my Honourable friend says, I will act unconstitutionally. It is far otherwise. I am at least as earnest a supporter of constitutional methods as my Honourable friend. When Mr. Jinnah said that I hate these special measures, he said no more than the truth. I do hate them. But I do recognise that there comes a time when they may be necessary.

Sir, I have dealt with the point regarding the Repressive Laws Committee. My Honourable friend, Diwan Bahadur Rangachariar, speaking with his usual force, with his usual sane commonsense, has put down a motion for reference to Select Committee and said that he recognises at any rate that the time is not yet, nor is the occasion one, when we can safely strike all these measures off the Statute-book. He recognises that there is a great deal to be said for some of these measures. He recognises that though you may not be going to act in accordance with the advice of the executive, the authorities who are answerable to you, you must at any rate act advisedly before you take away their weapons. What will be the effect, however, if I were to support my Honourable friend's motion? It would be to affirm the principle of this Bill. What is the principle of this Bill? It is the repeal of the measures included in the Schedule. (A Voice: "Not necessarily".)

Diwan Bahadur T. Rangachariar: May be in whole or in part.

Mr. M. A. Jinnah: And not all.

The Honourable Sir Alexander Muddiman: The principle that the House will affirm by a reference to Select Committee of the Bill is, I repeat, the principle of repeal. I agree that it does not involve the repeal of all the measures, but, as I object to the repeal of all the measures, it would be impossible for me to support this motion.

Diwan Bahadur T. Rangachariar: May I ask the Chair whether that is a correct interpretation and whether the Honourable the Home Member is not under a misapprehension?

Mr. President: The Honourable Member knows very well that when a Bill is referred to a Select Committee by a vote of the Assembly the Assembly thereby endorses the principle of the measure. The principle of this measure appears to be the repeal of certain enactments and if the Honourable the Home Member says he does not wish to have any of them repealed, presumably he must vote against reference to Select Committee.

The Honourable Sir Alexander Muddiman: I am obliged to you for your ruling, Sir. Now, one argument I have heard put forward why we can safely repeal these special measures is (indeed it was contemplated by the Repressive Laws Committee) that we should undertake special legislation to meet special circumstances. I have dealt with the general point on the question of asking for legislation and I have shown that at any rate we have come to the Legislature on one occasion without success.

Diwan Bahadur T. Rangachariar: Not to this Legislature.

The Honourable Sir Alexander Muddiman: We went to the proper and correct forum without success. Now, to convince any Legislature, to put it frankly and fairly, of a condition of affairs which will require special measures things must have gone very far. I quite concede that it is extremely difficult for Members possibly not in possession of full information to vote measures which others in possession of more definite information may regard as essential. I admit that, but that brings with it its own difficulty. Matters must have gone very far before you can convince such people that legislation is necessary. That is one of the dangers of which I warn the House. Whatever your Government, whoever may be sitting on these benches, this danger will continue to exist. You have got to let things go very far down the street in the way of deterioration of affairs before you can convince your Legislature. Now, Sir, Mr. Jinnah was convinced, apparently by some papers that were supplied to him by the late Governor of Bihar and Orissa, Lord Sinha. If I can convince him as easily on this matter I still have hopes of bringing him round to my side. I have cited in my original speech the information, such as I have available, as to the existence of external influence intended to sap and destroy the Government out here. If any evidence that I can produce will satisfy the Honourable Member or he will care to see it, I should be very happy to show it to him. (*A Voice:* "Why not to the Select Committee?")

Sir, I regret, as I have said before, that a reference to Select Committee would, in the view I take of the position of Government, commit me to action that I am not in a position to take, that is, I should be committed to the principle of the Bill. If the House should be so advised, which I hope it will not be, as to pass this motion, at the consideration stage I shall endeavour to ascertain the views of the House on each and every one of these several enactments. There has been some difference of opinion expressed on that matter. (*A Voice:* "No.") I hear a voice "No." I thought I heard some expression of opinion in support . . .

Mr. M. A. Jinnah: May I ask the Honourable the Home Member whether he is opposed to the repeal of even a single one of these Acts and Regulations?

The Honourable Sir Alexander Muddiman: Yes, as at present advised. It has been suggested that these Regulations are not law duly passed by a Legislature having authority for the time being to make law. That is not correct. You may object to the law. You may seek to amend it. But you cannot say it is not law and if it is passed by the Legislature for the time being whatever that Legislature may be, it is as good a law from the legal point of view as any law that you have got. If you are going to take up the line that no law has any validity unless enacted by the Legislature existing for the time being, you in the end come to the logical conclusion that at the commencement of every new session of the Assembly the Assembly must re-enact all the existing laws.

I desire to sum up my arguments very briefly. My Honourable friend, Diwan Bahadur Rangachariar, said that in 1921 the Repressive Laws Committee made a recommendation and he went on to say, "Look round India and tell us . . ."

Mr. V. J. Patel: Is this reply on the motion of my Honourable friend, Diwan Bahadur Rangachariar, to refer the Bill to a Select Committee, or is it a reply on the main motion. I make this inquiry because I have got to consider whether I should speak now or after.

Mr. President: The question that I shall put within a few minutes is that the Bill be referred to a Select Committee. If that question is disposed of in the negative, the debate will proceed and the Honourable Member will have the opportunity of a final reply at the end. But if the question is decided in the affirmative, then the Bill goes to the Select Committee and there is no further debate at this stage.

The Honourable Sir Alexander Muddiman: When I was interrupted I was endeavouring to sum up the main points of my argument and I was dealing with the proposition that my Honourable friend Diwan Bahadur Rangachariar put forward, namely, that looking round at the state of the country there are no such special conditions. He made no reference whatever—I am sure it was a slip—to Bengal.

Diwan Bahadur T. Rangachariar: I did it purposely. That was a matter to be talked over in the Select Committee.

The Honourable Sir Alexander Muddiman: My point is, in dealing with a matter of this kind, when we are considering how far these special measures are to be maintained owing to the particular present condition of the country, the actual state of affairs in Bengal is very, very germane to the position. Sir, I drew the attention of the House to the position proved in a judicial proceeding in Cawnpore and again in appeal before the Allahabad High Court. I have quoted copiously from that judgment and I am not going to detain the House by quoting the extracts once again. Are the conditions which I have really endeavoured to impress on the House but I fear with very little success—are these the conditions under which Government can surrender any of those powers? I say, No, and definitely No. In vain is the net spread in the face of any bird. In justice to Mr. Patel, I must say that he has not attempted to charm me to do this. He is quite frank. I gather not only from his speech but also from the various motions standing in his name that his point is this: "I will clip the wings of the executive Government. I will take away their executive powers. I will reduce their powers of preventive action. I would even reduce the powers which are conferred by the existing criminal law. I will weaken the ordinary law and cut it down." That is his position. It is a perfectly clear position. It is a position which he may take up and to which no one can object, but it is not a position which he can expect me or the benches from which I speak to take up. I should have thought, I still think, there are many in this House who take the same view as I do that co-operation with us in the preservation of law and order is not merely a political necessity but it is a social necessity. On it depends your life and my life. On it depends the whole social fabric. Mr. Jinnah was perfectly right when he said that every thinking man must be willing to co-operate with Government on those terms. He went on to say, and he was again right, that it was a question of methods. I agree it is a question of methods. This Bill is a Bill which weakens our hands. If it was brought forward in ordinary normal peaceful conditions, I do not know what the attitude of the Government would be. I know what my own would be. I have however to deal with facts as they exist now and with the times as they exist now. As I opposed the motion to introduce the Bill, so I oppose the motion to refer the Bill to a Select Committee and any other motion that may be made upon the Bill.

Diwan Bahadur T. Rangachariar: In view of the attitude of Government, I find I am serving nobody by my motion. I therefore wish to withdraw it.

The motion to refer the Bill to a Select Committee was, by leave of the Assembly, withdrawn.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President in the Chair.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): *Sir, I have been surprised that the Government have not seen their way to agree to the amendment of Mr. Rangachariar to let the Bill go to a Select Committee. I consider, Sir, it to be a great misfortune that the Government should show so much distrust of the Members of this Assembly. The proposal contained in the Bill is a very important one. There has been a feeling existing in the country for a long time that the Regulations that are mentioned in the Bill should be repealed. Various attempts have been made to persuade the Government to repeal those Regulations. When this Bill now comes forward we find the Government still unwilling to agree that the matter should be considered in a Select Committee. The Bill refers to half a dozen enactments which are on the Statute-book. Naturally one can understand that there may be something to be said in favour of some of these enactments and it may not be possible to say the same thing of the other enactments. The time when these measures were passed was long ago. The first of the Regulations mentioned here takes us back to more than a century, for it is that of 1818. The second one is that of 1819, the third of 1827. The State Prisoners' Act was passed in 1850, that is, before the Mutiny. The Punjab Murderous Outrages Act was passed a few years after the Mutiny. It is impossible for us to be satisfied that the changes which have occurred during the long period which has elapsed have made no difference in the situation. When these Regulations were passed the condition of things was very different. The Government had not been so thoroughly established in the country. The Queen of England had not assumed the control of the Government of India. There was not a regular Legislative Council where enactments were passed as they have been passed since 1861. Since the time of the transfer of the Government to the Crown, a Legislative Council has dealt with all the matters that have arisen regarding the maintenance of law and order in this country. Whatever enactments were considered to be necessary for maintaining law and order have been passed and the Legislature has certainly not been idle in this matter. The number of enactments dealing with law and order which have been placed on the Statute-book is certainly not small. This being so, in view of the great changes which have occurred, it is not unreasonable to ask the Government to consider whether these Regulations are still necessary. The Honourable the Home Member said that he was not opposed altogether to any of these enactments being repealed. He admitted that he might not be opposed at least to the repeal of one of them. That being so, the amendment before the Assembly simply proposed that the Bill should be referred to a Select Committee and the Select Committee could examine each of these proposals, and if reasons were found to justify the continuance

* Not corrected by the Honourable Member.

of these Regulations most certainly the Assembly should be trusted to see to it that these Regulations were continued. But how are we treated? The mere motion to send it to a Select Committee is opposed. What are we now face to face with? With the motion of Mr. Patel that the Bill should be taken into consideration, and his second motion that it should be passed. If we do not vote for the motion now that the Bill be taken into consideration, the Bill is thrown out mercilessly and unjustly. Those of us who might wish to carry the Government with us to convince or attempt to convince them that many, if not all, of these Regulations should be taken off the Statute-book have no opportunity to do so. And yet we are told that we are not willing to co-operate with the Government. I consider the situation to be a very distressing one. The Government have the power as things stand to carry on the administration of the country in defiance of the public opinion of the country as it is represented in this Assembly and outside. They have been doing so and they can continue to do so for I do not know how long. But the Government have not the moral support of public opinion of Indians, educated Indians, generally, and it is not a spectacle on which the Government can be congratulated that in matters where it is possible to come to an understanding between Indian Members of the Assembly and the Government Members even an attempt should not be made to do so. The Government have put forward reasons for opposing the reference even to the Select Committee. I do not know, Sir, that even the Honourable the Home Member was convinced of the soundness of the arguments which he put forward, and I certainly do not think that the Honourable Members of the Government Benches were satisfied that there was any reason shown for opposing the reference to a Select Committee. This being so, I wish it was possible to have this amendment considered again by the Government Benches, and I wish it was possible to ask for the opinion of this House on this amendment.

It has been urged, Sir, with regard to the merits of the Bill that the Mover of the Bill and those who support him have not taken into account the imperious necessity which might arise—and Government can choose to make it arise from time to time—to have extraordinary powers to deal with extraordinary situations. Now, if the matter went to a Select Committee, we could examine every single argument that was advanced, and we are prepared to examine every single argument that has now been advanced. I feel certain that such an examination will result in only one thing, in showing that the repeal of these Regulations will not leave the Government helpless to deal with a situation that might arise. The Honourable the Home Member referred to three circumstances which, in his opinion, justified the attitude he took up. He admitted, as he was bound to do, that the Repressive Laws Committee recommended the repeal of these Regulations, but, he said, shortly after that report, before even the ink with which the report was written was hardly dry, there occurred the Moplah outrages. Now, Sir, I wonder whether the Honourable the Home Member remembers that there is such a thing as the Moplah Outrages Act still on the Statute-book. I should like to be informed if I am incorrect. First, the Moplah Outrages Act was passed in 1867. It was Act No. XXIII of 1867. It was for the suppression of murderous outrages in certain districts. I am sorry I am referring to the Punjab Act. (*Voices*: "1859.") The first Moplah Outrages Act was passed in 1859. It continued up to 1869, when another Act, Madras Act VII of 1869, was passed to continue the Moplah Outrages Act. I am not aware

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that this Moplah Outrages Continuation Act has been repealed. (*Voices*: "It is still in force.") Now, Sir, that Act gives all the powers which the Government thought it fit to have to deal with the special situation which existed in the Malabar country at the time. That Act has not been repealed and as that Act is in force, the argument that the outrages in the Moplah country gave any reason to Government not to act upon the recommendation of the Repressive Laws Committee falls to the ground. Even if the Regulations which are referred to in the Bill had been repealed, the Moplah Outrages Act would have continued on the Statute-book. The second argument advanced was with reference to the Punjab. Mr. Denys Bray made a powerful speech, but I wonder whether he made it quite clear to the House that the Punjab Murderous Outrages Act had been withdrawn from the North West Frontier Province and that it had been replaced there by the North West Frontier Province Regulation IV of 1901. That Regulation is still in force in the North West Frontier Province. The Punjab Murderous Outrages Act was passed in 1867. Under section 1 the districts of Peshawar, Kohat, Hazara, Dera Ghazi Khan, Dera Ismail Khan and Bannu were declared subject to the provisions of the Act in July 1878. Later on, the districts of Peshawar, Kohat, portions of the Hazara district and parts of the Bannu, Dera Ghazi Khan and Dera Ismail Khan districts formed part of the North West Frontier Province, and by Act XIV of 1874 the Frontier Murderous Outrages Regulation of 1901 has been extended to the North West Frontier Province. There is no suggestion in the Bill which is now before the House that this Frontier Murderous Outrages Regulation should be repealed. That being so, the strong appeal which Mr. Denys Bray put before the House on the ground of the conditions in the North West Frontier Province loses its force. We have two corners of India. It may be said that there was part of another district in which it may be necessary sometimes to extend the provisions of this Act. Facts have not been put forth to support such an argument if it was advanced. So that we have got two important parts of the country mentioned, namely, the Moplah country on the one side and the Frontier Province on the other side as requiring the continuance of the Regulations which are the subject of consideration before the House. In both these cases, I submit, there is absolutely no justification for using them as arguments in support of the Bill. What is the third thing that the Government have put forward? The Honourable the Home Member referred to the condition of things in Bengal. Now, Sir, in the very notification which His Excellency the Governor General in Council has issued, when he promulgated the Ordinance, he has said that up to the end of 1922 there was little trouble in Bengal. That trouble arose in 1923 and it became acute in 1924. But, instead of relying upon the facts which had taken place during these two years, what did the Honourable the Home Member and the Honourable the Commerce Member do in supporting their views? They went back to ancient history. They went back to things which had happened before 1922. They had nothing better to rely upon than the report of Sir Narayan Chandravarkar and the other Judges of the High Court. (*A Voice*: "Mr. Justice Bencheroff.") Now, Sir, I submit that, if my friend the Honourable the Commerce Member argued a case in a Court of law on that basis, he would be asked to shut up. He would be accused of attempting to mislead the Court. He might have done so unconsciously, but I do not think that the Honourable the Commerce Member can urge

that he was not aware that the matter which was before the House was whether there were any existing facts to justify the action that the Government had taken and that, when he cited facts which had long become past history, he was not adopting an attitude befitting a Member of the Government. And what is the attitude which is being adopted to-day in regard to the Bill before the House? The Honourable the Home Member says: "Look at the condition of things in Bengal." He says that the state of things there is such that they cannot do without these Regulations. Now, Sir, the House should remember that the Bill is a comprehensive Bill. It deals with six Regulations, and it deals with Regulations which affect the whole of British India, which is nearly as large as the whole of Europe, minus Russia. In this country these Acts which give the Executive the power to deprive a subject of His Majesty of his right to have a fair trial before he is convicted and sentenced to punishment are continued on the Statute-book, and this right extends all over the country. If, therefore, the Government adopted the attitude that there was some part of the country where there was need for continuing such a Regulation, one could understand it. If the Honourable the Home Member urged that the state of things in Bengal was such that it was inexpedient, unwise to ask for a repeal of Regulation III, which applies to Bengal, one could understand the situation; but on what ground, with what reason, can he oppose the reference to the Select Committee of the Bill which deals with the whole country, and with five other enactments other than the one which affects Bengal? In regard to Bengal, Sir, the Honourable the Home Member said he could not take anybody into his confidence because he did not expect that the Assembly would support the Government, which is a very powerful argument. I have no doubt he imagined it was, according to his point of view, and he urged us to look at what actually happened. The Government of Bengal did put forward a Bill before the Bengal Legislative Council, and what fate did that Bill meet? Even the introduction of the Bill was opposed. It was thrown out most discourteously at that stage. Therefore, he argued that he should not repose any confidence in this Assembly. It reminds me of the story of the wolf and the lamb. It was not this Assembly which had done this, but this Assembly could not be trusted because in a particular set of circumstances another Legislature acted in a way different from what the Government wished it to act. I submit, Sir, that is an unfair argument. Why should this Assembly not be given an opportunity to discuss the necessity of any rigid measure, any severe measure, that might be thought necessary if the facts were put before this Assembly? When has the Assembly failed? It does not mean that any proposal which emanates from the Government should be accepted without consideration. There must be an examination of every measure that comes up. I do not know yet of any occasion when it could be said that this Assembly opposed the introduction of any measure the necessity for which was shown. And what is the argument with regard to Bengal? The complaint of the Honourable the Home Member that the action of the Bengal Legislative Council gave him no reason to trust this Assembly will not hold water. What were the circumstances in which this Bengal Crimes Regulation Bill was introduced? Things were evidently going on peacefully up to a certain extent. Certain cases occurred which led the advisers of Government to advise Government to introduce an Ordinance by the authority of the Governor General. In promulgating the Ordinance, His Excellency the Governor General put forward the strongest reasons which had been urged before him to justify recourse to that course. My esteemed friend Pandit

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Motilal Nehru dealt with every one of those reasons, and I think that the Government Members were satisfied that his analysis of the evidence upon which the Governor General had been advised to act was so satisfactory that not one of them got up to answer the criticisms which he had offered. (Mr. Denys Bray: "It was at the end of the debate.") "The end of the debate" my Honourable friend Mr. Denys Bray says. I am certain that, if the Government Benches thought that they had a case to put forward, they would have asked you to give them an opportunity to do so, and I am certain, Sir, you would not have refused them that opportunity. If there was a case I should have expected to hear something about those points later on even in this debate, but to-day not one of the arguments which was advanced by Pandit Motilal Nehru on the question of the facts upon which the Ordinance was based has yet been answered. I should like the Government to answer those arguments and to contradict those statements, if the criticism made by my Honourable friend Pandit Motilal Nehru is faulty or incorrect or untenable. I must therefore assume, in the absence of any contradiction on the part of Government of the statements of Pandit Motilal Nehru, that it has been completely shown that the facts which were relied upon to justify it, that the events which were mentioned as indicating the existence of revolutionary crime and conspiracy, are capable of another explanation than was placed before Government.

Mr. E. H. Ashworth (United Provinces: Nominated Official): May I rise to a point of order? The remarks that were just made, how do they affect the present motion that is before the House? They lead back to a past debate and would only give an opportunity to other speakers to traverse ground which was taken on a totally different motion. May I ask for the ruling of the Chair whether that is in order?

Mr. President: I do not appreciate the Honourable Member's point. Does he wish to know whether reference to the Bengal Ordinance is out of order?

Mr. E. H. Ashworth: No. The Honourable Member said that no one had risen to meet the remarks of the Honourable Pandit Motilal Nehru, and he was proceeding to argue that that speech must be accepted because no one had risen to meet those remarks. He has not brought that in in any way in connection with the present motion before the House which is that six special enactments should be abrogated.

Mr. President: If the Honourable Member is objecting to the reference to Pandit Motilal Nehru's speech on the Bengal Ordinance Bill, it appears to me that the reference is perfectly in order in view of the fact that the Bengal Ordinance is related to the first item in the Schedule of this Bill.

Pandit Madan Mohan Malaviya: Thank you, Sir. I am surprised that Mr. Ashworth, having long been a Judge, should rise to a point of order on a matter like this. The relevancy of the remarks which I have submitted is, I hope, as clear to the whole House as it is to you, Sir. And apart from the general connection to which you have been pleased to refer, there is the patent fact that in the discussion to-day the Honourable the Home Member relied upon the state of things which exists in Bengal and the action of the Bengal Legislative Council with reference to the Bill which was introduced there as an argument to justify his distrust of this Assembly.

Now, Sir, those facts have not been contradicted or controverted, and I take it that, because they have not been, in view of the distance of time that has elapsed I am probably not unsafe in assuming that the Government cannot contradict them. Now if that is so, is not there abundant reason to suggest that the action of the Bengal Legislative Council might have been perfectly just, might have been perfectly legitimate? If we could not be satisfied by the Honourable the Home Member with all the information that he could get from Bengal that there was any justification for the promulgation of the Bengal Ordinance, is it unreasonable to assume that the present Bengal Legislative Council who are on the spot, nearer the scene which is affected by the Regulation, should not have been satisfied, that the Government had shown any justification in introducing the Ordinance and that therefore there was no justification for introducing the Bill which the Government sought to introduce? I do not ask for a verdict from this House, Sir, on the point as if it was a point in issue here. I mention this to show that the Honourable the Home Member was very unhappy when he relied upon the state of things that had happened in Bengal and the fate which the Bengal Crimes Regulation Bill met in the Bengal Legislative Council as affording any justification for the view that this Legislature could not be trusted to deal with any emergency that might arise and that might require extraordinary legislation. There is another circumstance. I wish my Honourable friends who unfortunately do not agree with us in this matter would give a little more consideration to the fact that we Indians are also human. I wish they would remember that, when the Government of India would introduce an Ordinance in Bengal and under the operation of that Ordinance arrest 95 or more men many of whom held not very inconspicuous positions in Bengal, that, when the Government would arrest so many persons under an Ordinance and then proceed to place a Bill before the Legislative Council, they should have been prepared to have the motion for the introduction of the Bill rejected. The Legislative Council would be justified in saying that the facts should have been brought before the public earlier. There was no circumstance shown which would have made it perilous for public peace or safety, much less for His Majesty's Government in India, if the introduction of the Ordinance had been delayed. That being so, the action of the Bengal Legislative Council in refusing the Bill cannot rightly be relied upon as affording any justification for distrusting this Assembly.

Now, Sir, what are the circumstances in which we are now placed? There is one other argument which was used by the Honourable the Home Member. He said, there was external pressure being brought to bear from outside to sap the foundations of government in this country. Now, I do not doubt that statement of the Honourable the Home Member. He is in the know and I suppose when he says this it is based on very full and very good authority. Assume that there are some people outside India who are endeavouring to sap the foundations of government in this country. Does the Honourable the Home Member doubt, Sir, that there are millions of men in this country who would stand up to fight these men and to die in the service of the country if they try to spread the mischief here? But that is only possible if they are informed of the situation, if they are taken into confidence, if they are told that there is this danger confronting us. And if after being told of the danger, they refuse to deal with the situation, then and only then will they be liable to any reproach. Who is there, what respectable man is there, in the country, who would like that enemies from outside should come to disturb the peace of this

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country or to upset the Government? We do not like it, Sir. If there are any such men, we would lend all the support which we can to the Government in dealing with them. If there are such men in whose case it is necessary that there should be special legislation, extraordinary legislation, adopted, let the Government put forward such legislation and let the Government place the facts before us and see whether we are capable of appreciating our own interests or not. But, Sir the fact that there are some people outside India who are agitating against the peace of this country, who have got designs against the peace of this country, affords no argument for supporting the continuance of the existing extraordinary Regulations on the Statute-book. Why should the whole country be coloured—what shall I say, yellow or what? (*A Voice*: "Red") No, not red because that represents the British Government—red represents British territory—that is why I avoid it. (*The Honourable Sir Basil Blackett*: "Sanguinary.") Well, that is the colour that has been selected by Government and I suppose they must have good reason for it. Now, Sir, it may be anything. (*A Voice*: Make it blue.) Make it black, if you like. Why should the whole map of the country be tarnished black because there are some spots in the country which are not in the happy condition of normal relations existing in those parts? Because there are some enemies of the country who are working from

outside to disturb the peace of the country, why should the Government keep on the Statute-book these Regulations under which it has been proved many a time that innocent men have been arrested, deported and detained? Do we not know the case of Lala Lajpat Rai in 1907? Do we not know the case of Babu Krishna Kumar Mitter and Ashwini Kumar Dutt? Has not the Honourable Mr. Jinnah reminded the House to-day that the result of the inquiry made by Sir Narayan Chandravarkar and Mr. Justice Beachcroft revealed that five per cent. at least of those who had been dealt with by the Government under the Regulations were innocent? Can it be a satisfaction to any Member of this House, whether on this side or on the other, that such a large number of innocent men as 5 per cent. of the men dealt with under the Regulations—and there were several thousands of men who were so dealt with—should have been proceeded against under this extraordinary legislation? And finally, if the enemy desired to create conditions under which it would be necessary to keep up these Regulations, could he hit upon any better method than to continue these Regulations in force and to use them from time to time to exasperate Indian public opinion against the Government? What is the effect of the application of these Regulations? Has any of them been once applied and met with the support of Indian public opinion? The action of Government under practically executive authority which the Regulation authorises them to take has resulted in Indian opinion being more and more alienated from the Government. Indians have repeatedly protested against these Regulations, and if the Government want that the attempts of the enemies of India who may be working from outside to sap the foundations of Government should fail, they should themselves be solicitous of removing as many grounds of complaint as they can reasonably and without danger remove, and most certainly the existing Regulations do fall within the category of things which are sources of irritation and offence and which can be removed without any danger to the Government. Assume that the Government accede to the request of this House to consider this matter. What would be the result? Government Members and the non-official Members of this Assembly would

sit together. They would examine the provisions of each Regulation, find out the conditions under which they were promulgated, examine whether those conditions exist, and examine if they do not exist whether it would be necessary to continue the particular Regulation. They would also examine what penal laws have been enacted in the interval which embody several of the provisions which exist in the Regulations. They would examine wherein the special provisions of the Regulations differed from the ordinary penal law of the land and they would recommend, I venture to say, that where a clear necessity might arise, the Government might proceed by special legislation to be limited to the particular plague spot and to last only for the time such an epidemic lasts and to be removed at the earliest possible opportunity when normal and healthy conditions returned. Under that examination, Sir, it would be possible for the Members of Government and the Members of this House to see eye to eye with regard to the main object which the Government and we have in view. I would ask my Honourable friend the Home Member and the Members of Government to accept the statement that we too are interested in maintaining law and order in British India, and that Indians are certainly not less deeply interested in the maintenance of law and order in India than the Members of Government are. In that view if they took us into confidence they would certainly find that we were not all of us oblivious of the interests of the country, that we would not all of us vote against a measure which the Government might bring forward merely for the fun of it. In that state of affairs Government would lose nothing, they would gain a great deal.

Now, let us see what will be the result of this attitude of Government. We feel that we, sitting as Members of this Assembly, cannot be a party to the continuance of these enactments unless special reasons are shown for the same. We ask for those reasons. The reasons fail us. They do not give them. (*Mr. K. Ahmed*: "*Sangathan* is one of them.") Perhaps, my Honourable friend does not understand the meaning of that word. If he wants to be enlightened I will tell him that *Sangathan* means organisation. Government is an organisation and my Honourable friend would not be sitting where he is sitting in this House at this moment if there were no *Sangathan* in this country. The Muslim community organises itself as the Khilafat Committee and the Hindu community organises itself as the Hindu Sabha. God bless them both and may the enemies of both find out that they have little to gain if they want to stir up feeling amongst them. We are our own enemies sometimes I am sorry to say, and Government are entitled to doubt occasionally whether we shall rise up to the responsibilities which have been placed upon us. But all that I am pleading for is that we should not accept their *ipse dixit* for it, and they should give us an opportunity in order to judge of the matters upon which they feel a doubt. That is all I ask for.

Let me draw the attention of the House to the result of the attitude which Government have taken. Resolution after Resolution has been passed by this Assembly. We are going to pass this Bill also; I hope we can. (*A Voice*: "There is no doubt.") I can only say I think we are going to pass this Bill and I certainly regret that it should be passed in the circumstances in which it is being passed. I frankly say it would have been a greater pleasure to us to sit together with Members of Government in the Select Committee to consider every single point which could be urged on behalf of Government with regard to any part of the extensive territories over which His Majesty the King holds sway, to provide for

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the needs of those parts and come to an agreement with regard to the repeal of the Regulations so far as they affect the country as a whole.

Maulvi Sayad Murtuza Sahib Bahadur (South Madras : Muhammadan) : On a point of order, Sir, Diwan Bahadur Rangachariar having withdrawn his amendment about reference to a Select Committee, that question is not before the House.

Mr. President: The Pandit was only expressing his regret that he is not able to sit on that Select Committee.

Pandit Madan Mohan Malaviya: I say, Sir, that this continuation of non-co-operation on the part of Government with the Members of this Assembly does not bode any good either to Government or to the people. When we offer an opportunity for co-operation, when we solicit it, it would be wise to accept it. Now, I only want to draw attention to the evil which arises. It is known that the Government of India show very little regard for the Resolutions passed by this House. I am sure that no Member of Government who gives any thought to this matter can feel happy over such a situation. It will be impossible to persuade the outside world. The Government being situated as they are may not care for Indian public opinion. They may disregard any expressions of that opinion, but the world is not confined to India. What happens in this House and in this country is known and noted in other countries, in your own country, in England and in other foreign countries; and when people find that the Government adopt an attitude of non-co-operation with the people, that while they claim to act righteously in their relations to mandated territories and to other countries, the Government of India show a continuous disregard of the opinions of Indian Members of this House, whatever Mr. Denys Bray might think, the Government of India will stand exposed not to the respect of other nations but to very very severe criticism from them. What has happened in India? The Government are alienating by this attitude the public opinion in this country to an extent which is deplorable. I therefore wish that it was possible for the Home Member to revise his decision and that it was possible to have this Bill referred to a Select Committee in order that the matter might be very fully considered. Of course if this is out of the question, there is only one course which is open to us with the convictions we have, the conviction that all these Acts were passed for times which have long passed away and have therefore become obsolete the conviction that the Acts cannot on the statements, even if we accepted them, of the Government Members apply to any but small parts of the country, and the conviction that the laws of the land have been amply added to and that we have got an excellent Penal Code which provides for dealing with situations that might arise. We find provisions in the Penal Code and the Criminal Procedure Code which will give Government all the power which they want for dealing with these cases. If there is necessity for continuing any special Regulation in any part of the country where the special Regulation does not exist—and certainly those parts are not the North-West Frontier or the Moplah country—then the Government should come up before this House and ask for exceptional powers. I hope that this Bill may yet have a better fate than it seems it is going to have from the Government, but if it does not I hope we shall not be blamed for supporting the Bill and placing it on the Statute-book in the distant hope that the Government will recognise that in the situation in which we were placed,

after the demands that we have made, it was not we who were wrong but that they were wrong in their attitude.

Khan Bahadur Muhammad Abdul Mumin (Bengal: Nominated Official): I do not wish to enter into any discussion of high politics but only to state before the House the situation as it exists in Bengal. Being a Bengali, and possessing first hand knowledge of the disturbed conditions of affairs in Bengal, I think it is my duty to place before Honourable Members some facts and to try to impress upon them how dangerous it is in the interest of peace and security to deprive the executive government of that province of any of its powers at the present moment. I shall confine myself only to Regulation III of 1818. This Regulation was intended to preserve tranquillity and secure the Dominions from internal commotion by putting individuals under restraint when it was not considered advisable or desirable to institute regular judicial proceedings. Though the Regulation is 107 years' old I venture to assert that at no time in the history of British administration in this country since the Great Mutiny was there so much dangerous commotion likely to upset and unsettle the peace of the country as there is at the present moment.

And consequently, Sir, never was the Regulation more necessary than it is to-day. The Honourable the Home Member, Sir, in his speech on this subject, as well as on the subject of the Ordinance Resolution, cited many instances of revolutionary and criminal activities in Bengal to show to what extent terrorism prevailed in that country. I wish, Sir, with his permission to relate to the House another instance which is neither fiction nor a mixture of fact and fiction as the Honourable Panditji stated the other day, but real stern fact of which I have personal cognizance. I refer, Sir, to the . . . (Inaudible interruptions) Sir, I object to terrorism in this House. I refer to the Nadia mail robbery case, about which many of the Honourable Members must have read. The mail coach from Krishnagar to Nadia was waylaid in broad daylight about 8 o'clock in the morning: waylaid by two young men of the *bhadralog* class on bicycles, who, pointing their revolvers at the driver, demanded the mail bags. (A Voice: "When was that?") Only a few months back. On his refusal to deliver them they fired several shots at him and seriously wounded him. They then took away the purse of an East Bengal passenger who was inside the coach and as other carriages were coming from behind they mounted their bicycles and rushed back towards the town. (A Voice: "Was that the only robbery in Bengal?") This happened very recently. I did not attribute anything political to it, but am relating to the House an instance of terrorism. If Honourable Members will allow me to proceed I will show the significance of it. These young men belonged to Krishnagar as did the driver. The one who fired the shots at him was known to the driver. This young man himself while rushing back to the town met several people and gave the first information that such an accident had happened. Well, this wounded man was brought back to hospital. The culprits were arrested within a few hours and were identified by the driver and the passenger from East Bengal and several others. About this time the Red Bengal Leaflet, mention of which has been made by the Honourable the Home Member was distributed in Bengal, and the Sub-divisional Officer by whom the case was tried, the Superintendent of Police who conducted the inquiry, and the District Magistrate all got a copy of this Red Bengal Leaflet. And not only these officials but one was sent to the Maharaja of Krishnagar whose attitude and influence on

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behalf of law and order are well known. In addition to this, during the pendency of the case the District Magistrate got an anonymous letter threatening him that it had been decided at a conference or meeting that his house would be looted and he would be killed. (*A Voice*: "May I know who is the District Magistrate?") I will tell you if you will allow me to proceed. The writer of the anonymous letter was traced and the handwriting identified, but the prosecution had to be dropped as no other evidence was forthcoming except that of the experts. I may tell the House that the writer of this letter was a very near relation of one of the accused in the mail robbery case. Meanwhile the robbery case came up to the Sessions, but the accused, contrary to all expectations, were acquitted. The prosecution witnesses wavered and the jury returned a verdict of "not guilty". (*Mr. M. A. Jinnah*: "Therefore you must regulate them.") I have related this case to show to Honourable Members how difficult, if not impossible, under the conditions which prevail in Bengal, it is to bring certain culprits to book by open trial. Can we expect any ordinary witness to come forward and give evidence openly with the sword of revenge hanging over his head? Is it difficult to understand to what terrorism the witnesses and the others are subjected when even high officials are threatened to dissuade them from doing their duty? The evidence of the approver in the Kona dacoity case . . . (*An Honourable Member*: "You never mentioned the name of the Magistrate.") I did not want to mention the name of the Magistrate. This happened at Nadia where I was the District Magistrate. It is not my fault that I have to mention it. The evidence of the approver in the Kona dacoity case has been the subject of a good deal of ridicule, because this man when challenged subsequently failed to drive the motor car. It is said that he was a false witness set up by the police. I have had no personal acquaintance with the Kona dacoity case, but it seems to me not impossible or very difficult to understand that this man might have passed through some processes which made him forget how to drive a car. The Honourable Member from Burdwan, who has been interrupting me, in his speech on the Ordinance Resolution related before this House what according to him were the active causes of disaffection in Bengal. There was nothing new, Sir, in what he said, because what he said is always said in all these public speeches in the College Square and Harrish Park in Calcutta every day. I did not expect he would be able to say anything new, because he is . . .

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): I am not a prophet come down from heaven to give a new message.

Khan Bahadur Muhammad Abdul Mumin: He is one of those who receives his inspiration from the same quarters. I admit, Sir, there is much disaffection in Bengal, but I say, Sir, emphatically that a good deal of this is created by persistent agitation and is the result of persistent misrepresentation. The causes which the Honourable Member cited are themselves examples of how this disaffection is created. I refer to the Dacca speech of His Excellency Lord Lytton and the Tarakeswar affair. Never perhaps in the history of political agitation in Bengal was a more baseless misrepresentation sprung on the credulity of the people and capital sought to be made out of it than the Dacca speech of His Excellency Lord Lytton. And what did His Excellency say? Addressing the police force at Dacca he referred to the malicious allegations made against the police in the Char Munair affair and said that he was shocked that Indians could so

much lower themselves as to allege malicious assault on their women-folk to bring discredit on the police. (*A Voice*: "Shame".) I read the speech as did many others and it never struck me for a moment that it meant or could mean by any stretch of imagination to be an insult to the womanhood of India. Any one who has experience of criminal cases in Bengal must know, and my Honourable friend who is a lawyer, if he has got any criminal practice, must know, that cases are by no means rare where low class litigants make malicious allegations of assault on their women by their opponents either by way of defence or to harass their opponents. (*An Honourable Member*: "Question?"). I may . . .

Mr. A. Rangaswami Iyengar: On a point of order, Sir, are we discussing His Excellency Lord Lytton's speech?

Khan Bahadur Muhammad Abdul Mumin: I may mention that the allegations made in the Char Manair case were found baseless in a judicial trial. Was it possible to believe that a nobleman of the position of His Excellency Lord Lytton with his traditions addressing Indian police would intentionally insult the Indians, far less the women? But the edict went forth that His Excellency had insulted the womanhood of India. And this was persistently repeated in the press and from the platform till the people began to believe that they had really been insulted. And this even after His Excellency had definitely denied that he never meant any insult. It did not pay the agitators to believe otherwise, because they wanted to manufacture a grievance and to bring it out on all conceivable and inconceivable occasions as a great political wrong. This is the way how disaffection is created. Most people in Bengal take their cue from what they read and hear in certain quarters and never pause to reflect and consider for themselves to find out the real facts. Such is the mentality, Sir, of a large section of the Bengali population at the present moment that if any of the known leaders were to address a mass meeting of say, 20,000 people of all ages, of all creeds and all sexes as they put it in the papers, from the stairs of the Town Hall in Calcutta and tell them that the crows from the Calcutta Maidan at the instigation of Government had run away with their ears not one of these 20,000 people would care to raise his hands to feel whether that valuable organ was there or not, but would rush forth vowing vengeance on the crows! Mass meetings would be held simultaneously at College Square, Harrish Park and Cornwallis Square, unanimous Resolutions would be passed to take steps to exterminate all the trees of the Maidan so that the crows may be deprived of their roosting place. And next morning the papers would be full with large head lines depicting the outrageous conduct of the crows, the insult to the manhood of Bengal, the great meeting at the Town Hall, great sensation prevailed, and so on and so forth. And if there were any unfortunate man among them who were even mildly to suggest that before passing such a Resolution it was desirable to feel whether that valuable organ existed or not, he would be abused roundly and cried down as an enemy of the country, a *Jo Hukum* of Government. (*Voices*: "As a Government man. As a Khan Bahadur".) Such being the mentality, Sir, of the masses, it is easy to conceive how easily a dangerous commotion can and is created by designing agitators and how necessary it is for the Government to be able to check it.

The Honourable Member from Burdwan has also referred to the Tarakeswar affair as a cause of Government's unpopularity. What are the facts? The Mahant of Tarakeswar, it was alleged, was a wicked man and oppressed the pilgrims and misappropriated the funds of the temple. Some

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Hindu gentlemen had brought a civil suit against the Mahant and that suit was pending and a receiver was appointed by the Court. Meanwhile, the Satyagrahis under the leadership of some politicians wanted to take forcible possession of the shrine and not to allow the receiver to take possession. Was it not the duty, Sir, of Government to uphold the order of the Civil Court and prevent the forcible dispossession of the receiver? Would it have been right to let any party take the law into their own hands and flout the Civil Court's orders? The Satyagrahis were told that they would be committing an offence if they trespassed into the compound and when, in spite of the warning, they did commit trespass they were prosecuted and convicted. And who were the people, Sir, who were employed to carry out this commotion? Not the innocent lambs that they are represented to be, but a set of most turbulent, unruly and ignorant young men who had no respect for anything in the world. I had the misfortune of having about a hundred of them in my jail for a couple of months, and I assure you I would not like to have a repetition of that experience. Where was the Government to blame in this affair? It was my opinion and the opinion of many, that the Government erred on the virtue side in this case and perhaps was over-considerate to the offenders. Is it right to say that the Tarakeswar affair is a cause of disaffection against the Government? What it really did cause was a widespread panic and a feeling of insecurity among the owners of *thakurbaris* all over Bengal, and I will give an instance. It created great excitement at Nabadwip in the district of Nadia. Nabadwip I may explain to the House is a place where there are numerous *thakurbaris*, and it is the birthplace of Lord Chaitanya. It is the *Muttra* of Bengal. It contains numerous *thakurbaris* where pilgrims flock from all parts of India. The difference between Nabadwip and Tarakeswar is this. While the Tarakeswar property is Debottar property and is under a public-trust, the Nabadwip *thakurbaris* are nearly all private properties of very recent origin. Pilgrims who come to Nabadwip are charged a small *darshani* or gate money which they willingly pay and have always been willingly paying. Following the success of the movement at Tarakeswar, an agitation was set up at Nabadwip to attack and coerce the owners of the *thakurbaris*, and notices were served on the *Gossains* threatening them with *satyagraha* if they did not submit to their terms. It was notified that a band of 2,000 volunteers would be sent to Nabadwip to prevent the normal activities of the *Gossains* and the realisation of the gate money. The *Gossains* were in a panic and came to me in a terrible state of mind for protection, but were reassured when they were told that Government would protect them and their properties. For some reason the threatened attack did not come and things went on smoothly, though occasional threats continued to be hurled at the *Gossains*. I have just received a letter from the Superintendent of Police, Nadia, that the movement against the *Gossains* was revived, and the *Gossains*, probably apprehending that the authorities would not be able to protect them, had given in and accepted the terms. Things have come to such a pass in Bengal that peaceful and law-abiding people are fast losing faith in the power of Government to protect them and their properties. (An Honourable Member: "Why don't you go back and protect them?") I put it to the House whether it is right and fair to manufacture a grievance, and by exploiting the credulity of the people, create a commotion and then to say that this grievance is the cause of disaffection? No one objects to legitimate agitation. Real grievances there are and there always will be. But when agitation assumes dangerous proportions and is engineered by

designing individuals on wrong lines, with the sole intention of subverting law and order, when a terrorist propaganda deprives the people of security of life and property and freedom of speech, it is the duty of Government to step in and protect the people by removing the cause from the field of mischief.

Pandit Shamlal Nehru: Will the Honourable Member give us a list of "legitimate" grievances?

Khan Bahadur Muhammad Abdul Mumin: I will later on. The time of the House is too valuable. Similarly, Sir, we have no grievances against any party of honest politicians, Independents, Nationalists, or Swarajists, who all have the same goal, though by different means. The leaders of the Swarajist Party like the Honourable Pandit, Mr. C. R. Das, the leader of the Swaraj Party in Bengal who is here in this House—I beg your pardon, I was referring to Mr. Goswami—have made great sacrifices for the country and are highly respected. All honest politicians are true Swarajists, and the country expects nothing but good from them. The real danger to the country is from the illegitimate Swarajists. . . .

Mr. Amar Nath Dutt: I object to that expression.

Mr. President: Order, order.

Khan Bahadur Muhammad Abdul Mumin: Whose number is legion, and I am going to describe who they are. They according to the Urdu saying smear their garments with blood and enter the fold of the martyrs, they become Swarajists by signing the creed, to get an advantage, without the least intention of ever following a single item of the creed; they go about the country throwing mud at all respectable people, and in the name of the party and their leaders terrorise the people to gain their own ends. Most of them are men having little education and no profession, who have managed to get the diploma of merit by being convicted and sentenced to imprisonment in a political or quasi-political case,—a qualification very much desired; so much so that there are many so-called Swarajists who have a grievance against Government that they were not considered important enough to be restrained under the Regulation or the Ordinance. These are the people who are a real danger to society and for whom the Regulation is a necessity. Many Honourable Members in this House, Sir, have said that they could not believe that any one in Bengal really countenanced violence and crime. I ask such Honourable Members whether this incredulity is consistent with the Resolution passed at the Serajganj sittings of the Bengal Conference applauding the action of Gopinath Saha's dastardly and diabolical murder of Mr. Day and holding him up to public admiration as an example of self-sacrificing patriotism. On the face of this Resolution, Sir, and what I have said above, is it so very difficult for Honourable Members to realise what the mentality of a large section of the political leaders in Bengal is at the present moment, or to be surprised that this mentality would lead misguided and impulsive youth to violence and crime.

Mr. Jinnah the other day said that he was glad he is not a Bengali. It is unfortunate, Sir, that he is not a Bengali.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): I never said that. All I said was that I am glad that I was not a citizen of Calcutta.

Khan Bahadur Muhammad Abdul Mumin: My feeling is, Sir, that if Mr. Jinnah were a resident of Bengal or if we had many like him in Bengal with his respect for constitution and order, no necessity for this Ordinance or Regulation would have arisen.

Mr. M. A. Jinnah: Under those circumstances, Sir, I am quite willing to go to Calcutta at once.

Khan Bahadur Muhammad Abdul Mumin: He also said, Sir, the other day that he owed allegiance to His Majesty the King-Emperor and in return he expected protection. Well, I submit, Sir, there are many millions of people in Bengal who owe allegiance to His Majesty the King-Emperor and they also expect protection, peaceful law-abiding citizens who want that they may have protection of life and property and freedom of speech. I think it is the duty of Government, Sir, by every means in their power to vouchsafe to them that protection.

I appeal to the House, Sir, not to be swayed by sentiment or impulse but to face facts as they are. I appeal to them to realise their responsibility and to support Government in their difficult task of maintaining law and order in Bengal. Sir, I oppose this motion.

The Honourable Sir Narasimha Sarma (Law Member): Sir, the Honourable Pandit Madan Mohan Malaviya, Mr. Jinnah and others who spoke in favour of this Bill have appealed to the Government that they should take the House into their confidence, or at any rate that section which sees merit in this Bill into their confidence and agree to this measure, promising that in their turn they would assist the Government whenever occasion may arise by placing on the Statute-book the necessary Acts for safeguarding the interests of law and order. It is a very touching appeal and it is a matter of sincere regret that the Government are not in a position to comply at present with this request. The Honourable the Home Member has already told the House that there is no one on this side of the House who hates to take action under these Regulations and Acts less than those who are sponsoring the passing of this Bill; that if they are unable to see eye to eye with those who wish immediately to repeal these enactments, it is because they feel that the time has not yet come when it could be done with safety. There seems to be an impression in certain quarters, as is evidenced by the speech of the Honourable Mr. Ramgachariar, that the Government in adopting this attitude have to a certain extent been influenced by their confidence that they have in another place and in another House the necessary voting power to see that any measures which they consider to be unwise are not passed into law. I deprecate warmly such a suggestion. The Government stand on the merits of the controversy and have no intention either at present or at any other time to rely upon their supposed support in the other House for any action of theirs. Honourable Members will remember that there is a non-official majority in that House as much as in this House, and if occasionally the Members there do not see eye to eye with Members here it may be due to the circumstance that some of them at any rate having a larger experience of the world (*A Voice*: "Fossils").—they have their uses—and of India as it is seen that no unwise measures are hastily adopted by a body naturally fond of asserting what they consider to be the people's will. I shall not expatiate upon that, Sir, any further. You may rest assured

that the Government are as anxious as you are to fulfil the promise that they have given that they would repeal some of these measures in accordance with the Repressive Laws Committee's report as soon as a favourable opportunity occurs. It is hardly necessary for me to state that I, at any rate, who have spoken so vehemently against every measure which places the liberty of the subject at the discretion of an executive body however well-meaning it may be, have not forgotten the dangers inherent in such a course, nor is any Honourable Colleague of mine unaware of those dangers. But the fact that in the actual execution of a policy mistakes are made—mistakes are inevitable and dangers are inherent—is no argument for a total abrogation of such measures if in the wider interests of the State such measures are necessary for the time being. You may ask naturally, "Are we not living in a time of peace? Is not India sufficiently tranquil to justify the immediate repeal of these measures which embrace within their scope not one province but almost all the provinces? Could you not trust us with the necessary discretion to place whenever necessary similar Acts on the Statute-book?" The answer of the Government is that these provisions which you are asking to be repealed provide not for the normal procedure of Government or of the Legislature, but for extraordinary occasions, and that as far as they can envisage the situation they are not in a position to take the same comfortable view as many others who are not charged with responsibility, and that things have yet to come to that position when they can safely agree with some of you in withdrawing these powers from the Executive. Honourable Members said that there are local Acts, such as the Moplah Outrages Act and the North West Frontier Outrages Act which practically fulfil the functions which are necessary for meeting any emergency, which may arise in these exceptional tracts of country. I would suggest to Honourable Members that the position is not an accurate one. The scope of these Regulations which we are discussing now is very much wider and more comprehensive than the scope of the Acts to which the Honourable Pandit has referred in the course of his speech. The Malabar Act to which he has referred deals only with murder and attempts to murder on the part of Moplahs in the Malabar district. The operative section 3 states:

"Any Mappilla who murders or attempts to murder any person, or who takes part in any outrage directed by Mappillas against any persons wherein murder is committed or is attempted to be committed, or is likely to be committed, and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same, or who, after having committed, or having been accessory to, any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him, or who shall join or assist or incite or encourage other persons to join or assist, in such resistance, shall, on conviction thereof, be liable not only to the punishment provided by law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government, by the sentence of the Court by which he is tried, etc."

Then there is another section to which I shall allude, which necessitates the retention of these measures. Section 6, for instance, says:

"The Governor in Council shall have, with respect to the confinement or trial of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in him by any law regarding the confinement or trial of persons charged with or suspected of State offences; and the provisions of any such law . . ."

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So, they pre-suppose the existence on the Statute-book of some of the Regulations which are the subject matter of discussion to-day, and further, as I have pointed out, they deal with cases more confined in their operation than those provided by Madras Regulation II of 1819 which really deals with State policy, as has been stated by my Honourable friend, Mr. Moir. It says:

"Whereas reasons of State policy may occasion certain procedure, the following rules shall be enacted . . ."

For reasons of State certain acts have to be done and the procedure is prescribed there. I need not read out the Preamble or the whole of the operative part, because I think Honourable Members are perfectly aware of the substantive provisions of those Regulations. They deal with exceptional cases where provision has to be made for the safety of Indian States or foreign relations, or when you have an internal commotion in any part of the country. Then, with regard to the other observation regarding the North West Frontier. . . .

Pandit Madan Mohan Malaviya: Does the Honourable Member mean to say that, if it was not for section 6 of the Moplah Outrages Act, the Government would be willing to accept the proposal of my Honourable friend, Mr. Patel? Do I understand the Honourable Member to say that it is that section alone which stands in the way of Government accepting the proposal of Mr. Patel?

The Honourable Sir Narasimha Sarma: I have already stated that the scope of Regulation II of 1819 is wider and much more comprehensive than that of the Moplah Outrages Act, and that itself is a very good reason for Government not agreeing to the proposal. I have also stated that there is another reason, and that is the one that the Honourable Member is referring to. The same may be said substantially with regard to the North West Frontier Regulation which deals with the North West Frontier and Baluchistan. Besides, my Honourable friend, Mr. Bray, referred to the exigencies under which Government may have to act under the provisions we are discussing, when the person with whom they have to deal may have gone away from the frontier or to a province to which the Bengal Regulation does apply and not the other Regulations, such as, for instance, the United Provinces, from which certain persons have recently escaped, causing embarrassment both to the Afghan Government and the British Government. Therefore, if we are to deal with the question of foreign relations on satisfactory basis, with the question of Indian States and with our neighbours on the frontier, it is not possible to limit the operation to particular tracts, because it is absolutely impossible to state where the occasion may arise for the employment of these extraordinary powers intended to meet the exigencies of the moment. I shall not deal with the question of Bengal which has been the subject-matter of very acute controversy for more days than one. Suffice it to say that one of the arguments that has been advanced against the employment of the powers under the Ordinance is that the Bengal Regulation is there already and therefore there is no necessity for enacting any Ordinance or any particular Act because Government have got the requisite powers already under that Regulation. Further, there is a very widespread impression that under the ordinary criminal law of the country it is possible for the Government to regulate

the relations to which reference has been made by the Honourable the Foreign Secretary. I submit this argument has no real validity. If the criminal law is all-embracing, as the Honourable Members put it, may I ask wherein is the objection to the continuance of these Regulations which provide no more?

Mr. M. A. Jinnah: They deny trial.

The Honourable Sir Narasimha Sarma: Therefore it is clear that the ordinary law does not cover the same ground. Therefore there is no use in saying that all that could be done under these Regulations can be done equally under the ordinary criminal law.

Mr. M. A. Jinnah: Who ever said that?

Pandit Madan Mohan Malaviya: All that can be done under these exceptional Regulations cannot be done and ought not to be done under the law of the land.

The Honourable Sir Narasimha Sarma: That is a different matter. I can understand the argument that the executive authority should not have greater powers than are conferred by the ordinary criminal law of the land. That is a perfectly understandable argument, but I have heard it often said that inasmuch as you have all the power that you require under the criminal law of the land there is no necessity to keep these Regulations also on the Statute-book.

Mr. M. A. Jinnah: Who said that?

The Honourable Sir Narasimha Sarma: The argument has been used

Mr. M. A. Jinnah: By whom?

The Honourable Sir Narasimha Sarma: Inside and outside the Council. The ordinary criminal law of the land is sufficient to deal with persons guilty of offences against the State. I appreciate fully the love of freedom and the desire to respect the freedom of the subject, but the Regulations presuppose that there are occasions on which it is impossible for the executive power to place offenders on trial before the judicial Courts, and it is only on such extraordinary occasions that this power should be exercised. Therefore we are reduced to this, that these Regulations are such that it is assumed by the other side that there is no risk of internal commotion, that the foreign relations, relations with Native States and other foreign powers can be regulated without the help of these Regulations and that therefore they should be repealed. I wish to assure you that the Government feel that it is not so. Allusion has been made to recent happenings in Madras. I did not like to press the argument because I thought it might

be insulting to the Madras Government. The argument was pressed, and I think there is much force in it, that if the Madras Government had exercised their special powers in time possibly they might have averted those unhappy incidents in Malabar and in the Agency Tracts of Vizagapatam. One argument which has been used is that these Regulations have not been of any use in preventing the Malabar outrages or in preventing the Agency troubles. True. It may be that out of respect and regard for the susceptibilities of the people the Government waited too long in employing their special powers and allowed the opportunity to pass and then employed them later on for the purpose of remedying a state of things which they might have avoided if they had employed the Regulations

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at the right time. Sir, that is a perfect answer to the question of Malabar and the Agency Tracts of Vizagapatam. I do not think I need take up the time of the House further beyond stating that there is really no difference of opinion between us on essential points, namely, that the freedom of the subject should be respected and that no one under ordinary circumstances should be kept in jail for a single minute unless he is brought to trial. The only point of difference is that the Government think that the conditions of the country which have been explained to you by the Honourable the Home Member are such that they are clear in their own minds that there is trouble and danger of trouble which can be met only by action under these Regulations. And after all the real function of the Legislature, taking it that these Acts are on the Statute-book, is to watch carefully the action of the Executive, so that there may be no abuse of authority vested in the Government, and inasmuch as it is a misapprehension that the Government have abused their powers in the past, I will read for the benefit of the Assembly a passage from a memorandum which shows how carefully on the materials placed before them, Government weighed the circumstances before they took action under the powers vested in them. (*Sir Purshotamdas Thakurdas*: "Is the Honourable Member quite sure that the Honourable the Home Member has not read that?") (*The Honourable Sir Alexander Muddiman*: "I have not read it.") I have been furnished with these figures in order to correct a point to which reference has been made, namely, that five per cent. of the cases have been proved to have been incorrectly decided. (*Mr. M. A. Jinnah*: "Not decided at all."):

"The total number of cases examined and advised on by us is 806. Of these . . ."

Mr. A. Rangaswami Iyengar: May I take a point of order. It is that a document read to the House should be laid on the table of the House.

Mr. President: I will wait till the Honourable Member is finished before taking that point.

The Honourable Sir Narasimha Sarma: That portion of the document which I am reading will certainly be placed on the table.

" . . . Of these 100 related to State prisoners dealt with under Regulation III of 1819; 702 internees under the Defence of India Act and 4 to persons dealt with under the Indian Ingress Ordinance. In 6 of the total number of cases examined by us we have advised Government that there are not sufficient grounds in our opinion for believing that the parties concerned have acted in a manner prejudicial to the public safety or the defence of British India and that therefore they should be unconditionally released. In the rest we have advised that the parties have in our opinion so acted."

So it is a case of 6 out of 806 or .075 per cent. Well, it is regrettable that there should have been even six cases. But Honourable Members readily recognise that, human as we are and human as are the Government, mistakes must always occur in judgment on the facts placed before them.

Mr. M. A. Jinnah: May I ask the Honourable Member how many persons were really interned under the Defence of India Act and how many cases were submitted to these two learned Judges on the police papers?

The Honourable Sir Narasimha Sarma: The number of cases referred to them I have already stated, 806.

Mr. M. A. Jinnah: How many were interned? Total number?

The Honourable Sir Narasimha Sarma: There are, I think, very many more, although I am not in a position to state what the exact number is. That shows that the results have not been unsatisfactory, because the number of reversals and modifications on appeal, I think, is very much larger than seems to have been the case before this tribunal, although I admit that there is this imperfection that these Judges had to deal with material which was not subjected to cross-examination.

Mr. M. A. Jinnah: And according to the Government of India it does not matter in the least whether 6 innocent persons are rotting in jail or not?

The Honourable Sir Narasimha Sarma: It is a matter of deep concern to them that as many as 6 should have been punished, but they recognise that human institutions cannot be worked better and it is a matter of some satisfaction to them that the percentage of error has been so small as it has proved to be.

Pandit Shamlal Nehru: Have the Government given them any compensation?

Mr. N. M. Joshi: Will they give any?

The Honourable Sir Narasimha Sarma: I am not aware that any has been asked for or that the question has been considered.

Pandit Shamlal Nehru: Did they ask you to imprison them, Sir?

The Honourable Sir Narasimha Sarma: Of course they did by placing themselves in circumstances which exposed them to suspicion.

There is only one further point, Sir, and that is this. I would suggest to you that the occasion that has been chosen for asking the Government to repeal these Acts is an extremely unhappy one. The Government have had to take action to cope with a wide-spread conspiracy or what is believed to be a wide-spread conspiracy and to say that at that particular moment their judgment has been wrong and that the country is so quiet as to enable them to safely withdraw these Acts seems to me to be a position which I cannot characterise as calculated to promote confidence. I would suggest this. Rightly or wrongly certain powers have been conferred upon the Government and the Government are attempting to utilise them with the least disadvantage to the State. If Honourable Members think that these Regulations should be repealed because they have not the sanction of representative bodies, then the charge may be that their successors, when wider representative institutions are introduced, may very well say that all the Bills and the Acts passed here under a semi-reformed Legislature are equally susceptible to the same attack.

Mr. V. J. Patel: Did you have any Legislative Assembly in 1818?

The Honourable Sir Narasimha Sarma: There were bodies vested with legislative powers. The Crown and Parliament in the exercise of their authority appointed bodies which had legislative functions, just as Parliament has created the existing Legislature, and the gravamen of your charge is that legislative functions were exercised by bodies not sufficiently representative. It is only a question of degree; it is not a question of anything more. The real point, therefore, is: Does the Government require these powers

[Sir Narasimha Sarma.]

or not? That is the whole thing. The Government say that they do require them. They have had trouble in Malabar. They have had trouble in the North West Frontier Province. They know that there are conspiracies in foreign States in order to bring India into trouble, to upset the balance of the institutions obtaining in India and to promote revolution by means of methods which all of us, without any exception, condemn. They say that they have information which has been to a certain extent proved in courts of justice and acted upon in courts of justice and they say that in those circumstances Members of the Legislative Assembly ought to have patience with them.

Pandit Motilal Nehru: May I ask the Honourable Member in what case it has been proved in a court of justice?

The Honourable Sir Narasimha Sarma: In the United Provinces case to which the Honourable the Home Member referred it has been proved that there were conspiracies in pursuance of movements outside India for the purpose of upsetting the social and political fabric of the Indian constitution.

Pandit Motilal Nehru: Is it the intention of the Government to apply the Ordinance and all these Regulations to the United Provinces?

The Honourable Sir Narasimha Sarma: The Government have had to employ Regulation III of 1818 in the United Provinces and elsewhere, for the purpose of arresting and confining offenders and some were brought to trial in the United Provinces courts.

Pandit Motilal Nehru: When was Regulation III of 1818 applied to the United Provinces last?

The Honourable Sir Narasimha Sarma: I do not say that the Regulation is in force in all the tracts to which it applied originally.

Pandit Motilal Nehru: May I remind the Honourable Member that the Bengal Regulation can only be acted upon after the sanction of the Viceroy has been given. Has any such sanction been given in regard to the offences committed in the United Provinces of recent years?

The Honourable Sir Narasimha Sarma: Not perhaps the offences committed in the United Provinces but in respect of offenders who were residing or domiciled in the United Provinces the Governor General in Council had to employ Regulation III of 1818.

Pandit Motilal Nehru: When was that?

The Honourable Sir Narasimha Sarma: To the best of my recollection—I am speaking of course from memory and subject to correction—it was employed not more than two or three years ago.

Kumar Ganganand Sinha: On a point of information, Sir. While reading the report . . .

Mr. President: Does the Honourable Member wish to have some information?

Kumar Ganganand Sinha: Yes, Sir.

Mr. President: That he can do later on.

The Honourable Sir Narasimha Sarma: Sir, I have only one more point and that is this. Nothing during my 5 years has struck me more than the unfortunate position to which the Government had been driven in maintaining expenditure at a level which they could have avoided if there had been complete peace in the land, peace which was hoped for. The Government also consider that the withdrawal of these powers would necessitate the employment of a wider machinery if they are to serve the interests of the country. I think it must be the object of us all to strengthen the hands of the Government in briffing about such a state of things as would enable us to remove from the Statute-book all laws which are abhorrent to you and to us alike. But until then, I hope, you will not charge the Government with any desire to wantonly differ from you or to set your will at naught. We appreciate your desires to safeguard the liberty of the subject as much as we do. But hampered as we are by responsibilities and with the information which we possess, we feel that it is impossible for us to agree to the measures that you suggest. I therefore hope that the action of the Government would be judged in the light in which I have placed it and would not lead to a feeling that the Government are flouting the wishes of some of the Members of this House who are naturally anxious to remove from the Statute-book all laws of this description. I regret, Sir, that the Government are unable to support the motion.

Sir P. S. Sivaswamy Aiyer (Madras: Nominated Non-Official): Sir, I beg to move that the debate be now adjourned.

It is clear that the gentleman in charge of this Bill and the Government do not see eye to eye with each other and some of us do not see eye to eye either with the Mover of the motion, or with the Government. We are in a very awkward position. Some of us especially, like myself, who were on the Repressive Laws Committee, are committed to the repeal of some of these enactments, but we are not prepared to go the length to which the Mover of the motion wants us to go. Unfortunately the Preamble to the Bill, which the Honourable Mr. Patel has moved, defines the scope in such a manner that it is not possible to alter it or limit its operation or do anything else. We have therefore been trying to find some solution of this difficulty, and I hope an adjournment of this debate will help to clarify the situation and enable us to discover some *via media*.

Mr. President: The question is:

"That this debate be now adjourned."

Pandit Motilal Nehru: I should like to know whether the Government will be able to find us an official day for this.

The Honourable Sir Alexander Muddiman: I should like to hear what the Mover of the original motion has to say on the question of adjournment first.

Mr. V. J. Patel (Bombay City: Non-Muhammadan Urban): It all depends on what the Home Member says. If the Home Member is willing to meet the Members of this Assembly and talk over the matter and see what could be done in the circumstances, I am perfectly willing; I have no objection. But if the Home Member has no desire whatsoever to meet the Members of the Assembly in a spirit of conciliation, I see no reason to postpone the discussion.

The Honourable Sir Alexander Muddiman: My position is quite clear. I always desire to be conciliatory, as the House well knows. On the question of adjournment I am in the hands of the House; I can hold out no promise. If an interval might possibly be of value, I should be the last to oppose it. The question stands as follows as regards the business of the House with which I am mainly concerned in dealing with the motion, that there is at present no further Bill day. I am quite prepared, if Honourable Members of the House generally desire to adjourn this debate, to use my influence to endeavour to persuade the authority in whom alone these powers are vested to allot another day for non-official Bills.

Mr. M. A. Jinnah: *Sir, I understand that an adjournment will have this effect, that in the meantime the Government and ourselves on this side will put our heads together and see what we can do. That is how I understand it. The desire is that we should try. I can frankly tell you and the Government that I entirely share the difficulties which Sir Sivaswamy Aiyer mentioned, and we are very anxious to meet the point of view of Government if we can. If this adjournment is going to be utilised for that purpose, then it is worth while; otherwise not.

The Honourable Sir Alexander Muddiman: I am not prepared certainly to commit the Government to anything on that point. I am, as I always have been, perfectly willing to interchange views; but I am not prepared to commit the Government. On that clear understanding, that I commit the Government to nothing, I certainly, if the House so desires, will not oppose the motion for adjournment.

Mr. M. A. Jinnah: Only we come closer together.

Pandit Motilal Nehru: All I am concerned with is simply that we should get some time to continue this debate if nothing happens in the meanwhile.

The Honourable Sir Alexander Muddiman: As to that, Sir, I have already made my position clear. I have said that I will use such influence as I possess with the authority who is responsible for assigning further non-official time to assign a further Bill day in the session. I cannot go further than that.

Sir Hari Singh Gour: That is quite all right.

* **Mr. President:** The question is:

"That the debate be now adjourned."

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. V. J. Patel (Bombay City: Non-Muhammadan Urban): I beg to move, Sir, that the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration.

Sir, when I made the first motion for the introduction of this Bill the Government were good enough not to take up an attitude of opposition, but my friend Mr. Darcy Lindsay made a speech in opposition though he

* Not corrected by the Honourable Member.

did not press the motion to a division. When he made his speech in opposition to my motion for leave to introduce the Bill he did so on the ground that this Assembly by accepting my motion would be interfering with the compromise which was arrived at by the Racial Distinctions Committee in 1923. I want the House clearly to understand that my object is not to disturb the compromise that was arrived at at that time but only to give the Assembly an opportunity to set right that compromise. My view is that the last Assembly was forced to accept the position which they took up in that year by the veiled threat which was conveyed to the Assembly through the Honourable the Home Member then, namely, that if they did not accept the position which the Government had put up the whole Bill would be thrown out. That was the position. The Racial Distinctions Committee which was appointed on the Resolution of my friend Mr. Samarth distinctly decided that the words "British Colonials" should be removed from the definition of the words "European British subjects" and that the privileges extended by the Criminal Procedure Code to the European British subject should be restricted to those Europeans who were born or naturalised or domiciled in the British Isles and not to those who are born or naturalised or domiciled in the Colonies. That was the recommendation of the Racial Distinctions Committee and that was to that extent in accordance with public opinion at the time. In spite of this, Government introduced a Bill including the words "British Colonials" in the definition of the words "European British subject" thus ensuring all the privileges and rights accorded to the European British subject to British Colonials. After the report was received by the Government, I mean the report of the Racial Distinctions Committee, they drew up a Bill and submitted the Bill for the sanction of the Secretary of State. The Secretary of State, on the decision of the British Cabinet, refused to allow that Bill to go through in that form and definitely stated that unless the Assembly was prepared to include British Colonials in the definition of "European British subject" the Bill would not be allowed to proceed further. When such a statement was made by the Home Member, the Assembly thought they had no other alternative but to accept that position. Under the circumstances the compromise which was arrived at between the non-official Europeans and non-official Indians in the Racial Distinctions Committee was set at naught. They were compelled to do so in the circumstances. Now, I have come forward with this proposal merely with a view to enable this Assembly to see that the compromise which the members of the Racial Distinctions Committee arrived at is adhered to in substance and in spirit. Not that I approve of the recommendations of the Racial Distinctions Committee in any shape or form. I am entirely opposed to these recommendations. The object of the Resolution of my friend, Mr. Samarth, was to have all racial distinctions removed from the Criminal Procedure Code. Certain rights, certain privileges, certain concessions in the matter of criminal trials were provided for in the Criminal Procedure Code in favour of European British subjects and that had resulted in deep dissatisfaction throughout the length and breadth of the country. Many glaring cases of injustice were brought to the notice of the authorities, ventilated both on the platform as well as in the public press and the position had become intolerable and scandalous. Mr. Samarth therefore moved this Assembly that steps should be taken to appoint a Committee with a view to see that all racial distinctions in the Criminal Procedure Code between British Indians and European British subjects should be removed. That Resolution was accepted by Government. The Government of India thus committed themselves to the policy of removing from

[Mr. V. J. Patel.]

the Statute-book, from the Criminal Procedure Code, all racial distinctions existing between European British subjects and Indian British subjects. They were therefore bound to give effect to that policy, but the Committee, instead of recommending the removal of all racial distinctions, to my mind have made recommendations which would go to perpetuate those very distinctions which it was the intention of the Resolution to remove. I will shortly state what some of these recommendations are. In the first place, I may say that several glaring distinctions are still retained by the recommendations. An Indian British subject can be tried by a second and third class magistrate for certain offences, while a European British subject cannot be tried by a second and third class magistrate for those very offences. Similarly, certain special magistrate can sentence an Indian to seven years' imprisonment while they cannot sentence a European British subject for the same period. They can only sentence him to two years. Certain writs of *Habeas Corpus* can be secured in favour of European British subjects detained outside British India, but no such writ can be secured for an Indian unless he is detained within British India. There are several other distinctions. For instance, magistrates and Sessions Judges have got certain limited powers in regard to sentences they could pass on European British subjects. They could not sentence a European British subject to whipping while they could so sentence on an Indian. These are some of the distinctions which have yet been retained on the Statute-book and I owe an apology to some of my friends here who feel that in restricting this Bill to the Colonials and Americans and non-British Europeans I have unnecessarily limited the scope of the Bill, and that I should have taken up a longer view of the questions and should have brought in a comprehensive Bill, providing for the elimination of all racial distinctions from the Criminal Procedure Code. I promise them that at the next possible opportunity I will do that. In this instance I have not done so simply because I want to know what my friends have got to say. I want to know if they are going to oppose even this small measure. I want them at least to keep to the compromise arrived at by the members of the Racial Distinctions Committee. They are however opposing it on the ground that this Bill disturbs that compromise. As a matter of fact I have proved to the hilt that my object in bringing this Bill is to see that the compromise arrived at between European and Indian members of the Racial Distinctions Committee should be preserved intact. It was at the interference of the British Government that this Assembly was compelled to accept the position in which they find themselves to-day. Therefore I have brought forward this small measure and Government have very rightly not opposed its introduction. I am sorry, however, that my Honourable friend Mr. Darcy Lindsay is very keen that this matter should not be discussed at this time because some sort of negotiations are going on between the Governments concerned and he is afraid that this discussion might interfere with the settlement of the question. My own view is that these negotiations are going on from time immemorial and will go on as long as we are a subject nation. Unless we assert ourselves as men the matter is absolutely hopeless. There is absolutely no reason why any foreigner should have more rights in this country than the sons of the soil themselves have. Why should the British Colonials have more rights in this country than the Indians themselves have got? If the Colonials want to retain special rights, privileges and concessions in this country, they must be prepared to reciprocate and grant similar rights, etc., to our countrymen in their respective countries. Have they done so? The position

is too notorious to need any mention. We know how our countrymen are being treated there. I will not put my claim on the ground of retaliation. It is not necessary for me to do so. There is no idea of retaliation in this proposal. All I say is that no foreigner should have any more rights in this country than we ourselves enjoy. That is the ground on which I put it. The second ground is I should certainly put the rights of the people of any other country on a higher basis if my countrymen are treated similarly in their country. Otherwise there is absolutely no reason why superior rights should be given to the people of any other country in India. Similarly, with regard to non-British Europeans and Americans. Section 275 gives them a right to be tried by their own peers. Is an Indian given the right in America to be tried by his own peers? Certainly not. If that is so, why should Americans and non-British Europeans be treated on a favourable basis? I therefore submit, Sir, that there is absolutely no reason why these distinctions should remain on the Statute-book. I said in the beginning that the Racial Distinctions Committee, instead of removing racial distinctions from the Code of Criminal Procedure, have by their recommendations perpetuated those differences. Let me cite an example. According to the provisions of the old Criminal Procedure Code, in trials in a Court of Session or a High Court where a European was an accused person, he ought to be tried by a mixed jury with Europeans in a majority and the result of that was that injustice was done in many cases where an Indian was the complainant and a European was the accused. What the Racial Distinctions Committee did was this. They said: "Very well. You complain of injustice in cases between Europeans and Indians by the institution of this mixed jury system. We give you also a mixed jury. When an Indian is to be tried before a Court of Session or a High Court, let there be a mixed jury with a majority of Indians." That is what we do not want. We do not want to perpetuate injustice. As a matter of fact, what we wanted was that justice should be done in the case of both. What the Racial Distinctions Committee did was to give the same privilege to the Indians to defeat the ends of justice as the Europeans had. By the introduction of a mixed jury even in the case of Indians the Indians were given the right of defeating the ends of justice thus silencing them. That was not what we wanted. What we wanted was that every man should be tried properly according to the ordinary procedure of the criminal law of the country. We did not want special privileges for defeating the ends of justice—that is what we wanted to remove from the Code of Criminal Procedure. The Committee thought they were satisfying public opinion by giving a mixed jury to the Indians also. I therefore submit that a case has been fully made out for the consideration of this Bill and I hope the House will agree to the motion.

Mr. K. Ahmed: You have no objection to taking it to a Select Committee?

Mr. V. J. Patel: Are you going to move for it?

Mr. H. Tonkinson (Home Department: Nominated Official): Sir, my Honourable friend, Mr. Patel, has explained that the purpose and the principle of his Bill is to give effect in substance and in spirit to the recommendations of the Racial Distinctions Committee. He then proceeded to criticise some of those recommendations. So far as those recommendations are pertinent to the present Bill I will refer to them in detail later.

[Mr. H. Tonkinson.]

I do not think, Sir, that it is necessary to attempt to refute the arguments brought forward by Mr. Patel against those recommendations which are scarcely pertinent to the Bill before the House.

What is the principle of this Bill? It appears to me that the only principle which can be found in the Bill is that we should take away from our Code of Criminal Procedure all references to Europeans not being European British subjects, and Americans and further to all subjects of His Majesty born, naturalised or domiciled in any colony and the children or grandchildren of such subjects. In clauses 2 and 3 of the Bill my Honourable friend proposes to repeal certain provisions of the law which affected these classes of persons. They are the main clauses in his Bill. Then in clauses 4, 5 and 6 he proposes to amend certain other sections of the Code which are absolutely subsidiary sections in that they are only required to give effect to the substantive provisions which my Honourable friend proposes to amend in clauses 2 and 3. Now, Sir, let me take first the position of Europeans (not being European British subjects) and Americans. I do this because to some extent the position in the Code of Criminal Procedure at present in regard to Colonials follows, I think, logically from the position in regard to any European not being an European British subject and Americans. In section 275, sub-section (2), of the Code of Criminal Procedure it is provided that in any trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American a majority of the jury shall, if practicable, and if such European or American, before the first jury is called and accepted, so requires consist of persons who are Europeans or Americans. That is to say, Sir, if practicable an European or an American accused person is able to obtain a jury of which the majority shall be Europeans or Americans. That, I would submit to this House, is not a very great privilege. It is the only privilege that in this respect the Bill seeks to abolish. It will be remembered that the provisions of sub-section (2) of section 275 of the Code of Criminal Procedure take the place of part of the provisions of the old section 460 of the Code of Criminal Procedure of 1898. In regard to that section the report of the Racial Distinctions Committee was as follows and I think, Sir, it is important that the House should realise what those recommendations are because my friend states that his purpose is to give effect in substance and in spirit to the recommendations of the Racial Distinctions Committee. The recommendations in that respect were as follows:

"These sections deal with Europeans not being European British subjects and Americans. We are of opinion that unless any of the privileges in regard to such persons are found to be based on treaty they should be abolished."

Well, Sir, when the Racial Distinctions Committee were reporting we had no information as to whether there were any such treaties. Later we found that there were such treaties and we announced the position in this respect to the country in the Statement of Objects and Reasons which announced the decision of the Government in regard to the legislation proposed in the Criminal Law Amendment Bill of 1923. There it was stated:

"It has since been ascertained that by treaties with Italy, Switzerland, Argentine, Venezuela, Costa Rica and Columbia the same privileges as regards procedure in criminal trials are secured in India to nationals of those countries as are given to Indian subjects of His Majesty. The possible contingency,—the Statement of Objects and Reasons went on to state,—which was foreseen by the Committee has therefore arisen and it is necessary to retain these privileges because Indian subjects of His Majesty are to be given by the proposals in the present Bill a complete right to claim trial

by jurors of whom the majority shall be Indians or of assessors who shall all be Indians. It is impracticable to maintain any differentiation between the nationals of the six States in question and those of other European or American States, and accordingly the Bill proposes to retain those privileges for all."

The position, Sir, was further explained in this House by Sir Malcolm Hailey in the debates which took place on that Bill. Sir Malcolm Hailey said:

"I take it that the House will be satisfied in regard to these six countries at all events the rights formerly held by Europeans and Americans under section 460 of the Criminal Procedure Code must be maintained."

It has been suggested in debate that this extension might be defended by the use of the word "compendiousness". Sir Malcolm Hailey went on to say:

"I do not intend to do so. I put it to the House as a matter of reason that if you are to maintain those rights in regard to Italy and Switzerland among the European countries, it would be difficult to defend a withdrawal in regard, say, to France, our late Ally or any other nation in Europe now enjoying them. There is little doubt in my mind that if other nations, shall we say the French, were to approach us with a view to making a treaty identical with Italy, we should find it very difficult to resist their request. The same with Spain or Portugal and the like, and we should gradually come back to what we have embodied in our Bill."

Sir Malcolm Hailey then went on later to point out that it would be impossible not to give the citizens of the United States what was given to those of Costa Rica, Venezuela, Columbia, and so on. That, Sir, was the reason for the provisions in the Bill relating to Europeans not being European British subjects and Americans. And I submit, Sir, that it was in substantial accordance with the recommendations of the Racial Distinctions Committee. I submit, Sir, that it followed in the words of Mr. Patel the substance and the spirit of those recommendations. Indian subjects of His Majesty can definitely under the Code of Criminal Procedure claim, in cases triable by jury, that a majority of the jury shall be Indians. My friend Mr. Patel seemed to imagine that that was an entirely new provision in the law. He is quite mistaken. Is there any derogation of the rights of an Indian, Sir, if we accord in our Criminal Procedure Code the privilege that in these same cases, if the accused person belongs to one of these races, a majority of the jurors shall be Europeans or Americans, if it is practicable in the circumstances of a particular case, a particular district, a particular occasion, to obtain such a jury. Of course the provision, Sir, only applies to cases which belong to a class of cases which in a particular district are always triable by jury.

I now turn, Sir, to the provisions of the Bill in so far as they affect Colonial subjects of His Majesty. The recommendations of the Racial Distinctions Committee in this respect were as follows:

They said:

"Having regard to all the facts we recommend that the definition of European British subject should be amended by striking out all the words in clause (i) of section 4, sub-section (1), of the Code of Criminal Procedure, after the word 'Ireland', thus omitting all reference to the British possessions or Dominions outside Great Britain and Ireland."

They then went on to say:

"We are of opinion, however, that the definition of European British subject could not be assimilated to this description in the Government of India Act. We recommend two additions to our proposed definition. The first is that subjects of His Majesty

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born, naturalised or domiciled in any of the European, American or Australian possessions or Dominions of His Majesty or in New Zealand or in the Union of South Africa should be classed as European British subjects when they are actually serving in India in His Majesty's British Army, Navy or Air Force. The reason for this addition is that when such persons are transferred to India they have no option. They are not in the same position as those who by their free choice come to reside in India. The second addition which we recommend is that subjects of His Majesty born, naturalised or domiciled in any of the European, American or Australian possessions or Dominions of His Majesty or in New Zealand or in the Union of South Africa, who at the date of the adoption of our proposals are in His Majesty's Indian Army, Royal Indian Marine or Indian Air Force should be classed as European British subjects."

That, Sir, was the recommendation of the majority of the Racial Distinctions Committee. I do not propose to refer to the recommendation of the minority. It was on similar lines, except that it proposed that there should be no distinction between any persons serving in His Majesty's forces. In this respect, Sir, of course, there is no doubt that the Racial Distinctions Bill did not give effect absolutely to the recommendations of the Racial Distinctions Committee. Neither does the Bill of my Honourable friend, Mr. Patel, who says he wishes to adopt in substance and in spirit the recommendations of the Racial Distinctions Committee. But, Sir, in view of the position which we ascertained after the Racial Distinctions Committee had reported in regard to Europeans (not being European British subjects) and Americans, it is clear that these recommendations in regard to colonial subjects of His Majesty required reconsideration. The first obvious question was, Sir, if we were going to give—and I submit we were compelled to give—on the recommendations of the Racial Distinctions Committee, privileges to Europeans not being European British subjects and Americans, if we were going to give the privileges to those persons, then it was necessary for us to consider whether we should not give at least the same privileges to Colonials. Further, Sir, would it have been proper for us to have given to colonial subjects of His Majesty a position in our Criminal Procedure Code inferior to that of all other subjects of His Majesty? I would remind the House, Sir, that the privileges are now only given to such persons who are of European descent in the male line. That is, the anomalies which were referred to by the Racial Distinctions Committee were removed and in this respect we went further than did the Racial Distinctions Committee in recommending the removal of anomalies. In the Bill, Sir, which was passed by the first Assembly, it was provided that these persons should have the same privileges as other European British subjects who hailed from the British Isles. Now, in practice this means that they would have the same privileges as Indian subjects of His Majesty in regard to juries, in regard to assessors and in regard to the trial of cases in which racial considerations arise. I wish to emphasise, Sir, that in these respects the privileges are exactly the same, no more, than those accorded to Indian subjects of His Majesty. They did in a few particulars, which were set out at length in the Statement of Objects and Reasons annexed to the Criminal Law Amendment Bill of 1923, obtain some privileges, but they were very small indeed, beyond those which are given to Indian subjects of His Majesty. Now, Sir, let me remind the House of the provisions of section 65, sub-section (3) of the Government of India Act. That sub-section, Sir, provides that the Indian Legislature has no power, without the previous approval of the Secretary of State in Council, to make any law empowering any court other than a High Court to sentence to the punishment of death any of His Majesty's

subjects born in Europe or the children of such subjects. Now, Sir, under that provision of the Government of India Act several of the provisions in the Criminal Law Amendment Bill of 1923 required the previous approval of the Secretary of State in Council. Indeed, Sir, some of the provisions which required approval were concerned with those words "or any Colony" which my Honourable friend now proposes to delete from section 4 of the Code. Moreover, Sir, the Government of India received definite instructions—I am stating the position exactly to the House—to include in the Bill provisions relating to persons born, domiciled or naturalized in any of His Majesty's Colonies and their children and grandchildren. I suggest that in this matter the Government of India could scarcely have expected, having regard to the responsibilities of His Majesty's Government in regard to the British Empire as a whole, that such instructions would not be given. The point was indeed alluded to in the debates in the first Assembly by Sir Malcolm Hailey. Sir Malcolm Hailey said:

"The instructions which we have received on the matter with which for the moment we are most concerned are the instructions of His Majesty's Government as a whole communicated to the Secretary of State as the condition on which he could give the approval which is necessary under section 65 of the Government of India Act. I say with all sincerity that I believe that those instructions would have been given by the preceding Government, perhaps by any preceding Government. I do not believe—again I speak with all sincerity—I do not believe that those directions involve any change of policy or any new angle of vision in regard to India."

I turn now, Sir, to a larger question. The Criminal Law Amendment Act was passed as the result of an examination of the difficult question of racial distinctions under the old Criminal Procedure Code by a representative committee. It gave effect to a compromise between the communities affected and the authorities affected. When a result of this nature has been arrived at after a long and anxious consideration, I would ask whether it is reasonable that within 18 months of the change of the law coming into effect we should have a proposal of the nature that is put forward in this Bill in order to upset the compromise? Mr. Darcy Lindsay, speaking on the motion for the introduction of this Bill quoted from the remarks of Sir Malcolm Hailey on the motion that the Criminal Law Amendment Bill be passed, and I do not think, Sir, that I can do better than also quote from those same remarks. Sir Malcolm Hailey said that he had

5 P.M. been asked as to whether he could sum up as to what has been achieved so far since the Government of India Bill was passed, and he went on to say:

"I said that I could not do so yet. After all the mere enactments of a legislature, or the concrete instances in which the legislature forces its will on the executive are not of importance. What is important is the atmosphere in which the legislature does its work; the spirit which actuates it, the ideals and the objective which it has in view. I said that I could not yet sum up the results, but that an occasion was coming which I hoped would enable me to do so; for if the course of the discussions on this question India showed that she had the temper of true statesmanship, that she was willing to make concessions in order to gain the good will and co-operation of Europeans in the common task of promoting India's political progress rather than to satisfy her own immediate feelings, based on resentment for the past, and if, on the other hand, Europeans were willing to make sacrifices in order to prove to India that they were prepared, not only to recognise the strength of Indian sentiment on this question, but to assist in the solution of India's own difficulties, then there could be no doubt that we should be able, between us, to make the Reforms a success. For, whatever belief one may have in the future of India, whatever confidence one may have in her future, I have one cardinal article of faith. India may march onwards,

[Mr. H. Tonkinson.]

but she cannot march alone. If she is to gain responsible government from Parliament, then she will have no stronger argument than this, that the Europeans resident in India also desire it and are willing to co-operate in its development. If she is anxious to gain an equal position in the Empire, an Empire which is not an agglomeration of States, but is the very embodiment of the British spirit, then all the more will she need the good will and the assistance of the Europeans resident in India."

Then Sir Malcolm Hailey went on to make the remarks which were quoted by my Honourable friend, Mr. Darcy Lindsay, on the last occasion the present Bill was before the House, and he concluded by saying:

"We can show to the world by the passing of this Bill that the better India, the India which will count in the future, will have none of that; that such feelings do not represent in any sense the real characteristics of the better Indian mind; we can show that the course of India's political progress is not going to be blighted and marred by a persistence of racial animosity."

Sir, I have now indicated what is the nature of the provisions in the existing law. They are assumed, Sir, to be privileges. In the one case, as I have shown, they give no more to those who benefit by them than is provided in the Code for all Indian subjects of His Majesty. They are in fact less than is so provided. In the other case they give practically the same privileges as are given to Indian subjects of His Majesty, though they do, I admit, in a few particulars (I do not agree with Mr. Patel that they are serious particulars) extend beyond the privileges given to Indians for the present. I have indicated, Sir, how we have arrived at the present position; how the whole question was examined by a representative committee, and how we came, Sir, partly by giving effect to the Committee's proposal, partly as a logical sequence from those proposals, partly owing to instructions from His Majesty's Government, who were clearly concerned, to our present position. Now, Sir, the Bill proposes to depart from the position which we have so recently arrived at. We on this side of the House are fully conscious of how deeply Indian opinion feels upon the manner in which Indians are treated in the Colonies, how deeply Indian opinion feels upon the decisions of the Supreme Court of the United States regarding naturalisation. In these matters, Sir, we are at one with Members on the other side of the House in our determination to do all that is in our power to secure justice for Indians. We do however, Sir, deprecate action on the lines of this Bill. In our opinion retaliatory measures of this kind are not the right course to adopt. Sir, I do not claim for the Criminal Law Amendment Act of 1923 any of the attributes of the laws of the Medes and Persians. But I do ask, Sir, is it in consonance with the dignity of this House, is it in consonance with the dignity of India, that when we have a compromise effected in the manner which I have described, effected such a short time ago, that a member of one of the communities that was a party to that compromise should come to this House and attempt to upset that compromise as is now proposed? Sir, I trust that the House will agree with Government in this matter and that they will reject the motion.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I do not wish to follow either the Honourable Mr. Patel or the Honourable Mr. Tonkinson in the discussion of the various points which they have raised. If by my motion I lend the colour of support to the principle underlying my friend, Mr. Patel's Bill, I do so for three

reasons. In the first place, I wish to encourage my friend, Mr. Patel and people of his way of thinking to degrade themselves to the level of those Members who co-operate with the Government inside the Assembly. They came here to wreck the Reforms. They are here attempting to lend their hand in making constructive proposals. That is one reason why I lend my support to this measure to the brief extent to which I am doing.

The second reason which prompts me to lend this support is the events which are happening in South Africa and the United States of America which are galling to the people of this country, and whether our patience has not been overtried in these matters is also a matter for consideration. How long is India to be going on negotiating and negotiating without taking effective steps of her own is a matter for the serious consideration of this Assembly. There are Colonies and Colonies. Some Colonies have behaved handsomely. Other Colonies are behaving in a manner which we cannot but resent; and therefore in that matter of whether all Colonies should be brought under the definition of "European British subject" or whether we should not make exceptions against certain people, is a matter which I am willing to consider notwithstanding the fact that it was only recently that we passed this legislation. It does not affect the compromise arrived at between the two communities, for it was not part of the compromise at all. The two communities agreed to exclude the Colonials unless they were employed in His Majesty's forces. To that extent my Honourable friend, Mr. Patel will, I am sure, agree to retain the privilege and I think he has overlooked that part of it. So far as the Colonials are concerned generally, it was more or less forced on this Assembly by the attitude taken by His Majesty's Government. The Committee felt no difficulty whatever in recommending the removal from the definition of the words "European British subject" Colonials as such. But it was His Majesty's Government at home who said this Bill shall not pass further unless you agree to include the Colonials. And while I myself would not have moved in the matter, I do want to treat the Honourable Member, who thinks the matter is so important that he should come forward with a motion of this kind, with that respect which is due to a Member of this House; I am willing to consider his proposal. It is only to that extent I propose that this matter should go before a Select Committee. It is a matter for consideration. There is my Honourable friend's statement that the Racial Distinctions Committee have not achieved much by their recommendations; of course there are some Honourable Members who will never be content with what other people do except when they do it themselves. They alone represent the people! It is only in that spirit that I have to treat these remarks. What was it that the country was complaining loudly against? It was the racial inferiority imposed upon the Indian as such—that he was unfit to try Europeans, which was sought to be removed during the Ilbert Bill controversy and which was retained in spite of the opinion of the country. That distinction has been removed. Has my Honourable friend read the history of that agitation? Does he think that is a small point? Now it is not necessary for me to pursue the matter further.

In the third place there are certain matters to be considered seriously in the Select Committee and the matter is one which requires serious consideration, and, if the motion is carried, I would certainly propose a comprehensive committee to go into the whole question. Sir, the privileges

[Diwan Bahadur T. Rangachariar.]

retained, if you can call them privileges at all, are so small that one need not bother oneself about the existence of these privileges. But my Honourable friend, Mr. Patel, wants to lend a helping hand in removing this small remnant which exists which he thinks the country is so anxious about. I do not know, Sir, that events have happened which go to show that there is any pressing call for this legislation at all. I do not know how many Colonials ever claim the privilege accorded to them under this Act. I do not know how many Americans, not being European British subjects, have claimed any of these privileges. The privileges are so small, the occasions when they are exercised are so infrequent, that in my opinion, if Mr. Patel will accept my view, if I were in his position I would not press the motion in this way. Still, as an Honourable Colleague of mine is anxious to have the matter considered, I wish to lend that support in order to enable him to discuss matters round the table and see really whether any improvement is needed and whether it is worth while pursuing the matter.

Sir, I move that the Bill be referred to a Select Committee.

Mr. Darcy Lindsay (Bengal: European): Sir, I am very disappointed with my Honourable friend, Mr. Patel, at not accepting the suggestion I threw out to him the other day to drop this Bill. I am further grieved that he and his party as a whole appear to place such little store on the good will and co-operation of myself and my colleagues that for the sake of what can be nothing more than a gesture of defiance to South Africa they throw us overboard so to speak after having secured our co-operation in the recent deputation to His Excellency the Viceroy on the position in South Africa. To be perfectly frank with the House we feel, Sir, that it is not playing the game, as usually understood, to come and ask us to give our full support to the memorial—which I may say we gladly gave—and then with the ink barely dry, as the Honourable the Home Member referred to to-day in connection with another matter, to put forward this amending Bill which in my opinion is entirely opposed to the spirit and good fellowship in which we joined and in which the deputation attended His Excellency. Now, Sir, what does the House hope to gain by this protest at what my friends consider a very inopportune moment? There is no blinking the fact that this racial pin-prick can be taken as directed at South Africa, the country in which we have a considerable stake by the fact that 160,000 of our Indian fellow-subjects are resident there. Does the House honestly think that we are assisting the objects of the memorial by a retaliatory measure of so petty a nature? For, I do not believe there are more than a dozen or so of South African subjects in India whose status can possibly be affected by the amendment. Then again, is there not the danger of retaliation from the other side which may be a cause of further irritation to our fellow-subjects who may well exclaim: "Save us from our friends?" Retaliation is always a dangerous weapon to use unless you are the stronger party and at times acts like a Boomerang. I should like to know whether Mr. Gandhi has been consulted about this matter, for I very much doubt his approving of a course of action so fraught with danger to the people he loves and has already done so much for. Writing recently in *Young India* on the subject of the recent deputation he says:

"There is ample scope for non-violent action but it requires thinking out and vigorous working out. That seems hardly possible at the present moment."

Can we regard Mr. Patel's proposed action as non-violent or well thought out? Then again Mr. Gandhi writes:

"Let our countrymen in South Africa work out their own salvation. Heaven helps only those who help themselves. They will find that if they show their original grit and spirit and sacrifice they will have the people of India, the Government of India and the world helping and fighting for them."

When I addressed the House a few days ago opposing the introduction of the Bill I quoted from a speech delivered by my Honourable friend Diwan Bahadur Rangachariar in February, 1928; at the time the very question now at issue was debated, and in face of his amendment to refer the Bill to a Select Committee I hope the House will bear with me if I quote from his concluding speech just before the amended Bill was adopted, and which I stated had been arrived at in a spirit of compromise and tolerance. Mr. Rangachariar said:

"I do not think I can express it in better words than the Home Member has done to-day about the co-operation that is needed between the two communities hereafter and that all those who inhabit India should consider India their home, not merely a place of residence as hitherto some people have done. Let it be their home. Let India rank first in their minds, in their desires, and every other country afterwards. Then, in that spirit alone we can bring that good which we all desire should crown our efforts."

Then, again, Sir, his leader, Mr. Seshagiri Aiyar, said:

"We felt, Sir, that the Secretary of State's interference on one or two matters had put an extra strain upon our loyalty to the pact which had been entered into by Europeans and Indians on this matter; and unfortunate also it was that his interference should have been on a matter on which the country feels very deeply and bitterly. Sir, in response to the appeal made by the Honourable the Home Member we were prepared to overlook even those objectionable features, and we resolved that we shall do nothing which would have the effect of wrecking this Bill. I hope, Sir, that the Colonials will recognise that in giving way in the manner we have done we have shown the true instincts of a race which has a long and glorious civilisation behind it, and which has shown itself to be capable of showing forbearance, tolerance and dignity; and I hope that the Colonials will recognise that a race which has shown such tolerance and dignity on the floor of this House should be treated far better than they are treating it in their homes."

Brave and good words these from two prominent men; but I ask what has changed the angle of vision of my Honourable friend in two short years that he now proposes to emulate the infamous action of a certain European Power and treat as a "scrap of paper" the section of an Act he was closely concerned in placing upon the Statute-book? My Honourable friend talked of the co-operation that is needed between the two communities hereafter and that all those who inhabit India should consider India their home—and mark you, in this he makes no distinction as between Europeans in the ordinary acceptance of the term—but when put to the test the Honourable Member appears to me to be found wanting in the very co-operation he so strongly advocates and which we are ready to give him if he does not make it impossible. In the old Assembly we had nothing but admiration for the blunt honesty of purpose of "our Rangy" as we affectionately called him. I wish he would change his coat again and be our old friend once more.

I do not propose to debate the justice of retaliation for the admitted injustice done to our fellow Indian subjects in certain other countries. That I will leave to others who are better qualified, but I would like again to quote the Honourable Sir Malcolm Hailey who, in his reply to the debate

[Mr. Darcy Lindsay.]

on this very subject, places the position as I think the House should view it. Replying to a point made by Mr. Seshagiri Aiyar, he said:

"What I did say, and I hold to it, was that whatever might be the possible result of allowing the definition to stand, yet to legislate now and here for withdrawing from Dominion subjects the status now enjoyed by them would undoubtedly do no good. I am no prophet; I cannot pretend to say whether the exhibition of magnanimity on our part will earn its reward or not. But what I could say is this. If you legislate in the sense that was recommended by the Committee, then it is certain that you will do active harm; that at all events seems to me a direct certainty. But, Sir, this fact does remain; you have somehow got to induce a better atmosphere in the Dominions. You can only secure what you want—I say what you want, but it is also what your Government wants—you can only induce by promoting a better knowledge of yourselves and a better estimation of India. I believe if you were to legislate in the sense in which Mr. Agnihotri desires, you would go far towards destroying all chance of securing that atmosphere with the Dominions. More than that, as Mr. Jamnadas pointed out—and I welcome his aid in this respect—you would perhaps lose your own claim on the assistance of the Home Government, for whatever value the Dominions may attach to the feelings and aspirations of India, remember that they will still more be influenced by what is said in England itself. If you can create in England itself an atmosphere favourable to you, you have taken an important step towards securing a better atmosphere in the Dominions also. I have argued the question purely on its merits. It is, as Mr. Jamnadas said, a practical question. You have simply to balance the advantages and I believe myself that the advantage lies, and lies clearly, and distinctly in recognising that Colonials, as members of the British race, should retain the rights which they now enjoy."

Now, Sir, in this connection I may say that if we throw out this Bill the effect on public opinion in South Africa will be great. We shall attract their more reasonable citizens to the side of moderation and justice. Some of us (A Voice: "Is there any?") Certainly. Some of us took every available opportunity in England last summer to influence all Colonials we met in favour of India's legitimate aspirations and I think we did some good work. But are we to work alone? Will not the House support us in our efforts to improve the lot of our Indian fellow-subjects overseas? In conclusion, Sir, looked at from every point of view I feel very strongly that the fair name of India as well as the objects which we all have in view will be endangered if we treat as a scrap of paper to be torn up at will an agreement arrived at two years ago in the first Assembly, and I may add, Sir, the amending Bill was most enthusiastically passed; and I do again appeal to my friends in this House for their co-operation in this question. Whatever may be its fate I am certain of one thing, that given freedom to vote the House would reject the Bill for I have reason to know that the sympathy of many friends are with me and I even include the Honourable Mover. But, Sir, rather than see the House go to a division which I deplore at this inopportune moment I venture to move that further discussion of the motion be postponed *sine die* and I ask the Honourable Mover to accept my proposal. In doing so, I feel I am in very good company in following the father of the House, the Honourable Sir Sivaswamy Aiyer, who made a somewhat similar proposal on the previous Bill.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber: Indian Commerce): I rise to differ from the appeal my Honourable friend Mr. Darcy Lindsay has made to the House and especially to the Honourable Mover. I am going to suggest to my Honourable friend that he must drop this Bill. I was very much disappointed at my Honourable friend Mr. Darcy Lindsay thinking that he had no better support for what he wanted to put

before the House than the instance of a few European leading Members of this House having thought it fit to join the deputation to His Excellency the Viceroy a week or so back. Sir, I venture to say that those friends of mine who complied with that request, with which I had something to do, did it for no consideration of the nature that may be inferred from my Honourable friend's remarks. They did it because they were convinced that the cause of Indians in South Africa was just and under any circumstances deserving of their support. I am very sorry that so prominent a Member of the European community in this House should have thought it fit to make such a suggestion because I do not believe that I could possibly expect my friends over here to enter into any barter of that nature under any circumstances. If I know my friends who joined that deputation, and I can claim to know them better than Mr. Darcy Lindsay, I say that they joined it because they were honestly, genuinely and sincerely convinced that the cause of Indians in South Africa at this juncture demanded their help, sympathy and co-operation. I put it to Mr. Darcy Lindsay, Sir, that it was not in any spirit of barter

Mr. Darcy Lindsay: I never said it was in any spirit of barter.

Sir Purshotamdas Thakurdas: That is the inference suggested by what he said.

Mr. Darcy Lindsay: Then it is the wrong inference.

Sir Purshotamdas Thakurdas: I am prepared to take that from Mr. Darcy Lindsay. But my Honourable friend Colonel Crawford thought fit to refer to it on the first evening. I did not want to say anything then. Then my Honourable friend Mr. Darcy Lindsay thought he would repeat it a second time. On behalf of those who attended that deputation I put it now to Colonel Crawford that that has nothing to do with the question to-day before the House.

I propose, Sir, to put my suggestion to my Honourable friend on my right on quite different grounds. My point is, Sir, that this Bill seeks to do something which has been called by my friend Mr. Darcy Lindsay a pin-prick. I wish to ask not only my friend Mr. Patel but those who may think with him, what is the occasion for bringing up this Bill? The privileges of these various nationals are there, and what inconvenience have those privileges caused to anybody, or what have the nationals of these various countries done to India or to Indians to justify your bringing up this question when this House has more important work awaiting consideration. (Laughter.) I wish to exclude, Sir, my Bills. Here is a whole sheet or two sheets full of other Bills, some of them not even yet introduced and some at the first stage. I wish to ask, Sir, whether this has not been done on the ground of sentiment. I wish to ask my Honourable friend on my left whether the value which they attach to these privileges is not based principally on sentiment also. If my Honourable friend Mr. Patel has not been able to put before this House any strong reasons to show how Indians can treat these privileges as a grievance, or how the interests of India and Indians have suffered by these few nationals having these privileges, would it not be better to move a Bill of this nature either when the Assembly has less important work to do or when there is something done by the nationals enjoying these privileges which can safely be said to mark them as unfit to continue to enjoy them? Until, Sir, any such case is put before this House

[Sir Purshotamdas Thakurdas.]

I have no hesitation in saying as an Indian, with whatever little patriotism I may have in me—I have no hesitation in saying with all the sincerity of an Indian that this Bill should not be forced on this House for consideration at this stage. It was said by some Honourable Member that the Bill ought to be taken for consideration at this stage because of the attitude of South Africa and the attitude of other Colonies towards Indians there. That is a question which gives one much anxiety, much anxious thought. And indeed if the negotiations which are going on at present, or which may go on for the next few months do not fructify, is this the sort of measure with which you are going to meet the injustice that the Colonies persist in doing to Indians? This is not even a pin-prick compared with the crime the Colonies are responsible for towards Indians. We want something bigger; we want something graver in character. If this is intended to be a retaliation then let us consider the whole thing well. Let us not begin with such a small insignificant pin-prick. I say that with some sense of responsibility. Perhaps I am notorious in the House for holding very strong views on the subject of the treatment of Indians in the Colonies. This is not the measure with which to solve that problem. Personally, I think the time is not yet ripe to make any movement in that direction, and I fully agree with His Excellency the Viceroy when he said in reply to that deputation that until the negotiations are over there should be no question of threat or retaliation. We know our weakness rather too well and I certainly think that if Mr. Patel has that in view, he might leave it on one side until the negotiations have failed. I, Sir, therefore would strongly urge my Honourable friend on my right to drop this measure at this stage and just let us turn over a little to some constructive work and if it must be destructive, let it be destructive work of a nature which will bring some benefit to India and will not be responsible for a great deal of unnecessary bitterness which can do no good to India at all.

Pandit Motilal Nehru (Cities of the United Provinces: Non-Muhammadian Urban): Sir, I had no intention whatever of taking part in this debate, but the speech which has just been made has come to me like a bolt from the blue and I feel that I must intervene. I could not conceive that any Indian could have given expression to the feelings and sentiments which my great friend Sir Purshotamdas Thakurdas has done. I think, Sir, that when he describes this as a pin-prick, he is probably thinking of the millions which are perhaps to be made in South Africa or something of the kind. I could understand my European friends here standing up one after another and speaking of this measure as a retaliatory measure, but when an Indian calls it a retaliatory measure, I say, Sir, that it takes my breath away. What is the retaliation here? What are we doing to them which we do not want for ourselves. These Colonials come to our country. It is said they have the privilege of having a superior status to ourselves. I deny that proposition and I emphatically repudiate all the implications of that proposition. I say they are no better and no worse than we are. It is said that there was a compromise. I say—and I thank heaven—that neither I nor any of my friends on whose judgment I can rely was a party to that compromise. Those who entered into that compromise, did so in their own personal capacity. They have no right to say, having regard to the feeling in the country, that they in any sense represented their electorates or the general public of India. They are quite welcome to abide by their compromise if they are so minded. I for one would not treat it even as a scrap

of paper. I would not touch it with a pair of tongs. It is a thing which puts me to the indignity in my own country of occupying a far lower position, lower status, than a Colonial. Sir, when my friend Mr. Patel referred to his having disappointed some of his friends by limiting that measure to Colonials, he was referring to me. It was I who was disappointed. What difference is there between a true born Britisher and a Colonial? Anybody who comes to this country is quite welcome to have the same rights, the same privileges which we have. But what right has anyone to say that "we are in your country because we are of a certain colour or belong to a certain race, therefore we occupy a position in which even our criminals must be treated better than your criminals". Where is the justice of it and where is the question of retaliation? Do we want any position for ourselves in South Africa or any of the Colonies which the Colonials themselves do not enjoy? Are we not giving them all that we enjoy ourselves? What right has anybody to say that he is entitled to more than the people of the country itself? Yes, I know there is one right and that right is might, and it is due to that right of might that we have suffered so long from the disgrace of these enactments. My friend Sir Purshotamdas Thakurdas asked: "What has happened recently that we should pass this legislation at once?" I say that every minute that we allow to pass by now that the matter has come up before this House is a disgrace to every Indian member of this House. That is my opinion. (Diwan Bahadur T. Rangachariar: "That is not the measure now before the House.") I quite agree with my Honourable friend Mr. Rangachariar if he wants the matter to be considered in the Select Committee although I fail to understand what there is to be considered about it. I welcome this because I may have a chance of moving an amendment to strike out the words "other than a British-born subject" so that this enactment may be of general application to all and sundry whether they be European British-born subjects or Colonials or Americans. Sir, the feeling of a true Indian is and ought to be to put himself the question: "Why is it that this piece of legislation has been allowed to remain a blot upon the Statute-book so long?" and resolve that it should not for a minute longer continue to remain on the Statute-book. It is with that feeling, I hope, that the whole of this House or at least the great majority of it, is inspired. I strongly oppose any motion for adjournment *sine die*. But, if Mr. Rangachariar seriously wants a Select Committee, I have no objection to give Members of the House a chance of meeting across the table and explaining their views. I, therefore, Sir, oppose the motion for adjournment *sine die*.

Mr. President: The original question was:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

Since which an amendment has been moved:

"That the Bill be referred to a Select Committee."

Further amendment moved:

"That this debate be now adjourned *sine die*."

The question I have to put is that this debate be adjourned.

The Assembly divided:

AYES—44.

Abdul Mumin, Khan Bahadur Muhammad.
 Abdul Qaiyum, Nawab Sir Sahibzada.
 Abul Kasem, Maulvi.
 Ahmed, Mr. K.
 Aiyer, Sir P. S. Sivaswamy.
 Akram Hussain, Prince A. M. M.
 Ashworth, Mr. E. H.
 Bhoire, Mr. J. W.
 Blackett, The Honourable Sir Basil.
 Bray, Mr. Denys.
 Burdon, Mr. E.
 Calvert, Mr. H.
 Chalmers, Mr. T. A.
 Clarke, Sir Geoffrey.
 Clow, Mr. A. G.
 Cocke, Mr. H. G.
 Cosgrave, Mr. W. A.
 Crawford, Colonel J. D.
 Dalal, Sardar B. A.
 Datta, Dr. S. K.
 Fleming, Mr. E. G.
 Fraser, Sir Gordon.
 Graham, Mr. L.
 Hira Singh, Sardar Bahadur Captair.

Hudson, Mr. W. F.
 Innes, The Honourable Sir Charles.
 Marr, Mr. A.
 McCallum, Mr. J. L.
 Mitra, The Honourable Sir Bhupendra Nath.
 Moir, Mr. T. E.
 Muddiman, The Honourable Sir Alexander.
 Muhammad Ismail, Khan Bahadur Saiyid.
 Purshotamdas Thakurdas, Sir.
 Reddi, Mr. K. Venkateramana.
 Rhodes, Sir Campbell.
 Rushbrook-Williams, Prof. L. F.
 Sastri, Diwan Bahadur C. V. Visvanatha.
 Sim, Mr. G. G.
 Singh, Rai Bahadur S. N.
 Slanyon, Colonel Sir Henry.
 Tonkinson, Mr. H.
 Webb, Mr. M.
 Willson, Mr. W. S. J.
 Wilson, Mr. R. A.

NOES—42.

Abhyankar, Mr. M. V.
 Acharya, Mr. M. K.
 Aiyangar, Mr. C. Duraiswami.
 Aiyangar, Mr. K. Rama.
 Belvi, Mr. D. V.
 Chetty, Mr. R. K. Shanmukham.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Dani Chand, Lala.
 Dutt, Mr. Amar Nath.
 Ghazanfar Ali Khan, Raja.
 Goswami, Mr. T. C.
 Gulab Singh, Sardar.
 Hans Raj, Lala.
 Iyengar, Mr. A. Ranganaswami.
 Jajodia, Baboo Runglal.
 Jeelani, Haji S. A. K.
 Jinnah, Mr. M. A.
 Joshi, Mr. N. M.
 Kazim Ali, Shaikh-e-Chatgam Maulvi Muhammad.
 Kelkar, Mr. N. C.
 Malaviya, Pandit Madan Mohan.

Mehta, Mr. Jannadas M.
 Misra, Pandit Shambhu Dayal.
 Misra, Pandit Harkaran Nath.
 Murluza Sahib Bahadur, Maulvi Sayad.
 Mutalik, Sardar V. N.
 Nambiyar, Mr. K. K.
 Nehru, Dr. Kishenlal.
 Nehru, Pandit Motilal.
 Nehru, Pandit Shamlal.
 Neogy, Mr. K. C.
 Patel, Mr. V. J.
 Ramachandra Rao, Diwan Bahadur M.
 Ray, Mr. Kumar Sankar.
 Samiullah Khan, Mr. M.
 Sarda, Rai Sahib M. Harbilas.
 Sarfaraz Hussain Khan, Khan Bahadur.
 Shafee, Maulvi Mohammad.
 Singh, Mr. Gaya Prasad.
 Sinha, Kumar Gangananad.
 Vishindas, Mr. Harchandrai.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 11th February, 1925.