

19th March, 1925

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

SECOND SESSION

OF THE

SECOND LEGISLATIVE ASSEMBLY, 1925



SIMLA
GOVERNMENT OF INDIA PRESS
1925

CONTENTS—contd.

	PAGES.
Tuesday, 17th March, 1925—	
Member Sworn	2489
Questions and Answers	2489-91
Unstarred Questions and Answers	2491-93
Death of Khan Bahadur M. Shams-uz-Zoha	2494-95
Motion for Adjournment	2495-99
Non-recurrent Grants out of the Surplus of 1925-26 to Bombay, Burma, the Central Provinces and Assam	2499-2501
The Indian Finance Bill—Considered and Debate adjourned...	2501-73
Wednesday, 18th March, 1925—	
Questions and Answers	2575-82
Statements laid on the Table... ..	2583-84
The Indian Finance Bill—Further Considered and Passed	2584-2630
The Succession Certificate (Amendment) Bill—Referred to Joint Committee	2631-33
The Indian Tariff (Amendment) Bill—Considered and Passed...	2633-44
The Prisons (Amendment) Bill—Amendment made by the Council of State agreed to... ..	2644-45
The Indian Stamp (Amendment) Bill—Introduced, Considered and Passed	2645
The Indian Income-tax (Second Amendment) Bill—Considered and Passed	2645-46
Thursday, 19th March, 1925—	
Statement of Business	2647-48
The Special Laws Repeal Bill—Passed, as amended	2648-2709
The Indian Penal Code (Amendment) Bill (Amendment of Section 375)—Motion for taking into consideration adopted...	2709-13
Saturday, 21st March, 1925—	
Members Sworn	2715
Death of the Marquess Curzon	2715-16
Message from the Council of State	2716
The Indian Finance Bill—Amendment made by the Council of State adopted	2716-35
The Indian Cotton Cess (Amendment) Bill—Introduced, Considered and Passed	2735-36
The Indian Trade Unions Bill—Appointment of Mr. A. G. Clow to the Select Committee	2736
Resolution <i>re</i> Provincial Contributions—Adopted, as amended.	2736-71
Monday, 23rd March, 1925—	
Questions and Answers	2773-2801
Unstarred Questions and Answers	2801
Appreciation of the Members of the Legislative Assembly of the Arrangements made for Aeroplane Flights, etc.	2802-03
The Bengal Criminal Law Amendment (Supplementary) Bill— Introduced and Considered	2803-23
The Indian Penal Code (Amendment) Bill—(Amendment of Section 375)—Further Considered	2823-52

LEGISLATIVE ASSEMBLY.

Thursday, 19th March, 1925.

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

STATEMENT OF BUSINESS.

The Honourable Sir Alexander Muddiman (Home Member): Sir, I desire to make a statement in connection with the course of business in this House. With your permission, Sir, the next meeting of this House will be held at 11 A.M. on Saturday, the 21st instant, on which date the business left over from yesterday's list will be brought up, and it is also possible that we shall ask permission to make a motion in connection with the Finance Bill, should it pass in another place. Information was received yesterday that His Majesty in Council has given his assent to the Bengal Criminal Law Amendment Act, 1925, and we shall ask leave to introduce a small measure designed to supplement that Act on Monday, the 23rd. If leave is granted, I shall move that it be taken into consideration. Copies of the Bill will be distributed to Members this evening. I am not in a position to say at present whether there will be meetings of this Chamber on Tuesday or Wednesday of next week. Honourable Members will recollect that I said in respect of the Age of Consent Bill that if it was not disposed of to-day I would try to find time on a Government day for it. In the event of the Bill not being disposed of to-day, I will put it down after Government business every day on which the House meets next week.

Mr. A. Rangaswami Iyengar: May I know, Sir, having regard to the very heavy list of non-official legislative proposals on the agenda to-day, whether they will find another day for non-official Bills either at the end of the official business or give us another day to deal with non-official Bills. So far as we are concerned, we were told that we were booked here till the 25th. I am sure if the Honourable the Leader of the House will look into the matter he will be able to give us another day.

The Honourable Sir Alexander Muddiman: I have already made a statement which is as far as I can go in view of Government business. I have no idea how long the business of Government will take. I certainly cannot recommend it to the authority that has power to give another day.

Mr. A. Rangaswami Iyengar: But if the official business is done, is there any objection to the Leader of the House giving us another day for non-official Bills?

The Honourable Sir Alexander Muddiman: I have expressed my views on that point. I am afraid I could not do it.

Mr. A. Rangaswami Iyengar: Does it mean that the Honourable the Leader of the House refuses to give us any more time?

The Honourable Sir Alexander Muddiman: It does, at least so far as it lies with me.

Mr. W. M. Hussanally: May I know, Sir, what is the last day of the meetings of the session?

The Honourable Sir Alexander Muddiman: Well, Sir, I am unable to say with certainty. It may last till Wednesday or even Thursday. It depends on the course which is taken in another place with regard to the Finance Bill, the course of the Bill in this House, and it is a matter that I cannot foresee.

Mr. President: I may remind the Honourable the Leader of the House that under Rule 6 of the Indian Legislative Rules:

"The Governor General may allot so many days as may, in his opinion, be possible compatibly with the public interests for the business of non-official Members in that Chamber, and may allot different days for the disposal of different classes of such business, and, on days so allotted for any particular class of business, business for that class shall have precedence."

And here the significant words occur:

"On other days no business other than Government business shall be transacted except with the consent of the Governor General in Council."

That is to say that the *Governor General in Council* is the body that permits or refuses the transaction of business, other than Government business on a Government day.

The Honourable Sir Alexander Muddiman: The Honourable the President has caught me in an inaccuracy. It does not, however, affect the substance of my remarks.

Mr. A. Rangaswami Iyengar: That means that the refusal of time is to be from the Governor General in Council?

The Honourable Sir Alexander Muddiman: On a Government day.

Mr. President: No, on Government days it is the Government, as a whole, that is in charge and can say yes or no to the transaction of non-official business.

THE SPECIAL LAWS REPEAL BILL.

Mr. President: The House will now resume consideration of the motion moved by Mr. V. J. Patel on the 3rd February, 1925.

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

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, if I rise to speak in support of the Bill, it is not because I can add anything to what has already been said in this House but because I feel that I shall be lacking in my duty if I do not add my feeble voice, as one who has given notice of introducing a similar, although less comprehensive, Bill, which found the first place in the ballot, but was not reached on the 31st January last.

Sir, when moving a Resolution last year about this time for the repeal of Regulation III of 1818, I made it clear that I want to give an opportunity to the Government to prove by introducing a Bill of this nature that they have kept pace with ideas of freedom and liberty consistent with civilised systems of jurisprudence and thereby establishing that they have undergone a change of heart, which I fondly hoped to see in place of bureaucratic wrath and anger, which I witness to-day. Sir, it has been a paradox to me how a warm heart like that of the Honourable the Home Member, whose mellowed voice and conciliatory speech has won for him the love and esteem of this House, can oppose the Bill, after having declared in this House in no uncertain voice that he himself dislikes the Regulations and does not like this power of confining men without trial. That was what fell from the lips of Sir Alexander Muddiman as an Englishman, but unfortunately as the Home Member to the Government of India he at once realised that it is the one executive power that is retained in the hands of the Government which have to deal with 300 millions of people. Sir, I can only advise him that it would be better not to deal with the vast population if he has to deprive them of their liberty without the semblance of a judicial trial and beg to remind him of the rebuke of the old woman, whose son was murdered, to Mahomed Ghori:

"Keep no more territory than you can properly govern."

Sir, if in your attempt to keep us safe from revolutionaries, you have to keep the whole population in perpetual dread of deportation without trial and internment—if in your attempt to preserve law and order you have to place our lives and liberties in the hands of an unscrupulous police and a no less unscrupulous magistracy (*An Honourable Member*: "Question?") then in the interest of both the Government and the people, you should give up your self-imposed stewardship of this vast continent. You profess to love India and its people more than their elected representatives in this House, which reminds me of a popular Bengali saying: "One who pretends to love more than a mother is a witch."

Sir, the other day, we had the amusing spectacle of witnessing the antics of a member of the Provincial Service holding a listed appointment on the floor of this House. In opposing the Bill he attempted to justify the Bengal Ordinance by referring to public speeches in the Harish Park and College Square and with that characteristic outlook of life which values a cheap Ford Car—and a still cheaper title—more than anything else in this world, he poured forth his venom upon the rank and file of the Swarajists, but with the true instincts of a votary at the shrine of Mammon, he did not fail to appreciate the sacrifice of at least one Swarajist of this House, owning a Rolls-Royce, for whom we also entertain great affection and high regard—not for his earthly riches—but for still richer qualities of head and heart. Sir, never did debate degenerate into such undignified language on the official side on the floor of this House as when he used epithets against a constitutional political party consistent with the culture which is the monopoly of the slums of Machua Bazar, and it would have been better for the dignity of this House if those who granted him the privilege and high honour of sitting here with the representatives of the people, had muzzled this oracle of Machua Bazar culture. In his long inspired speech, he has tried to prove the existence of dangerous commotion in Bengal, necessitating the retention of Regulation III of 1818, by citing the Nadia mail robbery case, which

[Mr. Amar Nath Dutt.]

contrary to his magisterial expectations ended in the acquittal of the accused and which leaves no doubt in our minds that the case was a fabricated one. Even conceding for argument's sake that there was a mail robbery, would any one out of Bedlam suggest that it proves the existence of a commotion, as is contemplated in the Preamble of the Regulation? I ask this House, whether instances like these can create any commotion at all, unless the word has another meaning in his Worship's magisterial vocabulary. But it is certain that his settlement operations and his magisterial performances to have another Angora in the Gangetic delta created a commotion.

Murder and robbery there has been in all times in all countries, in times of peace, and because you have an inefficient police who fail to detect criminals, the Executive ask to be armed with extraordinary powers to deal with the liberty of 350 millions of people entrusted to their care. No civilised Government can claim to punish its subjects on mere suspicion without a judicial trial. It has been proved by facts and figures that these Regulations have been used without necessity against wrong persons. I do not wish to take up the time of this House by citing instances which are too well known. Sir, the Honourable the Home Member has told us that the situation in the country is very serious, but he has not given us any material from which we can arrive at such a conclusion. He has spoken of the Malabar outbreak as one of the reasons for retention of the Regulations. I fail to appreciate his logic, for the unfortunate happenings in that tract had its full orgy of bloodshed in spite of the existence of these Regulations which did not and could not prevent the outbreak. Then we have been told that the Government are confronted with an organisation outside India which is endeavouring to sap all government. Probably he refers to the Bolshevik menace, and if I am correct, I ask, what country is there in the world which is not threatened equally, if not more, with such propaganda? Are the Regulations in any way effective to check the same? He has spoken of inflammatory leaflets, but may I ask him, have the Regulations in any way helped in tracing their source or stopping their publication? The answer is an emphatic "No." Then, why do the Government ask for the retention of these Regulations? I shall give an answer.

The Executive wants these arbitrary powers to crush all constitutional and lawful opposition in the name of law and order. The Honourable the Home Member has admitted that the perpetrators of crimes referred to by him have been convicted and the conviction has been upheld by the highest court of the land. Does not this prove that whenever there is any crime of the type referred to by him, you can depend upon the ordinary criminal law of the country to bring the offenders to book? As to the seriousness of the situation in Bengal referred to by the Honourable the Home Member, it appears to me that there is a section of the people who are out to destroy the hybrid constitution "Dyarchy" and engaged in a constitutional struggle for redress of their grievances. If this be the serious situation complained of, I can suggest a very simple remedy. Do away with the root causes of the distemper by amending the constitution and introduce an element of real responsibility in the provinces. I also beg to remind this House that these Regulations were passed at a time when the British were consolidating their power, and there was another

rival in the field. There was also trouble in the northern frontiers of Nepal and the country was subject to the depredations of the Pindaris. Whatever justification there might have been in those days for those Draconian laws, whose objective was to secure the British dominions from foreign hostility and the maintenance of allowances with foreign powers and protection of the territories of the native princes, there is hardly any justification for their retention on the Indian Statute-book at the present moment unless you desire to strangle the political aspirations of the people in order to keep them perpetually in subjection by retaining such arbitrary powers in the hands of an irresponsible Executive.

Sir, I appeal to the Honourable the Home Member for a more just appreciation of the true situation in Bengal and then, if he can convince this House by facts of the necessity of retaining these Regulations, I can assure him that he will have our support for measures against conspiracies subversive of law and order. But so long as he will not take us into confidence and allow us to judge facts, we are bound to protest against the retention of such arbitrary powers of detention without trial in the hands of the Executive. I ask the Government to rely upon the Legislature as the sole judge of emergency contemplated by the Repressive Laws Committee.

Sir, the days of Regulations and Ordinances are long past and they are anachronism in all civilised systems of jurisprudence. Therefore, I appeal to every Member of this House, European or Indian, with all the earnestness that I can command, to support this Bill and thus help in dispelling the clouds of distrust from the political sky of India that have gathered round its horizon about the good intentions of England in India.

Mr. M. V. Abhyankar (Nagpur Division: Non-Muhammadan): Sir, the Honourable the Home Member has repeatedly told us that he hates these special laws which my friend the Honourable Mr. Patel seeks to repeal by this Bill. (*The Honourable Sir Alexander Muddiman*: "No.") These are his words, and I can show them to him from the official report if he wants. "Hate" is his word. He has told us that these special laws contain powers very grave for any Government to possess. He has also further told us that his natural instincts as a liberty-loving man is against them. But, he said, on the other hand, there was the anarchical revolver to be considered. He was thus oscillating between his natural instincts of which he might very well be proud and the anarchical revolver, and I am sorry to say that ultimately he succumbed to the latter, and cast to the winds his long imbibed natural instincts of liberty and freedom. That, Sir, is in itself a bad example for him to set to the people of this country. So far as I am concerned, at the very outset, I should like to tell this House that I hate anarchy. No man likes anarchy, not even the anarchist. I assure the Honourable the Home Member in all sincerity that he will have my full sympathy, and not only that; but also my active co-operation, in exterminating this evil, provided, however, he proceeds to his business like a rational being, by first trying to find out the root causes and then trying to remedy them. I must however tell him that if he proceeds to his business like a quack by trying to treat the symptom only, however strong be his remedies, they will not kill anarchy. they will only aggravate it instead of killing it. (*Mr. K. Ahmed*: "Prevention is better than cure.") The usual intelligent remark of my Honourable friend! What then are the causes of anarchy, and are these special laws a remedy for it?

[Mr. M. V. Abhyankar.]

The Honourable the Home Member, whenever such a question crops up, often refers us to the oft-repeated story of the Bengal bomb and revolver, and he says, as he did say in his speech on the Ordinance the other day, that that is the history behind the Bengal Ordinance. And he stops there. I should request him to go further behind and see what he finds. What is the history behind this history of the Honourable the Home Member? It is the history of more than a century of oppression and suppression to cover up that oppression, denationalisation and emasculation to maintain that denationalisation, all this ultimately ending in complete enslavement of the people of this country to the people of Great Britain like so many domestic cattle. It was this that brought the anarchist into being in this country, and when the Indian National Congress in 1921 *suo moto*, by adopting non-violent non-co-operation as a means to achieve its end tried to discount and exterminate him and actually succeeded in doing it as the Honourable the Home Member admitted the other day that there was no anarchical crime from 1921 to 1923, it was the British Government and the Government of India that really revived and helped him by refusing to respond to the national call and thus publicly declaring that they did not desire a peaceful revolution in this country. Then, Sir, I should also like to tell this House that the real anarchist in this country is here in this very House, and he is to be found in the person of the Honourable the Home Member and his colleagues on the Treasury Benches. If therefore any special legislation was necessary to kill anarchy I would seriously ask this House to pass some legislation that will keep these people in order, these people in check. Sir, the other day, the Honourable the Home Member in justification of the Bengal Ordinance referred us to look to the Irish history. He said, "Look at what happens there." Evidently he referred us to that portion of Irish history which begins after the signing of the Peace Treaty. But having once referred us to Irish history can he stop the people of this country from looking into chapters of that history which relate to periods prior to the signing of the treaty? And what does the anarchist of this country find there? He finds there that the revolver is the only successful weapon and that it is also the only weapon that Britain recognises. Then, Sir, I should like the Honourable the Home Member to say if the British Government and the Government of India have adopted and will adopt the same methods and remedies in similar circumstances when their own kith and kin, their own colour was or will be concerned. The white people of Kenya threatened rebellion. They gave notice to the Governor that if he were to do any such thing like giving equal treatment to the Indians or carry out laws framed by the British Cabinet to that effect, he with his senior officials would be seized and removed. Not only that, but they had made all preparations for their seizure and even the place of destination of these people had been settled. What did Government do there? Was it not a fit case for special laws? Lord Delamere presided over countless meetings and helped in their disorderly proceedings where these white people openly declared rebellion and it was this Lord Delamere who had sworn allegiance to His Majesty as an Executive Councillor of Kenya, who had promised to be impartial, who had promised to administer laws and not to do anything that would break the peace of the people! And what happened to him when he returned to England? He was received everywhere, he had a seat in the House of Lords, his words were listened to as if they were gospel truth, and the whole of the Colonial Office from top to bottom was sweet on him. Coming nearer home what

do we find? In the old days of the Ilbert Bill, when nothing more was at stake than the continuance of an invidious privilege of the Europeans, the Europeans of Calcutta and its neighbourhood banded themselves together and decided to deport Lord Ripon. Has the Honourable the Home Member forgotten all that? His Excellency Lord Ripon was to have been summarily seized and put on a boat that had come up the Hooghly and deposited somewhere on the more hospitable shores of Great Britain! Was not this Bengal Regulation III of 1818 then in existence? Did you use it against your own people? Was it not a fit case for its use, and if not, why not? Then, Sir, I would tell the Honourable the Home Member that it is his country, it is his people, and it is his history that teach the people of this country from day to day that freedom is won by revolution, and to support my statement I will quote no less an authority than His Royal Highness the Duke of Connaught. In his departing speech at Bombay after he left here inaugurating these legislative bodies which, as I said the other day were no better than debating societies, His Royal Highness said:

"Political freedom has often been won by revolution, by tumult, by civil war, at the price of peace and public safety. How rarely has it been the free gift of one people to another in response to a growing wish for greater liberty and to a growing evidence of fitness for its enjoyment?"

It was His Royal Highness the Duke of Connaught who told the anarchist of this country that political freedom is won by revolution. Why then blame the poor anarchists? Now, Sir, I should like to know from the Honourable the Home Member in view of what I have said if it is not his country, his people and his Government who have given birth to the anarchist in this country, and if it is not my Honourable friend, the Home Member and his Government who rear and foster him as a pet child that they may use him in order to embark on an orgy of repression in this country. So much for the causes.

Now, let us turn to the remedy. These special laws, which my Honourable friend Mr. Patel seeks to repeal, and I do hope he will succeed in this House—give full scope to the C. I. D. to pay attentions to people whom they decide in their imaginary and mysterious ways to suspect. The attentions of this C. I. D. have made the life of many an innocent man a hell for him. If at first one is not inclined to be an anarchist I may tell the Honourable the Home Member that a few months' attention from his C. I. D. will at once make him so. I may also tell the Honourable the Home Member my personal experience only a few days before. I was travelling to Patna with my friends, Mr. Kelkar and Mr. Rangaswami Iyengar in the same compartment. A ticket collector came and checked my ticket and went away. The same ticket collector came only two minutes after, to check my ticket again. I was surprised and then he took out a pencil and note-book and took down the number. Evidently he had forgotten the number as he had not written it down. I asked him what he wanted it for, though I knew what he wanted it for, for we are used to these things for some time in this country and he told me that it was wanted for the police. I said "Why? Do the police think that I am going to manufacture bombs or that I am going to throw bombs?" Let me say to the credit of that ticket collector that he gave me a very smart reply. He said: "Sir, you are a member of the Legislative Assembly. Why trouble a poor man like me who has simply to carry out orders to fill up my belly. Interpellate the Honourable the Home Member about it." That is what happens to a Member of this House. If you keep that guard

[Mr. M. V. Abhyankar:]

on me, what must be happening to people who come from a lower position than me. What must the C. I. D. be making their life for them. I am positive if the same thing would have happened to my friend the Honourable the Home Member he would have on the very spot indulged in language not befitting his dignity.

The Honourable Sir Alexander Muddiman: I have no desire to interrupt the Honourable Member in his speech, but since he has referred to me I may say that I have had, on several occasions, my tickets checked.

Mr. M. V. Abhyankar: That fully shows, Sir, the evil nature of these methods since they turn round like reptiles on people who create and nourish them. You can thus see the magnitude of the evil nature of these methods. Then, Sir, I should like to tell this House that it is these special laws which create anarchy where it does not exist and which nourish anarchy where it is dying. It is the general atmosphere created by these laws that breeds anarchy, that breeds the anarchist who otherwise would not find any scope to propagate his doctrine if there was political contentment in the country. (*A Voice:* "What about other tickets.") They were also checked when we were going to Patna. There can be no doubt about it that these special laws are short cuts to administrative peace and an administration which takes these short cuts to administrative peace has no right to turn round and complain against the anarchist who does nothing more than merely follow the administration and take what in his opinion are short cuts to freedom and liberty. You will not submit your action under these special laws to public scrutiny on grounds of secrecy when every exercise of an arbitrary power demands it. These so-called laws sap the very foundations of criminal jurisprudence, roll up the courts and lay low the Legislatures. The meanest of mankind, the meanest of criminals has a right to be heard and tried before he can be condemned and punished. Even in war when humanity throbs with excitement and peril, there are laws which must be observed against an enemy who is openly running for your throat. By asking us not to repeal these laws, the Honourable the Home Member is asking us a price far too high, even to punish the anarchist. When the Bengal Ordinance was promulgated we were told in almost pathetic simplicity, quite worthy of a paternal Government, that that Ordinance was going to be used only against the anarchist and that it shall never be used to put down legitimate agitation and legitimate movements in this country and that the innocent need have no fear from it. I wish this idyllic picture were true. We have however found it to the contrary. Then, Sir, if they want to kill anarchy I would tell the Honourable the Home Member to remove the causes of it and that remedy alone will succeed. Help us to pilot our political agitation peacefully to a successful end by responding to our call and thus strengthen our hands to help you to exterminate this evil. Whom have you behind you in this repressive policy, I ask the Honourable the Home Member? You have exasperated even the Moderates. All of them have arrayed themselves and openly arrayed themselves against you. Even a gentleman like Sir P. C. Mitter openly voted against your Bengal Criminal Law Amendment Bill in the local Legislature. All political parties are against you. You have governed India in isolation for more than a century without any public opinion behind you, and therefore I would tell the Honourable the Home Member that there is a top to every hill. Once you reach that, the next step is the descent and it is for you to decide whether the descent shall be graceful or otherwise, orderly or disorderly. I would

further advise the Honourable the Home Member, if he will not think it derogatory to his dignity my doing so, to make friends with India now at least in good time, before it is too late. It will not pay you to have enemies all round you.

Then, Sir, one last word and I have done. The Honourable the Home Member told us the other day that the use of force would hamper the political progress of this country. I would in the first place ask him to keep his mind perfectly at rest on that score. Our benign self-constituted trustees have removed all force from us on the pretext that they are there to protect us and that they would like to relieve us of that obnoxious and troublesome task of protecting ourselves. You have not left any force in India. You need not be afraid on that account. But may I, Sir, in my turn ask the Honourable the Home Member not to use force in carrying on his government as he is every day doing. Would it not be better if he accepts his own advice, takes his own counsel first before he so gratuitously offers it and hands it over to us. I think it will be far better if he does that. What is it that we do not want in this country and what is that that we want in this country? We do not want this barbarous government which has to be carried on from minute to minute by pure force. We want a government which we can make and unmake by the mere expression of our will. We want a government in the modern sense of the term; and allow me to assure the Honourable the Home Member that immediately this country gets it anarchy will be buried miles deep under the earth.

Several Honourable Members: I move that the question be now put.

Mr. President: The question is that the question be now put.

The motion was adopted.

Mr. President: The question is:

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

The motion was adopted.

Mr. President: Clause 2. Mr. Rangachariar.

***Mr. V. J. Patel** (Bombay City: Non-Muhammadan Urban): May I rise to a point of order? My friend Diwan Bahadur Rangachariar has a number of amendments on this Bill and you will have to decide which amendments are in order and which are not in order. This Bill is a repealing Bill seeking the repeal of a number of Acts and Regulations, while most of the amendments are intended to amend certain Regulations—Bengal Regulation III of 1818. And therefore he wants amendments in the Title, amendments in the Preamble, in clause 1 and so on. I submit, Sir, that most of these amendments are outside the scope of the Bill and therefore you will have to decide first which of the amendments can be taken and which cannot be taken. So far as one amendment is concerned, namely, the omission of one particular Act of the Punjab, I submit it is in order; but the rest of the amendments are not in order; and therefore you will have to go through them one by one and decide first which are in order.

Mr. President: Does the Honourable Member suggest that Mr. Rangachariar cannot propose to amend certain enactments which he wishes to repeal? I do not think I can uphold that proposition.

***Mr. V. J. Patel:** I want that the whole of Bengal Regulation III of 1818 should be repealed. My friend wants that that Act should be so amended as to restrict its operation to certain matters, and also to extend its operation to the province of Bengal and to the province of Madras, to which it does not at present apply. I want the whole Act to go. That is the scope of my Bill, while the amendments would extend the scope or limit the scope.

Mr. President: Certainly, those amendments proposing to limit the scope of this repealing measure are in order. As to the others lower down I shall inform him and the Mover whether they are in order or not when we come to them.

***Mr. Devaki Prasad Sinha** (Chota Nagpur Division: Non-Muhammadan): What about amendment No. 1? Mr. Rangachariar wants to propose the words to "amend and repeal". That evidently enlarges the scope of the Bill.

Mr. President: No; but as the Honourable Member is aware, we take the Title and Preamble to the Bill last, and whether it will be in order then to insert the words "and amend or" or not, we shall be able to decide in the light of what has been done to the closures. Meanwhile the amendment I have called on him to move in clause 2 is certainly in order.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I should briefly explain the objects and scope of the amendments which I have tabled to this measure of my Honourable friend Mr. Patel. I may say at once that it is not my object by means of these amendments to obstruct the passing of this Bill. My object is to smooth the way for this Bill to become law. My object is that this Bill should go in such a shape to the other Chamber that it may have every chance of getting through that Chamber. My own feeling is that if this Bill is passed as has been proposed by my Honourable friend, we will only be passing a measure by a majority in this House without the chance of making it law. I take it my Honourable friend's object in bringing this measure before the House is to enact a law and not merely to record a vote. If the recording of a vote alone is needed, we have already done so by means of the Resolution which we passed last March. I take it my Honourable friend's intention is to follow it up by enacting this measure so far as this Legislature is concerned. I am sure, however powerful my Honourable friend Mr. Patel is, he cannot ignore the existence of other parties in this Legislature. (*A Voice:* "Do they agree to your amendment?") We are not the sole arbiters in this matter. Sir, taking that view I have introduced changes in the proposed Bill which I think there should be no hesitation in any reasonable mind to accept. That is the view I take of it and that is why I propose the amendments.

Sir, the substantial amendments are really to Bengal Regulation III of 1818, I mean of the amendments I propose. My Honourable friend seeks to repeal the whole of Bengal Regulation III of 1818. If Honourable Members will read sections 1 and 2 of that Regulation they will find that section 2 is the operative section and section 1 defines the objects for which the operative section can be put in force. Section 1, which is called the Preamble to the Regulation, defines the four objects for which the

Governor General in Council can order the detention of persons without trial. Those four objects the Honourable Members will find defined as follows:

"Whereas reasons of State embracing the due maintenance of alliances formed by the British Government with foreign powers,"

That is object No. 1. No. 2 is:

"the preservation of tranquillity in the territories of Native Princes inside the protection of the Government,"

No. 3 is:

"security of British Dominions from foreign hostility,"

And then fourthly:

"and from internal commotion."

Now, Honourable Members will recognize that the great objection to Bengal Regulation III of 1818 has been its abuse in connection with the last object, namely, to preserve the country from internal commotion. We all accuse the Government of India of abusing this Regulation III of 1818. They have used this Regulation for the purpose of suppressing political agitation in the country; they have used this Regulation for purposes foreign to the original object which the Government had in view in passing this Regulation in 1818. The great unpopularity of this Regulation arises from the fact of its abuse in connection with this last object. I do not remember having seen or heard of a single case of the use of Regulation III of 1818, or rather of the abuse of this Regulation in connection with any of the first three objects, namely, the maintenance of alliances with foreign powers, the maintenance of tranquillity within the borders of Indian States, or again the security of the British Dominions from foreign hostility. All the cases of outrages committed in the name of this Regulation have arisen from the fact that the Government have taken advantage of this language, "internal commotion" and applied it for purposes of suppressing political agitation. That is what the Repressive Laws Committee took into consideration. Sir, our agitation for the repeal of this Regulation has been based upon this solid fact and that solid fact was recognized in the report of the Repressive Laws Committee. In fact, when they speak of the repeal of Regulation III of 1818 they take care to say that this Regulation should be confined to its original purpose and should be so modified or repealed as to confine the operation of that Regulation to the original purpose which they define. My Honourable friend and those who moved the Resolution in 1924 in this Assembly relied very much on the recommendations of the Repressive Laws Committee. In accusing the Government the other day I myself took exception to their not taking action as promised by them in September 1921 in connection with the recommendations of the Repressive Laws Committee. What is it that the Repressive Laws Committee recommended? There is some confusion in the public mind as to what really the Repressive Laws Committee recommended. There has been some misunderstanding of my attitude in this connection, there have been misrepresentations of my attitude in this connection to the unthinking and the unwary public which was evidently led to believe that I am obstructing the path of the repeal of these repressive laws. Far, far from my intention is that. My intention is not merely to make a gesture, not merely to record an ineffective vote, not merely to help to pass a Bill

[Diwan Bahadur T. Rangachariar.]

which is sure to be rejected but to pass a Bill which is sure to be accepted or which must be accepted in the other House if really that other House has the interests of the country at heart. Sir, the recommendation of the Repressive Laws Committee as regards Regulation III of 1818 runs as follows:

"Our recommendation in regard to Regulation III of 1818 and the analogous Regulations in the Bombay and Madras Presidencies is subject, however, to the following reservations. It has been pointed out to us that, for the protection of the frontiers of India and the fulfilment of the responsibilities of the Government of India in relation to Indian States, there must be some enactment to arm the Executive with powers to restrict the movements and activities of certain persons who, though not coming within the scope of any criminal law, have to be put under some measure of restraint. Cases in point are exiles from foreign or protected States who are liable to be the instigators or focus of intrigue against such States; persons disturbing the tranquillity of such States who cannot suitably be tried in the Courts of the States concerned and may not be amenable to the jurisdiction of British Courts; and persons tampering with the inflammable material on our frontiers. We are in fact satisfied of the continued necessity for providing for the original object of the Regulation in so far as it was expressly declared to be 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 British dominions from foreign hostility, and in so far as inflammable material on the frontier is concerned, from internal commotion."

Sir, my amendment seeks to carry out this object: Whether the words I have used accomplish that object I leave to the Honourable House to judge. But let there be no misunderstanding, let there be no impression created that this Bill of my Honourable friend seeks really to give effect to the recommendations of the Repressive Laws Committee. So far as Regulation III of 1818 is concerned and the analogous Regulations in Madras and Bombay are concerned, my Honourable friend seeks to travel far, far beyond the recommendations of that Committee. Sir, in speaking on this motion in 1924 my Honourable friend, Mr. Amar Nath Dutt, who moved this Resolution, stated this. He had no complaint to make against the recommendations of the Repressive Laws Committee. On the other hand, he acquiesced in those recommendations. His complaint was that those recommendations were not accepted by the Government, were not acted upon by the Government. I have not yet heard a single sentence in this Assembly complaining of the recommendations of the Repressive Laws Committee, saying that the recommendations did not go far enough. On the other hand, the complaint has always been that the Government who accepted those recommendations have not given effect to those recommendations. This is what my Honourable friend, Mr. Amar Nath Dutt, said. Having quoted the recommendations of the Repressive Laws Committee as I read out to you, this is what he says at page 2045:

"I am told that the Government of India accepted the recommendation. But no Bill has been introduced as yet to limit the scope"—*mark the words, no Bill has yet been introduced to limit the scope*—"of the Regulation to the extent suggested by the Repressive Laws Committee."

That was his complaint. (An Honourable Member: "He meant 'not even'":)

"On the other hand, we find this venerable old Regulation being used with redoubled vigour against Congress workers in my unhappy province, with the full concurrence of the Central Government, not for the purposes for which the Repressive Laws Committee had recommended the restriction of its use, but to put obstacles in the way of *Swarajist* candidates, etc., etc."

My Honourable friend Khan Bahadur Sarfaraz Hussain Khan in supporting this Resolution also complained in a similar strain (page 2051):

"So far as Regulation III of 1818 was concerned, the Committee recommended that it should be restricted to its original purpose, namely, the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Indian Princes entitled to its protection, the maintenance of the security of British dominions from foreign hostility and, only so far as the inflammable frontier is concerned, from internal commotion."

So that all those gentlemen who spoke on the Resolution did not complain that the recommendations of the Repressive Laws Committee did not go far enough; and if my Honourable friend the Home Member had had the good sense, had had the political insight to follow up those recommendations and introduce a measure in this Assembly, he would not have been faced with the situation with which he is faced to-day. Sir, my point is this, that no Government—even if my Honourable friend Pandit Motilal Nehru takes the place of the Home Member and had my Honourable friend Mr. Patel been occupying the place of the Foreign or Political Secretary to assist him—could do without some sort of a measure to deal with the situation in respect of those four matters. My Honourable friends shake their heads, but I know that in their heart of hearts they feel differently. They know perfectly that they are not in such a position and that is why they may say, "No, no". They say they would appeal to the Legislature. If so, if the Government appeal to the Legislature and if they are prepared to grant it, am I to take it that they would be prepared to grant such protection to the Executive? (Mr. A. Rangaswami Iyengar: "Let them come and satisfy us.") But would you give it?

Mr. A. Rangaswami Iyengar: I claim that it is the sole right of this Legislature to exercise its judgment in every case of exceptional power which the Executive may ask for in any exceptional circumstances.

Diwan Bahadur T. Rangachariar: Here is a case. My question was, supposing such a case arose, supposing we had our own Government, would we not require aids of this sort in order to protect the alliances with Indian States? Would we not require similar provisions in order to protect our own borders from external aggression? Would we not require these powers in order to deal with the frontier situation? Would we not require these powers, I say, to protect British dominions from foreign hostility? (Mr. A. Rangaswami Iyengar: "But there are other laws, other Regulations, other rule-making powers.")

Mr. President: Order, order.

Diwan Bahadur T. Rangachariar: I am coming to the other laws. My point is this, that it is not our object, at any rate the object of Members of this Assembly to have no Government. We want only to substitute one Government for another, and therefore any Government would require the aid of these laws for these four purposes.

Mr. M. A. Jinnah: Why did not Government come forward in September 1921 after the Report of the Repressive Laws Committee was published and take the necessary measures?

Diwan Bahadur T. Rangachariar: I make a present of that question to my friend, the Honourable Leader of the House. But still, Sir, I make my appeal to my Honourable friend Mr. Jinnah . . .

Mr. R. K. Shanmukham Chetty: You are acting on their behalf, Sir.

Diwan Bahadur T. Rangachariar: I am not going to be frightened by such insinuations. Now, I appeal to my Honourable friend
 12 Noon. **Mr. Jinnah.** I quite realise the gravity of the mistake they have committed, but still are you prepared to abandon the law which you have got on the Statute-book? Take the frontier for instance. Take the immediate troubles which may arise with our neighbour there. Are you prepared to give up this provision of law which would enable the Executive to take immediate steps and await the introduction of a measure on the part of Government in order to enable them to do these needful things? Let us not confuse the issues. What is it that the country wants? Does the country want that these provisions enabling the Executive to defend our own country should disappear?

Mr. Devaki Prasad Sinha: The country wants that they should come to the Legislative Assembly.

Diwan Bahadur T. Rangachariar: I do not know where the country said so. My Honourable friend perhaps is better acquainted with the country than I am, but I have not yet heard a single statement either in the platform or the press that the country demands the repeal of the law so far as these matters are concerned.

Mr. Devaki Prasad Sinha: The Repressive Laws Committee themselves suggested that they should come to the Legislative Assembly for such powers.

Diwan Bahadur T. Rangachariar: If my Honourable friend cannot be convinced by plain English, by what I have read, if he is relying on the Repressive Laws Committee, by all means let him do so; I also rely on the Repressive Laws Committee, just as my Honourable friend does. Let us understand what the Repressive Laws Committee have recommended in connection with this Regulation. I am prepared to go to the fullest extent. And not only that, my amendment goes beyond their recommendation, as Honourable Members will see.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): Are Government prepared even now to give an undertaking that they will introduce legislation at the earliest possible moment to give effect to the recommendations of the Repressive Laws Committee?

Diwan Bahadur T. Rangachariar: I also wait for an answer.

The Honourable Sir Alexander Muddiman (Home Member): I am certainly not in a position to give such an undertaking nor would I give an undertaking on any occasion in those words. I should immediately be charged with breach of faith. "At the earliest possible moment". What is the earliest possible moment? My Honourable friend knows I cannot do it.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions; Non-Muhammadan Rural): May I know whether it is a fact that Dr. Sir Tej Bahadur Sapru told this Assembly that the Government had legislation in contemplation? If it is so, may I know whether any legislation was prepared since the announcement was made and whether the Government of India have under their consideration any such Bill now?

Diwan Bahadur T. Rangachariar: Sir, let us not be beguiled into actions of irresponsibility on our part because we find the Honourable the Home Member is irresponsible. Let us at least teach him a lesson in responsibility. Sir, that is the point of view I take. I view my position here as a sacred position, to discharge to the best of my ability and to the best of my judgment what I consider right in matters of legislation. I yield to none in respecting public opinion. But in matters of legislation I put my own judgment superior to public opinion, I mean the vocal section. Sir, my point of view is this, that any Government would require these weapons in order to deal with those four matters which I have mentioned, no Government requires these weapons to deal with its own subjects in connection with internal commotion. In connection with internal commotion you must deal with your own subjects under the ordinary law. You cannot resort to these extraordinary measures. If they are rebels, if they are really your enemies, deal with them under the ordinary law. Why should you be afraid of facing the question in open court and putting them on their trial? If they have not brought themselves within the law, but if they are merely persons who are agitating for a better Government in this country, you have no right to deal with them. Your crime has been that you dealt with Babu Aswini Kumar Dutt and Krishna Kumar Mitra and such other noble gentlemen who really were actuated with noble motives in carrying on the political agitation which they did. The temptation is there to use this weapon. If you have got this weapon in your hands, unfortunately it is a temptation to the Executive. However good the Honourable the Home Member may be—he may be an angel there—still if you entrust him with a weapon of this sort, he is tempted to use it, because he is egged on to do it by his myrmidons. After all, under section 2 the Governor General cannot take action unless he is satisfied that for the reasons stated in the Preamble of this Regulation that action is required to be taken, so that if you limit the reasons in the Preamble to the Regulation, as I have suggested, then you thereby deprive him of the power to deal with internal commotion in the way in which he is seeking to do it now. That is the object of my amendment; that is the object which I think the Repressive Laws Committee had: and therefore the amendment which I have given notice of is to confine the use to cases of internal commotion only within the frontier districts. That is one of the amendments which I am moving. The second amendment in relation to this Regulation which I am moving is this. Honourable Members will notice . . .

Mr. V. J. Patel: On a point of order, Sir. Are we taking all the amendments together or are we taking them one by one? It would facilitate the business of this House if we restrict ourselves to one amendment at a time instead of going through the whole survey of all the amendments.

Mr. President: I understand the Honourable Member, on the motion that clause 2 stand part of the Bill, has taken the opportunity, not unreasonably, to explain what the Bill would be if his amendments were all carried. The Honourable Member can only *move* one amendment at a time, actually, and there will be only one amendment *put* from the Chair.

Diwan Bahadur T. Rangachariar: That is exactly my position. I want to explain what my amendments would amount to in case the House is good enough, without passion or prejudice, to consider them and if it pleases it to accept them.

[Diwan Bahadur T. Rangachariar.]

The second object I have in view is this. As it is, although I have limited the scope of the Regulation by means of the first amendment, namely, of confining internal commotion to the frontier districts, still I provide in all these cases that there should be some remedy for the aggrieved person, whether he be the subject of His Majesty or whether he be a foreigner. Now, Sir, I can well conceive how cases arise; we have got Indian States interspersed and surrounded by our own territory. I can well conceive, Sir, a person disaffected, say, with my dear province of Mysore, a person disaffected with the ruler there escaping across to Kurnool, Cuddappah or Anantapur or Bellary and trying to create trouble for the ruler of that province. Now, my Honourable friend Mr. Rangaswami Iyengar said, "Oh, you have got the Foreigners Act or something of that sort," and he quoted the other day about that. What does it empower? It empowers the Government to send him back—the very thing you should not do if you really have friendship for that State. It is only if he refuses to go back that you can put him in jail. That is not the protection that is needed. You want to prevent him from mischief if you have to fulfil your obligations to Indian States—treaty obligations and others.

Mr. A. Rangaswami Iyengar: May I read this? This is from Ilbert.

"Effect has been given to this requirement by Act III of 1864, under which the Government of India and Local Governments can order foreigners to remove themselves from British India, and apprehend and detain them if they refuse to obey the order."

Diwan Bahadur T. Rangachariar: That is exactly what I have been saying.

Mr. A. Rangaswami Iyengar: Therefore the point is that it should not be open even for the British Indian Government in this country to put foreigners in jail without trial and without telling them the nature of the evidence.

Diwan Bahadur T. Rangachariar: That is exactly the question I put to this Assembly. Now, may I ask my Honourable friend Mr. Rangaswami Iyengar, who has plenty of common sense, may I ask him really whether that would be the proper method which he would take in case of an enemy to the Maharaja of Mysore? Supposing the enemy of the Maharaja of Mysore establishes himself in Bellary and tries to create trouble from across—you know the districts are not bounded by any mountains, there are mere geographical lines which divide one estate from another—does he really suggest that that man who creates trouble should be ordered to go back?

Mr. A. Rangaswami Iyengar: But we cannot put him into jail without trial and conviction.

Diwan Bahadur T. Rangachariar: If really those reasons exist, namely, that it is undesirable in the better interests of the State, that it should be exposed in court. I daresay my Honourable friend may conceive of cases where, if you put a man on trial on those charges and make them public, you would give a cue to other people to follow their lead. I dare say my Honourable friend has read in the Shastras that it was part of our ancient wisdom of our Government to adopt these measures. Therefore it is absolutely wrong to say the Executive should not have these

powers. I quite agree that, when you are dealing with your own subjects, when you are dealing with internal agitation, there should be no such power. Beyond that I am not prepared to assent to the doctrine that the Executive should not have the power to deal with people from abroad who try to bring about trouble

Mr. Devaki Prasad Sinha: May I ask the Honourable Member what protection does he provide for those persons who are unjustly arrested on the ground of being enemies of Indian States?

Diwan Bahadur T. Rangachariar: That was just what I was going to explain when I was side-tracked into this matter by Mr. Rangaswami Iyengar's interruption. The protection I have provided in all such cases is I provide a remedy similar to the *Habeas Corpus* remedy which is so much prized by the English people. I have provided that in all such cases it shall be open to the High Court to call for the records of the case and call for the officer in charge of the person to explain the circumstances, and I enable the High Court to deal with the materials and to satisfy itself that the Regulation has been put to its proper use and has not been abused, and not been used for an extraneous purpose, that is, that it has only been used for the legitimate purpose as given in the Preamble of the legislation. Therefore, not only am I loyally obeying the report of the Repressive Laws Committee, but I am extending its recommendations. I am extending the usefulness of those recommendations by providing that people who are so detained should have the opportunity of going and seeking a remedy in the High Court

Pandit Shamlal Nehru: Will they be allowed to put in a defence?

Diwan Bahadur T. Rangachariar: Certainly; it depends on the High Courts. I have great faith in the High Courts, especially in the High Court of my Province. I have left it to them to frame their own rules in dealing with such cases. I have left it to them to decide how they will hear such cases. It depends on the nature of the evidence. Therefore I leave full discretion to the High Courts to deal with the matter as best they like. So that is the second amendment I provide. I limit the scope of the Regulation. I enlarge the remedies offered to the individuals who have to be dealt with by any executive, under any circumstances, because, after all it is a human Government; it is not a divine Government, and a human Government will make mistakes, and is bound to make mistakes. And I say this is the remedy the people should have, and I have provided for it in my amendment. This is merely to give an opportunity to the Government to prevent them from saying that all of a sudden you are repealing these Regulations, what about the persons we consider dangerous whom we have put under confinement? I give them time by another amendment I have made, namely, they are not bound to release them at once, they can take their own time, but not beyond six months, from this becoming law. If my amendment is carried what would happen is the Government would not be in a position hereafter to confine subjects of His Majesty without trial so far as internal commotion is concerned. In the case of others who have already been confined, they would be bound to be released, but not later than six months from this date

Pandit Shamlal Nehru: To be re-arrested immediately.

Diwan Bahadur T. Rangachariar: Under what provision? They cannot be re-arrested under this Regulation unless it is modified, unless the

[Diwan Bahadur T. Rangachariar.]

Governor General acts dishonestly and puts it to a use which is not in the Preamble. And if the Governor General does act dishonestly, you have provided a remedy by enabling the person to go to the High Court, and the High Court will be able to say whether the Governor General has used this for a purpose not intended, or has abused it. And the High Court is there to order, if necessary, that the detention shall cease. Pandit Shamlal Nehru need not be under any mistaken notion that they can be re-arrested immediately. They cannot effectively be re-arrested immediately; that is my answer to Pandit Shamlal Nehru.

Sir, I had intended to move another amendment. I admit the principle that the Madras Regulation and the Bombay Regulation should go. The Bombay Regulation is not necessary. In Madras also it is not necessary, for the only tract with which I am familiar, to which my Honourable friend Mr. Moir referred, in which perhaps executive powers of a peculiar kind may be necessary is Malabar. There we have the Moplah Outrages Act, and one clause of the Moplah Outrages Act enables the Government to detain persons if they are suspected of having an intention to commit crimes. Therefore I have carefully thought out the matter and I at one time thought it would be necessary to give power to Local Governments or to the Governor General to extend the provisions of the Bengal Regulation to Madras and Bombay. I have since satisfied myself that it is absolutely unnecessary, and I therefore do not propose to move the amendment, and I do not know if it will be in order to extend clause 8. My position is this, that I have satisfied myself it is unnecessary, and as my Honourable friend Mr. Patel takes the exception that it is also extending the scope of the Bengal Regulation, his objection may be upheld. I therefore propose to move only the later amendment as clause 8. After clause 7, insert the following: Clause 8. That I do not propose to move. The only thing I propose to move is clause 9.

The only other amendment I am moving is the deletion from the Schedule of the item the Punjab Murderous Outrages Act. There is another item in the Schedule. That is, if my amendment to retain Regulation III of 1818 in part is carried, the State Prisoners Act of 1850 will only enable the Government to confine the persons so detained under the old Regulation. That will be necessary. No doubt on my Honourable friend's motion the whole of that may go, but if my amendment is carried, that portion will remain. Therefore from the Schedule I propose to omit the Punjab Murderous Outrages Act and the State Prisoners Act. In Bengal Regulation III there are two remedies given to the State. One is to detain persons and the other is to take hold of the property of persons to whom those Regulations apply. I take away the power to deal with the property in that manner. I cannot see any justification for those sections giving power to the Executive under Bengal Regulation III of 1818 enabling the Executive to take away the property of persons suspected, and I remove that power. I therefore agree with my Honourable friend in having those sections repealed. I therefore substantially amend Regulation III of 1818. I limit its scope to legitimate objects. I improve it by providing a remedy of reference to the High Court. I improve it by removing the clauses in reference to seizure of property. I am not quarrelling with my Honourable friend Mr. Patel. If my Honourable friends will dispassionately consider this question, they will see and my Honourable friend Mr. Patel will see that what I propose is more reasonable than what

he has done. With my proposal you can go and effectively appeal to our colleagues in the other Chamber. You cannot do so with your proposal. The only satisfaction you will get will be that you have made a gesture, and to make an empty boast to the world that you have passed this. But you have not passed it. Is it your object to place a mere paper in this House or is it your object to pass a law which will be effective? If your object is to pass a law which will be effective, I offer my amendment, and I move the first amendment, having explained the scope of my amendments, that after clause 2 of the Bill the following new clauses be inserted in the Bill.

Mr. President: Not the proviso?

Diwan Bahadur T. Rangachariar: The proviso I will come to later with your permission.

Mr. President: The motion before the House is that clause 2 stand part of the Bill, and therefore any amendment or addition to the clause will have to be made now.

Diwan Bahadur T. Rangachariar: If that is your view, Sir, I will also move the proviso now. As I have already explained, I do not wish that the Government should be put into any awkward position by the repeal of these Acts and I wish to give them time to release persons already interned. I move, Sir:

"That to clause 2 of the Bill the following proviso be added, namely:

'Provided that no individual who has been placed under personal restraint under any enactment hereby repealed, shall be bound to be released until after the expiry of six months after this Act comes into force; nor shall the repeal of any enactment by this Act affect the powers of confinement conferred by section 12 of the Punjab Murderous Outrages Act XXIII of 1867, or by any other similar enactment.'

Lala Duni Chand (Ambala Division: Non-Muhammadan): Sir, my only justification now to be content with a merely silent vote in favour of Mr. Patel's Bill for the repeal of repressive laws is that I have been seeking an opportunity to deal with the policy of repression as has been pursued in the Punjab for some years. I thank my Honourable friend Mr. Patel and the Honourable the President for having given me an opportunity to deal with the situation in the Punjab. I have no desire, Sir, in the least degree to import any unnecessary heat or passion into to-day's debate. My only desire, Sir, is to deal with the matter of fact situation as it exists to-day and as it has existed for a good many years in the Punjab with reference to repression. I shall try to quote facts and figures and then ask this House whether it is open to any self-respecting Member of this Honourable House not to support the Bill of my Honourable friend Mr. Patel.

The Honourable Sir Alexander Muddiman (Home Member): I do not wish to interfere with the Honourable Member, but are his remarks in order on this particular motion before the House?

Mr. President: I was somewhat in doubt myself about it. Does the Honourable Member mean to suggest that there are any persons who are now under restraint in the Punjab under any of these six Regulations and Acts hereby proposed to be repealed?

Lala Duni Chand: Yes, Sir. That idea is not absent from my mind, that I should be absolutely relevant in putting my case before this House. Yes, Sir, there are. (*The Honourable Sir Alexander Muddiman*: "Who?") Under the Bengal Regulation recently I knew there was one gentleman under arrest. He has been released sometime ago—Professor Ghulam Hossain. (*The Honourable Sir Alexander Muddiman*: "Is he now under arrest?") Not now. He has been recently released. He was for about six months under arrest under this Regulation. I am not quite sure whether there are any prisoners under other laws; but my point is that a policy of repression has been pursued in many ways in the Punjab, and in view of that policy I say that all those repressive laws which are responsible for the policy of repression should be repealed. I shall try, Sir, not to go beyond the scope of the motion that is before the House. I shall not trace the history of the Punjab for a very long time so far as the policy of repression is concerned. I shall begin, Sir, from 1915 when under a special enactment special tribunals were set up in the Punjab in order to try a number of people who had come from foreign countries and who were supposed to have fomented rebellion in the Punjab. A very large number of people—I cannot give you the exact number—but a large number of persons were ordered to be hanged or transported for life or given long terms of imprisonment. I know it was due to the kind hearted Lord Hardinge that some of them were saved from the gallows. It was under the régime of Sir Michael O'Dwyer, the late Lieutenant-Governor of the Punjab, that these tribunals were set up. My point on this occasion is that there are yet some of these people who were convicted under these special tribunals that are rotting in the jails. I do not know their number but I know there are some people. I am not here to go into the correctness of their convictions or otherwise. My point is that the Government have been pursuing a policy of extreme vindictiveness, so far as these people are concerned. After all the object of that enactment was that these people should not be allowed to stand in the way of the prosecution of the war

Mr. President: Which enactment is the Honourable Member referring to?

Lala Duni Chand: I am referring, Sir, to the special enactment that was made in 1915 under which special tribunals were set up in the Punjab and those special tribunals were given absolute power without any right of appeal from their judgments.

Mr. President: The only Act relating to the Punjab which I can find here is the Punjab Murderous Outrages Act of 1867, and, perhaps, the Seditious Meetings Act. *

Lala Duni Chand: My point is, Sir, that a ruthless policy of repression has been pursued in the Punjab since 1915. Therefore in view of the course taken by the Punjab Government, our duty is to repeal all repressive laws. I know that the Act to which I refer is not under consideration now. I am fully aware of that.

I will now turn to the martial law régime. Here again, Sir, I do not want to go into the question of the merits or demerits of the numerous cases that were tried in the martial law days. So far as my reference to martial law is concerned, my only point is

Mr. President: This Bill does not propose to deprive the Governor General of the power to declare martial law. Therefore any discussion

of martial law is not in order. I admit the Honourable Member is entitled to draw illustrations from his own past experience of martial law but he must not make it the main part of his argument. He must confine his argument to the subject of this Bill.

Lala Duni Ohand: I accept your ruling; and in fact, Sir, it was only in that light that I was putting the case of martial law before the House. All that I want to say with regard to the martial law régime is that out of a large number of people condemned under the martial law régime there are yet in the Punjab over eighty prisoners of the martial law days. Notwithstanding the fact that there has been a good deal of agitation in favour of securing the release of those people, the Government have not yet thought fit to release any of them and therefore, in view of the attitude of Government, it is our duty to repeal wholesale all these repressive laws. That furnishes to me a reason to cast my vote in support of this Bill. I know, Sir, that martial law cases do not come exactly within the purview of this Bill but it is only from this point of view that I have placed the martial law cases before this House. So far as the policy of repression dealing with the political situation is concerned, I submit it has got certain limitations and should be exercised only within those limitations. It has been recognised all over the world that political prisoners should be released at the earliest possible opportunity; and amnesty or pardon should be granted to them at the earliest possible moment. Now take the case of the special tribunal prisoners and the martial law tribunal prisoners. Special tribunal prisoners have been in jail for nearly ten or eleven years and martial law prisoners have been in jail for nearly six years. Even assuming they were guilty of the offences for which they were tried, I submit that the Government should have adopted a different attitude and all these prisoners should have been released by this time. The very fact that the Government have not thought it necessary up to this time to release all those people who are either the victims of martial law or of special tribunals gives me a reason for supporting the motion for the repeal of these repressive laws.

Next, I want to deal with the later stage of repression in the Punjab in the non-co-operation days. So far as the Punjab is concerned, on this point it has got a history which will go down to posterity and which will shame the authors of that history. I could understand that there was justification for the Government to put in jail a number of people in order to prevent that upheaval of which Government were frightened at one time. But the Government could not go further than that. I know that there are people even now in the Punjab jails who were convicted during the non-co-operation days; to keep these people in jail now is the extreme limit of vindictiveness on the part of the Punjab Government. I would briefly deal with a few cases and that will show the attitude of Government with regard to this question. It is not possible for me to deal with the large number of cases that exist, I shall simply deal with a few specimen cases to show how the Government have been dealing ruthlessly with the liberties of the people. I would like to mention prominently the case of one Swami Gajanand who was tried under the Criminal Law Amendment Act and also under section 124A and was sentenced to six years and he is still in jail. What was his offence? His offence, according to the judgment, was that he had made a speech preaching boycott of liquor and foreign cloth; another offence of his was that he had asked two boys of 11 and 14 years to be recruited as volunteers. On the

[Lala Duni Chand.]

strength of these facts which were supported by three men of the Government, a *lambardar*, a *saildar* and a sub-inspector, that man is still undergoing a sentence of six years' rigorous imprisonment. I would also mention the case of Sardar Sardul Singh, which was also mentioned at one time by my Honourable friend, Pandit Madan Mohan Malaviya. The brunt of his offence was that he had written an article in which he had used certain expressions which were capable of being construed in two different ways but which the court construed as amounting to sedition. Of course this case was dealt with in the press fully; that gentleman is one of the greatest patriots of the Punjab and he has been in jail for the last four and a half years nearly, and the Government have not thought fit to reconsider his case

Mr. President: Will the Honourable Member tell me under which Act this gentleman is confined?

Lala Duni Chand: Under section 124A of the Indian Penal Code.

Mr. President: I do not find the Indian Penal Code among the Acts and Regulations proposed to be repealed by this Bill; I find there are three Regulations and three Acts which are proposed to be repealed and the debate will be strictly confined to what has been done under those laws and whether they should be repealed or not.

Lala Duni Chand: I will not take up those cases, then, that fall under the Indian Penal Code. In order to illustrate my point I would like to quote the case of a young man, named Pritham Singh. In 1922 he was tried by the Sessions Judge of Jullunder. What for? His offence was that he had posted copies of a *futwa* called the *Hindustan-ke-ulema-ka futwa* on the walls of the district courts of Jullunder. He was solemnly tried by the Sessions Judge of Jullunder with the aid of assessors and that young man of 20 or 21 was given seven years' rigorous imprisonment. (*Mr. K. Ahmed:* "Under what law?") It is a fact, I know. A young man for a mere boyish freak was tried and sentenced to seven years' imprisonment and he is still in jail. (*An Honourable Member:* "Under what section and under what law?") Probably, if I mistake not, it was under section 131 of the Indian Penal Code (Laughter)

Mr. President: I have been very lenient to the Honourable Member because some parts of his speech are in order and other parts are not. But I must ask him now to confine his remarks to the operation of these six measures.

Lala Duni Chand: I shall not then refer to any more of these cases, Sir.

I would next point out that the policy that has been pursued in my province is essentially a wrong policy, a policy that is not recognised in any part of the civilised world. I shall now take the case of the Akali prisoners. I understand, Sir, that so far as these Akali prisoners are concerned, I am quite in order and therefore I wish to take up their case. I am not placing before the House in detail all the facts relating to the Akali situation in the Punjab. I shall touch only one aspect of repression that is directed against the Akalis in the Punjab. (*Mr. K. Ahmed:* "That will be misleading.") Sir, we are in possession of very valuable information with regard to the campaign of ruthless repression and oppression that

has been pursued for the last few years against the Akalis. Sardar Mangal Singh, as President of the All-India Sikh League, has issued an appeal to the Members of the Legislative Assembly and also to the Members of the Provincial Legislative Councils in this connection. I will not deal with the whole article that he has written on the subject, but I shall read only the concluding portion of his appeal where he has summed up the whole case. This is what he said:

"To sum up: So far 30,000 have been arrested, 400 died and killed and about 2,000 wounded. . . ."

Mr. President: Under which Act did all this occur?

Lala Duni Ohand: These people have been punished under the Criminal Law Amendment Act, Sir.

Mr. President: I have twice told my Honourable friend that that Act is not under discussion here, but I can help him by suggesting that in the last item of the Schedule there is plenty of material on which he can speak about the Punjab.

Lala Duni Ohand: Very well, Sir. In support of the reasons as to why I support Mr. Patel's Bill, I submit, Sir, it is open to me to take up the question of repression against the Akalis, and so far, I submit, I am in order. I shall not take the case of individual prisoners, but I think that I am justified in submitting before the House that the policy of repression and oppression pursued in the Punjab with regard to Akalis is one which we are not prepared to countenance or support in any way, and as an indication of that attitude on our part, we support the Bill for the repeal of all the repressive laws. Had there been no policy of repression pursued in the Punjab, all those people who are now in gaol would not have been there. Therefore, Sir, it is in this light that I am placing the case of the Akali prisoners before this House. Sir, the sufferings, the sorrows, and the miseries of the Akali prisoners should be sufficient to melt the heart of anybody if he has really any heart. So far as the Akali situation in the Punjab is concerned, all that I wish to emphasise is that it should have been the duty of the Government long ago to deal with the situation in a proper manner. The Government have failed to tackle this problem, this most serious problem so far.

Pandit Harkaran Nath Misra: On a point of order, Sir. Is the Honourable Member in order

Mr. President: I warned the Honourable Member before that he is not entitled to deal with proceedings under the Criminal Law Amendment Act or under the Criminal Procedure Code. He must deal with proceedings under the Acts and Regulations now proposed to be repealed. On the motion that the Bill be taken into consideration, a wider scope of discussion is permissible, but as the motion before the House is limited by the amendment moved, the discussion must be limited to the operation of the three Regulations and the three Acts now proposed to be repealed. If the Honourable Member cannot find material within the scope of these six measures, then I shall have to ask him to sit down.

Lala Duni Ohand: Then, I understand, Sir, that I am not allowed even to take up the case of Akalis in the manner in which I wanted to take it up. Very well, Sir, but before I sit down, I want to sum up the case. My case is that throughout Government have been prompted by a policy of

[Lala Duni Chand.]

vindictiveness; the Government want to crush out of the people all desire for freedom. (Mr. K. Ahmed: "Nothing of the kind.") It is not with a view to prevent any trouble in the country that the Government are pursuing this policy. It is really with a view to perpetuate domination of this country, and it is also with a view to crush all life out of the people that the Government have been pursuing this policy of repression and oppression. These reasons are sufficient for my purpose and they should be sufficient for other Members of this House as well to support wholeheartedly the Bill of Mr. Patel for the repeal of repressive laws. I shall oppose any amendment, even if it is considered to be a reasonable amendment. (Laughter.) I say this advisedly, because if the Government are growing unreasonable from year to year, it is our duty to grow more and more unreasonable. (Laughter.) The only way to meet the unreasonableness of Government is really to be unreasonable ourselves if it is necessary. Therefore, I support wholeheartedly the wholesale repeal of all the repressive laws, because the Government have adopted the policy of repression for the last so many years. I could consider the case of Government if they cry halt now at least. As the Government have for the last ten years, at any rate so far as my province is concerned, pursued ruthlessly, unreasonably, indiscriminately and wantonly the policy of repression and oppression, I think it is my duty to protest against that repressive policy and give out the mind of the people that they are not prepared to endorse that policy, and they want all your repressive laws to be repealed wholesale

Nawab Sir Sahibzada Abdul Qayum (North-West Frontier Province: Nominated Non-official): Do you wish that these Regulations should be repealed in the Frontier Province?

Lala Duni Chand: I should very much like to deal with the laws that exist in the Frontier Province as well, but I am perfectly certain that the Honourable the President will rule me out of order, and therefore I am not prepared to say anything about the Frontier Province.

Sir, with these words which have come from the bottom of my heart I strongly support the motion brought forward by Mr. Patel for the repeal of repressive laws.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I do not propose to enter into any general discussion of the repressive policy of the Government, and in accordance with your ruling, I propose strictly to confine myself to the amendment which my friend Mr. Rangachariar has proposed and which he explained to the House in a speech which was couched in a very reasonable spirit. Sir, this reasonable spirit, I am afraid, has taken him off his feet in discussing the principles upon which we should legislate in this matter. I demur entirely to the proposition that because the Council of State will be unreasonable, therefore we shall be unreasonable and we shall not stick fast to principles in the way in which we should when we propose to enact laws.

Diwan Bahadur T. Rangachariar: Sir, I did not suggest that the Council would be unreasonable. On the other hand they will be reasonable if they reject this Bill as it is.

Mr. A. Rangaswami Iyengar: Sir, I think the Honourable Mr. Rangachariar laid particular stress on the fact that, if we pass the Bill in the form in which Mr. Patel would have the Bill passed, there was every chance of the Council of State rejecting it and that therefore in order to get the Council of State to agree with us and to put some sort of an Act dealing with repressive laws on the Statute-book, it was far better to tamper with values, to tamper with principles, than that we should . . .

Diwan Bahadur T. Rangachariar: I am sorry, I did not say, Sir, that it was far better to tamper with principles.

Mr. A. Rangaswami Iyengar: I am sorry, Sir, I did not mean to say that he actually said that. But the effect of what he said was that he was asking this House to tamper with values, to tamper with principles, in order that some Act should be on the Statute-book rather than that we should stick fast to our principles and declare them by means of provisions in the Bill we may now pass. He taunted us by saying that, if we pass a Bill on these terms, we shall be merely making a gesture, we shall not be doing anything which will result in anything tangible to the people. I say, Sir, these compromises have done us no good and on matters which affect the fundamental liberties of the people, compromises, I say, are entirely out of the question.

But, Sir, I do not see where the necessity for this compromise arises. My friend Mr. Rangachariar referred to the report of the Repressive Laws Committee and he said that there were four particular instances in which he said the out and out repeal of these Regulations could not be carried out. He instances the case of the Frontier. He instances the case of Native States subjects having to be dealt with otherwise than in due course of law, and he instanced the case, if I may say so, of certain other tracts, for instance the Moplah territory in Madras and similar places. For my part, I do not see at all where the difficulty arises. So far as the frontier districts are concerned, so far as the backward districts are concerned, the Government of India to-day possess the sole and exclusive power of legislating upon it. All the backward or non-regulation provinces have got their own Code and that Code is prepared not under the authority of the Legislative Assembly and the Council of State but under the authority of the Governor General in Council. Under the Government of India Act the procedure for making laws for non-regulation provinces and for the scheduled districts is for the Local Government of those areas to propose Regulations which the Governor General in Executive Council takes into consideration and they are by him enacted as law, so that, so far as the maintenance of order and of peace in the frontier districts or any other districts to which the Regulations apply are concerned, they are covered entirely by the authority which the law now vests in the Executive Government of the country.

Diwan Bahadur T. Rangachariar: May I ask, Sir, my Honourable friend, supposing this House repeals the law which is now in force on the Frontier, and the Governor General to-morrow re-enacts a law on the same lines as he suggests, whether he would not rouse a storm of opposition in the country?

Mr. A. Rangaswami Iyengar: Sir, the question that I was dealing with is entirely different. The question that I was dealing with was that my Honourable friend Mr. Rangachariar complained that there would be no

[Mr. A. Rangaswami Iyengar.]

power left in the Executive Government to deal with these mischievous outrages, with these dangerous people on the Frontier, who come in and do so much mischief, and I was only pointing out that Government is already armed with that power. Whether we are going to continue to arm them with that power, whether, if and when Swaraj comes, we are going to deal with the question in the same manner, is a matter entirely beside the point we are now discussing.

The next point he dealt with was in reference to the Native States and in reference to foreigners. I have already said in the course of the debate which took place last month that, so far as that is concerned, the powers which are vested in the Government under the Foreign Jurisdiction Acts, the powers which are vested under Act III of 1864 and the powers which the Government have possessed in ancient Statutes with reference to the action that they may take against interlopers and British subjects who may be found creating trouble in Native States, have made the use of these Regulations unnecessary. There are in fact any number of laws, regulations, rules and orders under which this Government are empowered to deal with people who are British subjects and who give trouble in Native States.

As regards non-British European subjects who come into British India or into Indian States, I say that Act III of 1864 as well as other enactments give the power to the Executive Government to expel them from this country. My friend says it is no good trying to expel them. A man who wants to create trouble against the ruler of a Native State might go into British territory. It is no good merely saying, "You go out of this country" because he will be merely going back to the Native State and creating the trouble there over again. I ask, Sir, what is it that my friend wants to do with a man whom a Native State complains of giving trouble and is in British territory? Does he want that this Government, merely on the *ipsi dixit* of the ruler of a Native State, should put him in confinement, in chains, without trial, without our Government knowing or letting him know the nature of the offence, and without giving him an opportunity to explain himself? Is that the power that he would want the Government to be armed with? I say, Sir, we shall not sanction that power, and I entirely differ from him when he says that because there is a Native ruler to whom he may be attached by many ties of sympathy or of fellow-feeling, we should simply do whatever he may want. No amount of that sympathy will permit me to deny to any human being, any civilised being, the ordinary rights of free and fair trial.

Then, Sir, we were told that as regards these people, if these people, being subjects of a Native State, go to British territory and give trouble, and we make an order under Act III of 1864, that merely expels them out of this country and does not protect the Native State. I ask, Sir, if that man gets out of this country, he must either get into a Native State or get out of British India. If he gets into a Native State, he gets again into the clutches of the very people who want to punish him or do anything with him.

Diwan Bahadur T. Rangachariar: May I remind the Honourable Member that, if expelled, he can get into a neighbouring Indian State which is at enmity with the other State?

Mr. A. Rangaswami Iyengar: I do not follow you.

Diwan Bahadur T. Rangachariar: We have had instances where two Indian Princes have been fighting tooth and nail, and if you expel a man of Nabha from British territory he goes to Patiala.

Mr. Rangaswami Iyengar: If he goes into Patiala, and if Nabha and Patiala cannot agree as to how to deal with people who are causing trouble, if the States quarrel between themselves, and if the British Government are not able to prevent that quarrel by the powers that they possess, it is not for us to arm the Executive Government to deal with him in any way they please, to put him into jail and to do whatever they like with him. That, I think, is a power which we cannot grant. If two Native States quarrel with each other

Mr. Denys Bray (Foreign Secretary): I rise to a point of order, Sir. Is the Honourable gentleman in order in referring time after time to "Native" States?

Mr. A. Rangaswami Iyengar: I am sorry, Sir. I stand corrected. I shall say "Indian" States. (*Diwan Bahadur T. Rangachariar:* "I have always been careful in that respect.") (*Mr. K. Ahmed* to *Mr. A. Rangaswami Iyengar:* "You are setting a very bad example".)

Mr. Devaki Prasad Sinha: That is the word used in the Bengal Regulation.

Mr. Denys Bray: It is not the word in use now. "

Mr. A. Rangaswami Iyengar: I say, Sir, our Statute-book has clearly provided for these purposes in respect of all British Indian subjects in British India, of all British subjects in British India and of all subjects of Indian States who may come into British India, of all British Indian subjects who may go into Indian States, over all of whom we have full jurisdiction under the law. Who are the people against whom we cannot have jurisdiction under the ordinary Statutes of the land that we should now arm the Executive with the power to put people into jail merely because some Indian States or Indian rulers complain against them? I say, Sir, that such a power is fundamentally opposed to the elementary rights of citizenship in this country, and I cannot see how my Honourable friend Mr. Rangachariar should take the responsibility of making proposals of that kind. If there are such exceptional cases and they require exceptional treatment, I say again, Sir, this is the House before which such exceptional circumstances and such exceptional cases ought to be brought up for the necessary legislation. If we are satisfied that such exceptional circumstances exist and they must be dealt with by exceptional legislation, we should certainly know how to deal with them. It is not for us merely

1 P.M. to keep on the Statute-book an old Regulation which is absolutely unjustified, which is a lawless law, which is really a law which was not passed under the circumstances of the time by any method which can be called legislation. It is not on that account necessary to keep this exploded, this time-worn, this absolutely mischievous and irksome law on the Statute-book. The proper way of dealing with cases such as those which my Honourable friend Mr. Rangachariar says will occur, would be for the Executive Government honestly to come to this House and say, "Look here. We are quite prepared to protect the rights of

[Mr. A. Rangaswami Iyengar.]

citizenship. Here is a difficult case and how are we to deal with it?" And if they are able to satisfy us—they have not satisfied us so far—if they are able to satisfy us then we will give them new powers. It is not for us to go and say, "You keep this power and we do not mind your keeping it, because exceptional circumstances may arise." It is not for us to make a present of arbitrary powers to the Executive Government. I see therefore no difficulty whatever in repealing these Statutes.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): I do not wish to depart from the provisions of this Bill and the amendment before the House. Sir, the amendment of Mr. Rangachariar, as I understand it, instead of repealing the State Prisoners Regulation, 1818, has only got this effect. We are concerned now with the question of internal and external commotion, and according to my Honourable friend's amendment, it will apply to any person within British India who is charged with or suspected of creating a commotion not internal but external as applied to the Indian States or the three parts, namely, the North-West Frontier Province, Baluchistan and a particular district in the Punjab, which are the subject of amendment. Now, Sir, are we going to keep this Regulation for that purpose alone? The question that this House has got to decide is whether we are going to return this Regulation to deal with a person or persons who are bringing about some trouble either in these three places that I have named, or in any of the Indian States. Are we going to keep this Regulation for that purpose alone and are we going to authorise the Executive Government on some representation of a charge of that character or an allegation of that character against a person that they should put any person in jail without trial and without an opportunity being given to him to defend himself? That is the amendment of my Honourable friend. I think I have understood him correctly, because he does not contradict the effect of his amendment which I am stating.

Diwan Bahadur T. Rangachariar: May I put it? It is for the purpose of preservation of tranquillity in the territories of Native Princes entitled to the protection of the British Government—that is one object. Or it is for the purpose of the due maintenance of alliances formed by the British Government with foreign powers, as for instance, protecting Pondicherry or Chandernagore, the French being our allies. Or the security of the British dominions from foreign hostility and from internal commotion in those places named—tranquillity in the Indian States, internal commotion in the Frontier province.

Mr. President: What is now under discussion is clause 2 which is sought to be amended by the addition of a proviso and not the new proposed clause relating to the application of the Bengal State Prisoners Regulation only to the North West Frontier Province, Baluchistan and the Dera Ghazi Khan District in the Punjab.

Mr. M. A. Jinnah: That may be perfectly correct but as far as the proviso is concerned, Sir, that is only a subsidiary part of the other amendment because the crux and the essence of the amendment is amendment No. 5 on the list and you cannot very well discuss the proviso without discussing what is of the essence, because that will follow. So I say that the point before the House should be made perfectly clear, and therefore it really comes to this. Now, I ask my friend Mr. Rangachariar: Is there any civilised Government in the world which puts a person in

prison without trial because that person is likely to create trouble in a State which is in alliance or with which it has got a treaty? Have you ever heard of such a thing? The utmost thing that any Government can do is this, to say to that person, "Get out of our country. You are an undesirable person"; and we have got that power under the Foreigners Act of 1864. If we find within the territories of British India any person intriguing against an Indian State or a State with which we are in alliance, we have power now to tell that person "Go out".

Khan Bahadur W. M. Hussanally: The Afghan Government recently stoned some people to death.

Mr. M. A. Jinnah: Do you also want people stoned to death in this country? Therefore I am really not satisfied but I do maintain this, that in those parts of British India or those parts which are under the British Government such as the Frontier Province and other places like Baluchistan, there you may have to resort to different methods and I am not prepared to pass my judgment with regard to that matter here, and I am also inclined, as I was on the last occasion, to ask my friend Mr. Patel to omit, when we come to that, from this repealing Bill the Punjab Murderous Outrages Act. But with regard to this amendment I am not satisfied at all and this is what the Repressive Laws Committee says:

"We recognise the force of these arguments, in particular the difficulty of securing evidence or of preventing the intimidation of witnesses. We also appreciate the fact that the use of ordinary law may in some cases advertise the very evil which the trial is designed to punish us but we consider that in the modern condition of India that risk must be run. It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the members of the Legislature. The harm created by the retention of arbitrary powers of imprisonment by the Executive may, as history has shown, be greater even than the evil which such powers are directed to remedy. The retention of these Acts could in many cases only be defended if it was proved that they were in present circumstances essential to the maintenance of law and order. 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."

Diwan Bahadur T. Rangachariar: My Honourable friend has omitted to add that they said:

"Our recommendation in regard to Regulation III of 1818 is however subject to the following reservations."

Mr. M. A. Jinnah: I am fully alive to that if my Honourable friend will follow a little further. They said:

"We desire to make it clear that the restrictions which we contemplate in this connection are not penal in character. We are satisfied that they have not been so."

Then they say:

"The reservation may also involve the retention in a modified form of the State Prisoners' Act of 1858. But this is a matter for legal experts. We have carefully considered the cases in which the Madras State Prisoners Regulation of 1819 has been used."

Therefore, I would remind my Honourable friend that this Committee of distinguished gentlemen said that "this is a matter for legal experts" as to how, if possible, to provide for that particular case which they had in their mind.

Mr. H. Tonkinson (Home Department: Nominated Official): "This is a matter for legal experts" that refers only to the State Prisoners' Acts of 1850 and 1858.

Mr. M. A. Jinnah: Who was to decide as to how these Regulations were to be amended?

Diwan Bahadur T. Rangachariar: Paragraph 14.

Mr. M. A. Jinnah: I have read that. Who was to do it? The Honourable Mr. Tonkinson interjects, but who was to do this? You, the Treasury Bench. What have you done since September, 1921? Why have you not done so? You now support my friend the Honourable Mr. Rangachariar to move this amendment. As I say, Sir, I am not against this principle. The only question is this, that it is up to you to do it.

Now, Sir, I will only point out, as was pointed out on the last occasion, that so far as the North-West Frontier Province is concerned, it has already got a Regulation which was passed very recently. So far as the Punjab is concerned, I have already stated that I am quite willing that my friend Mr. Patel should not insist upon that particular Regulation being repealed. Then, Sir, there is nothing else left except my friend Mr. Rangachariar and his amendment, and his amendment really deals with one particular kind of case, and that is, what is to happen to a man in British India who we will say is suspected to be, or is, according to the information, an enemy of any power with whom we are in alliance or an Indian State? What shall we do with him? I say, turn him out of this country, if he is undesirable. But if you think that you can suggest some other better method, if you can satisfy us that that is essential and that we should accept it, I am sure this House, at least I personally and I am sure several other Honourable Members, will be very glad to consider any proposal that the Government may bring forward in the shape of a Bill. Sir, what did France do recently? A well-known Indian gentleman, Mr. Roy, who was alleged to be a revolutionary was in France. What did you do? The British Government probably made representations to France—the Home Member is shaking his head and says, “No”, probably. Well, I would say the conscience of the French nation was roused. What did that Government do? That great nation whose conscience was roused dealt with Mr. Roy, the great revolutionary who was going to upset the British Empire. What did they do? They told him, “Go out”. That is all.

The Honourable Sir Alexander Muddiman (Home Member): Sir, I did not rise to speak on the motion for consideration as I thought the House might like to get on as quickly as possible with the other business on our long paper, and I propose not to speak at very great length on this present motion which is the amendment of a particular section in a way which I think must appeal to most people. But I recognize that my Honourable friend, Mr. Rangachariar, has dealt not only with the one amendment which is now actually before the House but has explained, and I think we are all agreed in a very reasonable way, what are the effects of his amendments generally. Now, had I been dealing with Mr. Patel's Bill as it was originally introduced, it would have been a far easier matter to have made out my case. I recognize my Honourable friend Mr. Rangachariar has approached the subject with some regard to the actual facts. He has looked facts in the face. He has recognized that the Executive Government, whoever they are, whether they are a Swarajist Government or a bureaucratic Government, must in certain cases have special powers, which they must exercise free from control and in the manner which they regard as right although this may only be justifiable in exceptional circumstances. That is really what we want to get at. It is no use saying that

we sit here and keep these powers in order to intern people because we like to lock them up. I have been told to-day that I am an anarchist myself. Well, Sir, I am a very well fed anarchist. I have also been told I am not an angel—I make no such claim. But I do say that I am a reasonably humane person and I personally have no desire to put people into jail to amuse myself or to gratify feelings created by long years of unrestrained power. (*Mr. Devaki Prasad Sinha*: “But you are part of a machine.”) Yes, the machine is composed of units very much like myself, and when you form your own Government, you will find that your units will be very much the same. However, Sir, Mr. Rangachariar has put forward proposals which are practically those—I think he will admit that—of the Repressive Laws Committee; and when I was speaking the other day I did not attempt to defend my position by attacking the Repressive Laws Committee. What I said was that the time was not ripe when these proposals could safely be put into force, when we could take action on these proposals. It will be said, what have we done since July 1921? It has been said, what have we done? Well, we endeavoured to keep the peace as well as we could, for the ink was hardly dry on the Repressive Laws Committee's Report before you had the Malabar trouble. This Regulation was of use in Malabar.

Diwan Bahadur T. Rangachariar: It was used very largely long after the trouble was over.

The Honourable Sir Alexander Muddiman: But it has been used in connection with Malabar, and I understood from my Honourable friend Mr. Moir, that if it had been used earlier, it would have checked the outbreak. (*An Honourable Member*: “Question?”) Well, he is a distinguished official of the Madras Government.

Mr. A. Rangaswami Iyengar: May I know if it is not the case that in the case of Malabar the Governor General issued a special Ordinance to deal with the situation?

The Honourable Sir Alexander Muddiman: I understand the Madras Regulation has been used in connection with the Malabar rising.

Diwan Bahadur T. Rangachariar: It has been used with reference to persons who have been tried under the martial law and whose sentences have expired, after the sentences have expired, and who were about to return.

The Honourable Sir Alexander Muddiman: I accept the Honourable Member's correction. My argument was that it has been used in connection with that trouble. Well, it is of use also in another situation which is not met by my Honourable friend's proposals. He has not considered the fact that the danger now-a-days does not only come from the frontier. He does not meet my statement of the activities outside India in regard to which I quoted at length to show that they were a real and serious danger to India. His proposals would not meet that. Nor would they meet the case of a known traitor expelled from a foreign country returning to this country. They would not meet the case, for example, of a man who helped a foreign Government during the war and who had been turned out by that Government. That Government would naturally not be prepared to supply evidence of that treachery of which they had availed themselves but of which we are perfectly well aware. His proposals would not meet

[Sir Alexander Muddiman.]

that sort of case. But I do recognise that his proposals are framed with the object of getting a law on the Statute-book, getting a law that may help us, and not of leaving us devoid of assistance in a matter which he recognises—and I hope the House will recognise generally—is a real and serious matter. It is not the faintest good taking the line that we have no dangers to meet. We have dangers, real dangers, and I have explained to the House at some length the particular situation with which we are confronted at present. It is true that special legislation has been taken to one part of the country. It may be asked "Why do you want the Regulation III in respect of a situation which you have provided for under a law?"

Mr. A. Rangaswami Iyengar: Is it not the case, Sir, that persons taken under Regulation III have now been put under the Ordinance?

The Honourable Sir Alexander Muddiman: That is correct.

Mr. A. Rangaswami Iyengar: Therefore you are not now using the Regulation.

The Honourable Sir Alexander Muddiman: The Honourable Member is perfectly correct in what he said. That is the further point I am making. I have pointed out that this is so. You may say that we shall always be able to come and get the necessary executive powers from the local Legislature or the Imperial Legislature as the case may be. I shall be interested to see possibly at a later stage of the session as to how far that is a true and sound proposition.

Mr. A. Rangaswami Iyengar: That depends on you.

The Honourable Sir Alexander Muddiman: I will not deal with the speech of my Honourable friend Mr. Duni Chand. He put me in some difficulty, Sir, for this reason that he made allegations against a Government which I am not in a position to reply to, because they are irrelevant. I will not be led away by my Honourable friend into the path of irrelevancy that he has chosen. But I take this opportunity of emphatically repudiating the suggestions that he has made.

Then, Sir, we are told that we really are in this unreasonable position, that we are opposing Mr. Rangachariar who is trying to help us. To show that at any rate on this particular amendment I do not propose to oppose Mr. Rangachariar, I shall support the amendment to add a proviso to clause 2 of the Bill.

Mr. President: The original question was:

"That clause 2 stand part of the Bill."

Since which an amendment has been moved:

"That to clause 2 of the Bill the following proviso be added, namely:

'Provided that no individual who has been placed under personal restraint under any enactment hereby repealed, shall be bound to be released until after the expiry of six months after this Act comes into force; nor shall the repeal of any enactment by this Act affect the powers of confinement conferred by section 12 of the Punjab Murderous Outrages Act, XXIII of 1867, or by any other similar enactment.'

The question I have to put is that that amendment be made.

The Assembly divided:

AYES—50.

Abdul Mumin, Khan Bahadur
Muhammad.
Abdul Qaiyum, Nawab Sir
Sahibzada
Abul Kasem, Maulvi.
Ahmad Ali Khan, Mr.
Ahmed, Mr. K.
Ajab Khan, Captain.
Akram Hussain, Prince A. M. M.
Ashworth, Mr. E. H.
Bhore, Mr. J. W.
Blackett, The Honourable Sir Basil.
Bray, Mr. Denys.
Burdon, Mr. E.
Calvert, Mr. H.
Clarke, Sir Geoffrey.
Cocke, Mr. H. G.
Cosgrave, Mr. W. A.
Crawford, Colonel J. D.
Dalal, Sardar B. A.
Flaming, Mr. E. G.
Ghulam Bari, Khan Bahadur.
Gour, Sir Hari Singh.
Graham, Mr. L.
Hira Singh Brar, Sardar Bahadur
Captain.
Hudson, Mr. W. F.
Innes, The Honourable Sir Charles.
Jeelani, Haji S. A. K.

Lindsay, Mr. Darcy.
J. Lloyd, Mr. A. H.
Makan, Mr. M. E.
Marr, Mr. A.
McCallum, Mr. J. L.
Mitwa, The Honourable Sir
Bhupendra Nath.
Moir, Mr. T. E.
Muddiman, The Honourable
Sir Alexander.
Muhammad Ismail, Khan Bahadur
Saiyid.
Naidu, Mr. M. C.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Rangachariar, Diwan Bahadur T.
Rau, Mr. P. R.
Reddi, Mr. K. Venkataramana.
Rushbrook-Williams, Prof. L. F.
Sastri, Diwan Bahadur C. V.
Visvanatha.
Setalvad, Sir Chimanlal.
Singh, Rai Bahadur S. N.
Singh, Raja Raghunandan Prasad.
Sykes, Mr. E. F.
Tonkinson, Mr. H.
Webb, Mr. M.
Willson, Mr. W. S. J.
Wilson, Mr. R. A.

NOES—64.

Abhyankar, Mr. M. V.
Acharya, Mr. M. K.
Aiyangar, Mr. C. Duraiswami.
Aiyangar, Mr. K. Rama.
Aney, Mr. M. S.
Ariff, Mr. Yacoub C.
Badi-uz-Zaman, Maulvi.
Bhalla, Mr. K. Sadasiva.
Chaman Lall, Mr.
Chanda, Mr. Kamini Kumar.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Das, Pandit Nilakantha.
Datta, Dr. S. K.
Duni Chand, Lala.
Dutt, Mr. Amar Nath.
Ghazanfar Ali Khan, Raja.
Ghose, Mr. S. C.
Goswami, Mr. T. C.
Gulab Singh, Sardar.
Hans Raj, Lala.
Hari Prasad Lal, Rai.
Ismail Khan, Mr.
Iyengar, Mr. A. Rangaswami.
Jinnah, Mr. M. A.
Joshi, Mr. N. M.
Kasturbhai Lalbhai, Mr.
Kazim Ali, Shaikh-e-Chatgam
Maulvi Muhammad.
Kelkar, Mr. N. C.
Kidwai, Shaikh Mushir Hosain.
Lohokare, Dr. K. G.
Mahmood, Schamnad Sahib
Bahadur, Mr.

Malaviya, Pandit Madan Mohan.
Mehta, Mr. Jannadas M.
Misra, Pandit Shambhu Dayal.
Misra, Pandit Harkaran Nath.
Murtuza Sahib Bahadur, Maulvi
Sayad.
Mutalik, Sardar V. N.
Nambiyar, Mr. K. K.
Narsain Dass, Mr.
Nehru, Dr. Kishenlal.
Nehru, Pandit Motilal.
Nehru, Pandit Shamlal.
Neogy, Mr. K. C.
Pal, Mr. Bipin Chandra.
Patel, Mr. V. J.
Phookun, Mr. Tarun Ram.
Piyare Lal, Lala.
Purshotamdas Thakurdas, Sir.
Ramachandra Rao, Diwan Bahadur M.
Ranga Iyer, Mr. C. S.
Ray, Mr. Kumar Sankar.
Sadiq Hasan, Mr. S.
Samiullah Khan, Mr. M.
Sarda, Rai Sahib M. Harbilas.
Sarfaraz Hussain Khan
Bahadur.
Shafee, Maulvi Mohammad.
Singh, Mr. Gaya Prasad.
Sinha, Mr. Devaki Prasad.
Syamacharan, Mr.
Tok Kyi, Maung.
Venkatapattiraju, Mr. B.
Yakub, Maulvi Muhammad.
Yusuf Imam, Mr. M.

The motion was negatived.

Clause 2 was added to the Bill.

The Assembly then adjourned for Lunch till Twenty-Five Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty-Five Minutes to Three of the Clock, Mr. President in the Chair.

Diwan Bahadur T. Rangachariar: Sir, I beg to move the following amendment:

"After clause 2 of the Bill the following new clause be inserted in the Bill, namely :—
'3. In section 1 of the Bengal State Prisoners Regulation, 1818, after the words 'internal commotion' the words 'in the North-West Frontier Province, Baluchistan and the Dera Ghazi Khan District in the Punjab' shall be inserted.'"

Sir, I have already explained why I make this amendment. The eternal complaint against the Regulation has been that on the pretext of preserving order against internal commotion they have abused this Regulation in restraining legitimate political agitation; that has been our complaint; that has been the burden of our song on every platform and in the press. Now, by means of this amendment I restrict the power of the Government in interfering in matters of internal commotion. Unless the internal commotion or action creating or likely to create internal commotion is confined to the North-West Frontier Province, Baluchistan and the Dera Ghazi Khan District of the Punjab, the Governor General will have no power under the Regulation to restrain a person's liberty. That is the object of this amendment.

Mr. C. S. Ranga Iyer: They can declare martial law if internal commotion compelled it.

Diwan Bahadur T. Rangachariar: I did not catch what the Honourable Member said.

Mr. C. S. Ranga Iyer: If there were internal commotion in the North-West Frontier Province, can they not declare martial law?

Diwan Bahadur T. Rangachariar: That is another question. I do not know if my Honourable friend prefers martial law to this. (*Mr. C. S. Ranga Iyer:* "Yes, if inevitable.") If he does, I venture to differ from him; that is not my view of the situation. The object of this amendment, therefore, has been explained.

There is one answer which I have to give to my Honourable friend, Mr. Jinnah. My Honourable friend asked me "Is it at all consonant with our conscience or with our ideas of personal liberty and all that to restrain persons simply because they happen to create internal commotion in the adjoining Indian States or in places or States which are in alliance with us?" I quite agree; but then, I view it as a practical man; my conscience is not so soft as my Honourable friend, Mr. Jinnah's is. If they are enemies of my ally, then I have no soft corner in my heart for them; that is the difference between his point of view and my point of view. (*Mr. M. A. Jinnah:* "Then prosecute them.") It might be worse to prosecute them. I feel I am under an obligation by the treaties I have entered into—when I say "I", I am speaking as a legislator as part of the Government. This Government has entered into treaty obligations with our Indian Princes and with other allies and it is the solemn duty of every Government to go to the rescue of its neighbouring friendly Government. I put it to my Honourable friend Mr. Jinnah: Supposing for instance a

popular man in His Exalted Highness the Nizam's dominions gets into trouble with His Exalted Highness and he is popular in Hyderabad; and if he is there he might be able to create more effective trouble than if he were in the adjoining Presidency of Bombay. He goes to the Bombay Presidency because His Exalted Highness drives him out of his State and from inside the Bombay Presidency he creates trouble in the adjoining borders of the Nizam's territory. Does my Honourable friend think that he will be keeping up his connection, he will be extending that protection to His Exalted Highness the Nizam by sending him back to the Nizam's territory where he will be able to create more effective trouble to the ruler of the State? After all, we have to consider this question from the practical point of view, and considering it from that standpoint, Government have sometimes to restrain the liberty of persons. But in such cases it is the obvious duty of one State to come to the rescue of another State in order to prevent troubles there. In that view, I say, so far as your subjects are concerned, internal commotion is there, and you should try to protect yourself under the ordinary law. Your forces are there, your police is there, and therefore it is no excuse for you to confine your subjects in your own territory without trial; but in the case of those persons who want to create trouble across the frontier in connection with your allies, I take a different view of the situation.

Mr. A. Rangaswami Iyengar: May I draw the Honourable Member's attention to sections 125 and 126 of the Indian Penal Code by which it is made a serious State offence on the part of anybody in British India who attempts to wage war in the State of an Asiatic ally or to commit depredations in the territory of any Asiatic State in alliance with the British Government.

Diwan Bahadur T. Rangachariar: You may read the whole section, but I am quite familiar with those sections. The Honourable Member has reminded me of those sections, but the hypothesis of this Regulation is that it is not wise to bring those people to trial. It is one of the fundamentals, it is one of the premises, on which we start; it is not wise as statesmen to bring such cases to trial, because a trial incites other people to similar courses of action.

Mr. A. Rangaswami Iyengar: Government can send them away.

Diwan Bahadur T. Rangachariar: My Honourable friend will recognise that there are cases which cannot often be dragged into open court. I dare say as a family man he will recognise that domestic necessities may prevent cases being brought into court. Does my friend recognise that similarly domestic policies of a State require that certain things should not be washed in public, because the greater exigencies of the State require such precaution to be taken? That is one of the premises on which this Regulation starts. That being so, therefore, it is essential that in order to fulfil the obligations of the people across that you should have this power. That is my justification for departing

Sir Chimanlal Setalvad: Is the power of detention in prison to be confined to subjects of Indian States or is to extend also to British subjects creating trouble in Indian States?

Mr. A. Rangaswami Iyengar: I have really no protection against those who wish to drag me to court in this country.

Diwan Bahadur T. Rangachariar: In answer to my friend Sir Chimanlal, I may say that it may be our own subjects, or it may be the subjects of a

[**Diwan Bahadur T. Rangachariar.**]

foreign State. Our own subjects may perhaps create trouble. But I am only pointing out to Honourable Members which is the more practicable course for us to adopt, which is the lesser evil for us to choose? It is in that view that I approach the question

Mr. M. A. Jinnah: Which is the lesser evil in 1924? It was all right in 1818?

Diwan Bahadur T. Rangachariar: When we have got full responsible government, we may consider that. Until then we have to consider various elements. You have a foreign Government, which is essentially unpopular. That also we have to consider, and therefore every step taken by the foreign Government is discounted. That also you should take into account in dealing with the situation as it is. However, my point is this. I have been drawn away from the present amendment, simply out of deference to my Honourable friend Mr. Jinnah, if not for others, and I am bound to explain the position I took

Mr. O. S. Ranga Iyer: Although not for others?

Diwan Bahadur T. Rangachariar: You only interrupted. I defer to you.

My point is this. It improves the Regulation. It deprives the Regulation of the sources of mischief which we have been complaining about all along, namely, that under the guise of preventing internal commotion they have been doing all those things in Bengal. Therefore, if my amendment is carried, then the chances of improving the situation are far greater than if the Honourable Mr. Patel's Bill is carried. Therefore, Sir, I commend my amendment.

Mr. President: Amendment moved:

"After clause 2 of the Bill the following new clauses be inserted in the Bill, namely:

3. (1) In section 1 of the Bengal State Prisoners Regulation, 1818, after the words 'internal commotion' the words 'in the North-West Frontier Province, Baluchistan and the Dera Ghazi Khan District in the Punjab' shall be omitted'."

Does the Honourable Member move the second clause?

Diwan Bahadur T. Rangachariar: No, only the first one.

Mr. E. K. Shanmukham Ohetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Sir, my Honourable friend Diwan Bahadur Rangachariar with all the weight of his responsibility on his shoulders, has evidently lost his way into this irresponsible Chamber. His proper place, I should think, is in another place. (*Diwan Bahadur T. Rangachariar:* "Which place?") Another place. He can understand what I mean by another place. But I cannot really understand, Sir, how such a shrewd lawyer as my Honourable friend is so simple as to imagine that the amendment that he has now placed before this House takes away the obnoxious character of Regulation III of 1818 and, Sir, if he is simple enough to think that the amendment as proposed by him will have that effect, the House is not simple enough to imagine even for a moment that it would have that effect. Sir, my Honourable friend has pointed out to the House that under the guise of suppressing internal commotion, Regulation III has been used for other purposes, such as suppressing legitimate political agitation, and he imagines in his simplicity that the addition of these words after "internal commotion" as suggested in his amendment will remove the obnoxious character of the Regulation.

(*Diwan Bahadur T. Rangachariar*: "You suggest something else.") Yes, Sir, I will show the absurdity of your amendment. I would invite the attention of my Honourable friend to the first four words that occur in the Preamble to Regulation III of 1818. It runs:

"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 . . .

certain provisions are enacted. My position is this, Sir. The words following "Whereas reasons of State" are purely illustrative and they cannot be construed as words of exhaustive definition or limitation of "reasons of State." So long as the words "reasons of State" are retained in the Preamble, any sort of activity, whether it is legitimate political activity or otherwise, can be brought under the comprehensive scope of this Regulation. (*Mr. M. A. Jinnah*: "And against any person.") And against any person, certainly. Any act done by any person with whatever motive might be construed by the Executive as an act which is against the interest of the State and any person can be shut up for reasons of State. I am really surprised, Sir, that my Honourable friend Mr. Rangachariar should have overlooked such a simple point and should have imagined that the addition of the words suggested by him would take away the extraordinary power of the Executive. (*Mr. T. C. Goswami*: "He is a reasonable man.") Sir, our position in this House is that we will not be parties any longer to continuing these Regulations empowering the Executive to wield extra-legal and extraordinary powers in this country.

In inaugurating the new reforms one of the distinguished authors said:

"For the first time the principle of autocracy which had never been wholly discarded in the earlier reforms was definitely abandoned."

The principle of autocracy was supposed to be definitely abandoned for the first time since the inauguration of the reforms. I would therefore ask, is it not one of the conditions of the extinction of the principle of autocracy that these repressive laws should be removed from the Statute-book? Sir, every one knows the conditions, the circumstances under which these Regulations were enacted. They were enacted at a time when the affairs of British India were in a turmoil, at a time when there was no Indian Penal Code on the Statute-book, and when the British Raj had to struggle for its very existence in India. These obnoxious Regulations were perhaps justifiable in those days. Am I to understand, Sir, that the conditions which prevailed in the year 1818 prevail even to-day? If my Honourable friend the Home Member would say that even in the year 1925 the political conditions that existed in India in 1818 prevail, then I would only say that it is a very sorry commentary upon your administration of the country. These Regulations are a relic of a semi-barbarous time. If these Laws are sought to be maintained on the plea that the conditions in India have not materially altered, as I said, it is a sorry commentary on the administration of the Government of India. Sir, we do realise the responsibilities of the Executive in this country for maintaining law and order. Speaking on another occasion, the Honourable the Home Member in a very vehement appeal asked if this House was prepared to condemn anarchy and revolutionary movements. The House had given its emphatic answer to that appeal. We do condemn anarchy and revolutionary movements. But, Sir, we condemn more emphatically any

[Mr. R. K. Shanmukham Chetty.]

executive Government which sets in a reign of legal anarchy. One of the critics of the Government of India once observed that the Government of India can neither wage war nor preserve peace but that it takes shelter under the cloak of a timid despotism. Here to-day, even that cloak of timid despotism is sought to be thrown away to be replaced by one of aggressive repression. It is time that the Government of India realise that any Government which cannot function except by means of extraordinary powers is a Government that has miserably failed. We for our part cannot support for a moment longer the trifling with the elementary right of every citizen, however heinous his crime may be, to a fair, open and impartial trial. A trial where the accused is not permitted to know who the witnesses are and what they depose to is not a fair trial. A trial which is conducted in the precincts of a jail is not an open trial. A trial before a specially constituted tribunal is not an impartial trial. Each of these defects is a serious infringement not merely of the principles of law and civilisation, but of the principles of morality itself; and in asking for the total repeal of these measures, this House is only giving its verdict that they would not be parties for continuing these immoral laws on the Statute-book. I therefore, Sir, oppose the amendment of my Honourable friend Mr. Rangachariar.

(A Voice : " I move that the question be now put.")

The Honourable Sir Alexander Muddiman: Sir, whatever this amendment may be in the opinion of the Honourable gentleman who has just sat down, it is certainly not an absurd amendment. It is anything but an absurd amendment. It is a carefully thought out amendment: I should like to make my own position as a Member of the Government perfectly clear in respect of it. I am going to support this amendment because it gives me half a loaf which is better than no bread. The House will doubtless reject it. Very well, the responsibility is with the House. I will not say that if this amendment is carried, it will alter my position as regards the Bill at large. I must make it plain that it will not, but I am not one who will pass over an amendment which has been moved after careful consideration by an Honourable Member who at any rate has applied his mind to the matter without recognizing the fact that his amendment is a serious attempt to deal with the position. My Honourable friend who has just sat down was good enough to observe that the Government of India can neither wage war nor keep the peace. I will tell my Honourable friend that if the Government of India were not able to wage war he would not be in the place where he now sits, and if they were not able to keep the peace, my Honourable friend would not be able to get to his home to-night.

Diwan Bahadur M. Ramachandra Rao: I should like to know from the Honourable the Home Member exactly the position of Government. If they accept this amendment will they support the Bill as amended?

The Honourable Sir Alexander Muddiman: I accept this amendment on the principle that half a loaf is better than no bread. I shall certainly oppose the Bill as a whole.

Mr. President: The question is:

" That after clause 2 of the Bill the following clause be inserted, namely :

' 3. In section 1 of the Bengal State Prisoners Regulations, 1818, after the words ' internal commotion ' the words ' in the North-West Frontier Province, Baluchistan and the Dera Ghazi Khan District in the Punjab ' shall be inserted '."

The Assembly divided :

3 P.M.

AYES—41.

Abdul Mumin, Khan Bahadur
Muhammad.
Abdul Qaiyum, Nawab Sir
Sahibzada.
Abul Kasem, Maulvi.
Ahmad Ali Khan, Mr.
Ahmed, Mr. K.
Ajab Khan, Captain.
Akram Hussain, Prince A. M. M.
Ashworth, Mr. E. H.
Bhore, Mr. J. W.
Bray, Mr. Denys.
Calvert, Mr. H.
Cosgrave, Mr. W. A.
Crawford, Colonel J. D.
Dalal, Sardar B. A.
Fleming, Mr. E. G.
Graham, Mr. L.
Hira Singh Brar, Sardar Bahadur
Captain.
Hudson, Mr. W. F.
Hyder, Dr. L. K.
Innes, The Honourable Sir
Charles.

Lindsay, Mr. Darcy.
Lloyd, Mr. A. H.
Makan, Mr. M. E.
Marr, Mr. A.
McCallum, Mr. J. L.
Moir, Mr. T. E.
Muddiman, The Honourable
Sir Alexander.
Muhammad Ismail, Khan Bahadur
Saiyid.
Naidu, Mr. M. C.
Raj Narain, Rai Bahadur.
Rangachariar, Diwan Bahadur T.
Reddi, Mr. K. Venkataramana.
Rushbrook-Williams, Prof. L. F.
Sastri, Diwan Bahadur C. V.
Visvanatha.
Setalvad, Sir Chimanlal.
Stanyon, Colonel Sir Henry.
Sykes, Mr. E. F.
Tonkinson, Mr. H.
Webb, Mr. M.
Willson, Mr. W. S. J.
Wilson, Mr. R. A.

NOES—63.

Abhyankar, Mr. M. V.
Acharya, Mr. M. K.
Aiyangar, Mr. C. Duraiswami.
Aiyangar, Mr. K. Rama.
Aney, Mr. M. S.
Badi-uz-Zaman, Maulvi.
Bhat, Mr. K. Sadasiva.
Chaman Lall, Mr.
Chanda, Mr. Kamini Kumar.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Das, Pandit Nilakantha.
Datta, Dr. S. K.
Duni Chand, Lala.
Dutt, Mr. Amar Nath.
Ghazanfar Ali Khan, Raja.
Ghose, Mr. S. C.
Goswami, Mr. T. C.
Gulab Singh, Sardar.
Hans Raj, Lala.
Hari Prasad Lal, Rai.
Ismail Khan, Mr.
Iyengar, Mr. A. Rangaswami.
Jeelani, Haji S. A. K.
Jinnah, Mr. M. A.
Joshi, Mr. N. M.
Kasturbhai Lalbhai, Mr.
Kazim Ali, Shaikh-e-Chatgam
Maulvi Muhammad.
Kelkar, Mr. N. O.
Kidwai, Shaikh Mushir Hosain.
Lohokare, Dr. K. G.
Mahmood Schammad Sahib Bahadur.
Mr.

Mehta, Mr. Jamnadas M.
Misra, Pandit Shambhu Dayal.
Misra, Pandit Harkaran Nath.
Murtuza Sahib Bahadur, Maulvi
Sayad.
Mutalik, Sardar V. N.
Nambiyar, Mr. K. K.
Narain Dass, Mr.
Nehru, Dr. Kishenlal.
Nehru, Pandit Motilal.
Nehru, Pandit Shanlal.
Neogy, Mr. K. C.
Pal, Mr. Bipin Chandra.
Patel, Mr. V. J.
Phookun, Mr. Tarun Ram.
Piyare Lal, Lala.
Purshotamdas Thakurdas, Sir.
Ramachandra Rao, Diwan Bahadur
M.
Ranga Iyer, Mr. C. S.
Ray, Mr. Kumar Sankar.
Sadiq Hasan, Mr. S.
Samiullah Khan, Mr. M.
Sarfaraz Hussain Khan, Khan
Bahadur.
Shafee, Maulvi Mohammad.
Singh, Mr. Gaya Prasad.
Sinha, Mr. Ambika Prasad.
Sinha, Mr. Devaki Prasad.
Syamacharan, Mr.
Tok Kyi, Maung.
Venkatasapiraju, Mr. B.
Yakub, Maulvi Muhammad.
Yusuf Imam, Mr. M.

The motion was negatived.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadian Urban): Sir, I move the next amendment formally:

"That after clause 2 of the Bill the following new clause be inserted, namely:

'3. In section 1 of the Bengal State Prisoners Regulation, 1818, all the words beginning with 'and whereas the reasons above declared' and ending with 'authority of Government' shall be omitted'."

And I want that it should be taken along with my amendment No. 7 (1) which is:

"That in the Schedule to the Bill—in the fourth column in the entry relating to the Bengal State Prisoners Regulation, 1818, for the words 'the whole' the words and figures 'sections 9 to 11' be substituted."

The object of this amendment, as I have said, is to amend the Regulation by taking away the power of Government to forfeit the property, or rather to take hold of the property of the offender under the Regulation, which is in addition to the power given to the Executive to deal with the person of the supposed offender.

Mr. President: Is the Honourable Member moving his amendment to the Schedule?

Diwan Bahadur T. Rangachariar: Yes, because they go together. That portion of the first section beginning with the words "and whereas the reasons above declared" and that portion of the Preamble deal with the power of the Executive to take hold of the property of the offender, and that is why they go together. The object therefore of this amendment is not to give the Government that power to seize hold of the property of the supposed offender. I hope the House will agree to this amendment at least.

Mr. President: Amendment moved:

"After clause 2 of the Bill add the following new clause:

'3. In section 1 of the Bengal State Prisoners Regulation, 1818, all the words beginning with 'and whereas the reasons above declared' and ending with 'authority of Government' shall be omitted'."

Mr. A. Rangaswami Iyengar: May I ask how this amendment can arise after the motion which has now been defeated? If the Regulation is not to be applicable to any particular part of India, how is one part of the Regulation alone to be retained by the amendment of a clause which does not exist?

Diwan Bahadur T. Rangachariar: That has not been passed yet.

Mr. A. Rangaswami Iyengar: No, the Bill has not been passed, but the amendment by which you sought to retain the Bill in certain areas has been vetoed.

Mr. President: The decision just made by the House is that the Bengal State Prisoners Regulation is not to be extended to those areas mentioned in the proposed new section which the House has just thrown out. But the Honourable Member is not entitled to assume for the purposes of order that the item No. 1 in the Schedule will necessarily remain in the Bill when passed.

The Honourable Sir Alexander Muddiman: Sir, this is a motion that I must oppose. I think my Honourable friend really has not quite appreciated the exact position. I do not think he would desire, if he had

grasped the case as it actually stands, to move this amendment. The Honourable Member will agree with me that practically his amendment is to omit sections 9, 10 and 11 of the Regulation. That is the real point of the amendment. These sections give the Government a power of attachment of estates of the persons against whom action has been taken. I would draw the attention of the House to section 11, which runs as follows:

"Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment."

"That is, we have to account when we release from attachment. There is no question of forfeiture. That is my point. I would draw the attention of the House to the fact that this power has been used with the unanimous consent of this House comparatively recently. I will read to the House the Preamble to Act XXIV of 1923. It establishes two things, one that the House considers that in certain circumstances at any rate it was justifiable to make an attachment, and in the second place it shows that the Regulation itself does not operate as a forfeiture. The Act was entitled, an Act to provide for forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions. The Government desired in that case to act, as I trust they will always act, merely against the person in fault and not against the innocent son; and they had to pass this Act with the assent of this House, and I believe I am correct in saying that they passed it with the unanimous assent of the House. This is the Preamble to the Act:

"Whereas Mahendra Partab Singh, formerly a resident of Hathras in the District of Aligarh in the United Provinces, son of the late Raja Ghansham Singh Bahadur and adopted son of the late Raja Har Narayan Singh, did treasonably ally himself with and assist His Majesty's enemies in the late war and is now a fugitive from justice; and

Whereas the estates of the said Mahendra Partab Singh have been and are now attached under the provisions of the Bengal State Prisoners Regulation, 1818."

The Act then went on to forfeit the estates. A deliberate legislative forfeiture was passed, and it went on to provide that the estates should go to his son. Now there is an instance where by the judgment of this House Government have acted perfectly correctly.

Mr. M. A. Jinnah: The judgment of this House was that it should be restored—nothing more.

The Honourable Sir Alexander Muddiman: The judgment of this House was that it should be forfeited. (*Several Honourable Members:* "No, no.") Well, I will read the long Title again:

"An Act to provide for the forfeiture of the estates and other property of Mahendra Partab Singh."

And what other power had Government to forfeit except by an Act of the Indian Legislature? For these reasons therefore I oppose the amendment moved by my Honourable friend.

Mr. President: The question is that that amendment be made.

The motion was negatived.

Diwan Bahadur T. Rangachariar: Sir, I beg to move that after clause 2 the following new clause be added:

"After clause 7 of the said Regulation the following new clause shall be inserted, namely:

- '8. Notwithstanding anything contained in section 491 of the Code of Criminal Procedure, 1898, the High Court may for the purpose of satisfying itself that any individual placed under personal restraint within its jurisdiction has been so placed for the reasons stated in the Preamble of this Regulation, and for that purpose alone, call for the record concerning that individual from the officer in whose custody such person is placed, or from the Government and if after making such inquiry and in such manner as it thinks fit, it is not so satisfied, it may order that such detention shall cease'."

Sir, as already explained by me, this is another attempt to improve the Regulation in cases where unfortunately restriction has to be applied, and I hope Honourable Members will approve of this as it provides a remedy in the nature of *Habeas Corpus*.

Mr. Devaki Prasad Sinha (Chota Nagpur Division: Non-Muhammadan): Sir, the Honourable Mover of this amendment in his speech moving his first amendment said that this new clause is intended to afford some protection to those who come within the purview of this Act. Well, Sir, supposing we accept this amendment as it has been proposed by the Honourable Mover and allow the Preamble to stand as it is, then let us examine what the effect of this amendment will be. The Preamble says among other things (the last four lines):

"against whom there may not be sufficient ground to institute any judicial proceeding."

Again, Sir, in paragraph 8 the Preamble contains the following sentence:

"otherwise than in pursuance of some judicial proceeding."

Now, Sir, what power is sought to be conferred upon the High Court by an amendment like this? If the person concerned applies to the High Court, then the only thing which the High Court would be competent to inquire into is—if the Preamble is allowed to remain as it is—whether or not it is advisable to detain that man for reasons of State without any judicial proceeding because, Sir, if the Preamble remains as it is, it governs the new section proposed to be added.

Diwan Bahadur T. Rangachariar: The Preamble is for the Governor General's action. It has nothing whatever to do with what the High Court may do, when it gets the power I propose to give it.

Mr. Devaki Prasad Sinha: But the Preamble says that the ground upon which such action can be taken (*Diwan Bahadur T. Rangachariar*: "For the Governor General.") against a person is that he is a person against whom there may not be sufficient ground to institute any judicial proceeding. If the High Court is informed by a representative of the Government that such and such person has been arrested under this Regulation because there is no ground

for instituting a judicial proceeding against him, will the High Court be competent to go into the facts of the case or to hear evidence in regard to the criminality of the man? All that the High Court need be told by the Public Prosecutor or by the Advocate General in this case would be that for reasons of State it is not possible, it is not desirable to institute judicial proceedings against him. What protection then does this new section afford to the person arrested under Regulation III of 1818? Well, Sir, I submit that this amendment even if it is passed will not satisfy the purpose which the Honourable Mover has in view, for the simple reason that the amendment would be entirely infructuous if the Preamble to the Regulation is to remain as it is.

Mr. President: Amendment moved:

"That after clause 7 of the said Regulation the following new clause shall be inserted, namely:

- '8. Notwithstanding anything contained in section 491 of the Code of Criminal Procedure, 1898, the High Court may for the purpose of satisfying itself that any individual placed under personal restraint within its jurisdiction has been so placed for the reasons stated in the Preamble of this Regulation, and for that purpose alone call for the record concerning that individual from the officer in whose custody such person is placed, or from the Government and if after making such inquiry and in such manner as it thinks fit, it is not so satisfied, it may order that such detention shall cease'."

The question is that that amendment be made.

The amendment was negatived.

Diwan Bahadur T. Rangachariar: I do not think I need move the amendment regarding amended clause 6. It is consequential and depends upon the other amendments. I would only move the last one, No. 7.

Mr. President: The question is that clause 3 stand part of the Bill.

***Sir Hari Singh Gour:** May I rise to a point of order, Sir? If clause 3 is passed, it will be impossible afterwards to amend the Schedule, because the House will have stood committed to the enactments mentioned in the Schedule; they are either repealed or they are not repealed, and any modification of the Schedule thereafter would become impossible. I would therefore suggest that Mr. Rangachariar might move amendments to the other clauses, amend the Schedule and afterwards take up clause 3.

Mr. President: The Schedule does not become part of the Bill unless it is added. The Honourable Member seems to think that by placing a printed clause on the Table it becomes an Act. If the Schedule is passed by this House, then and then only does it become part of the Bill and operative under the conditions of clause 3.

Sir Hari Singh Gour: That is perfectly true. When the House is called upon to pass the Schedule as it exists now, I submit, Sir, it would have been more in order if the Schedule were added first and then the clause.

Mr. President: The question is:

"That clause 3 do stand part of the Bill."

The Assembly divided:

AYES—70.

Abhyankar, Mr. M. V.
 Acharya, Mr. M. K.
 Aiyangar, Mr. C. Duraiswami.
 Aiyangar, Mr. K. Rama.
 Aney, Mr. M. S.
 Ariff, Mr. Yacoob C.
 Bhat, Mr. K. Sadasiva.
 Chaman Lall, Mr.
 Chanda, Mr. Kamini Kumar.
 Chetty, Mr. R. K. Shanmukham.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Dr. S. K.
 Duni Chand, Lala.
 Dutt, Mr. Amar Nath.
 Ghazanfar Ali Khan, Raja.
 Ghose, Mr. S. C.
 Goswami, Mr. T. C.
 Gour, Sir Hari Singh.
 Gulab Singh, Sardar.
 Hans Raj, Lala.
 Hari Prasad Lal, Rai.
 Hussanally, Khan Bahadur W. M.
 Hyder, Dr. L. K.
 Ismail Khan, Mr.
 Iyengar, Mr. A. Rangaswami.
 Jeejani, Haji S. A. K.
 Jinnah, Mr. M. A.
 Joshi, Mr. N. M.
 Kasturbhai Lalbhai, Mr.
 Kazim Ali, Shaikh-e-Chatgam
 Maulvi Muhammad.
 Kelkar, Mr. N. C.
 Lohokare, Dr. K. G.
 Mahmood Schamnad Sahib
 Bahadur, Mr.
 Malaviya, Pandit Madan Mohan.
 Mehta, Mr. Jamnadas M.

Misra, Pandit Shambhu Dayal.
 Misra, Pandit Harkaran Nath.
 Murtuza Sahib Bahadur, Maulvi
 Sayad.
 Mutalik, Sardar V. N.
 Nambiyar, Mr. K. K.
 Narain Das, Mr.
 Nehru, Dr. Kishenlal.
 Nehru, Pandit Motilal.
 Nehru, Pandit Shamlal.
 Neogy, Mr. K. C.
 Pal, Mr. Bipin Chandra.
 Patel, Mr. V. J.
 Phookun, Mr. Tarun Ram.
 Piyare Lal, Lala.
 Purshotamdas Thakurdas, Sir.
 Ramachandra Rao, Diwan Bahadur
 M.
 Rangachariar, Diwan Bahadur T.
 Ranga Iyer, Mr. C. S.
 Ray, Mr. Kumar Sankar.
 Reddi, Mr. K. Venkataramana.
 Sadiq Hasan, Mr. S.
 Samiullah Khan, Mr. M.
 Sarda, Rai Sahib M. Harbilas.
 Sarfaraz Hussain Khan, Khan
 Bahadur.
 Setalvad, Sir Chimanlal.
 Shafee, Maulvi Mohammad.
 Singh, Mr. Gaya Prasad.
 Sinha, Mr. Ambika Prasad.
 Sinha, Mr. Devaki Prasad.
 Syamacharan, Mr.
 Tok Kyi, Maung.
 Venkatapatiraju, Mr. B.
 Yakub, Maulvi Muhammad.
 Yusuf Imam, Mr. M.

NOES—39.

Abdul Mumin, Khan Bahadur
 Muhammad.
 Abdul Qaiyum, Nawab Sir
 Sahibzada.
 Abul Kasem, Maulvi.
 Akram Hussain, Prince A. M. M.
 Ashworth, Mr. E. H.
 Badi-uz-Zaman, Maulvi.
 Bhole, Mr. J. W.
 Blackett, The Honourable Sir
 Basil.
 Bray, Mr. Denys.
 Colvert, Mr. H.
 Clarke, Sir Geoffrey.
 Cosgrave, Mr. W. A.
 Crawford, Colonel J. D.
 Fleming, Mr. E. G.
 Graham, Mr. L.
 Hira Singh Brar, Sardar Bahadur
 Captain.
 Hudson, Mr. W. F.
 Innes, The Honourable Sir
 Charles.
 Lindsay, Mr. Darcy.

Lloyd, Mr. A. H.
 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.
 Naidu, Mr. M. C.
 Raj Narain, Rai Bahadur.
 Rau, Mr. P. R.
 Rushbrook-Williams, Prof. L. F.
 Sastri, Diwan Bahadur C. V.
 Visvanatha.
 Singh, Rai Bahadur S. N.
 Singh, Raja Raghujiandan Prasad.
 Stanyon, Colonel Sir Henry.
 Sykes, Mr. E. F.
 Tonkinson, Mr. H.
 Webb, Mr. M.
 Willson, Mr. W. S. J.
 Wilson, Mr. R. A.

The motion was adopted.

Mr. President: The question is:

"That this be the Schedule to the Bill."

Diwan Bahadur T. Rangachariar: Sir, in the Schedule to the Bill I propose that the whole of the entry relating to the Punjab Murderous Outrages Act, 1867, be omitted.

I hope here at least my Honourable friends will not part company with me. I think my Honourable friend Mr. Jinnah has already vouchsafed his support in this direction. At any rate the Honourable Mr. Jinnah has said he expects support from Mr. Patel in this direction. (*Mr. M. A. Jinnah:* "I will go with you!") Thank you. I thank him for small mercies. Sir, I do not know why my Honourable friend Mr. Patel in his thirst for repeal included this and did not include the Moplah Outrages Act. The Moplah Outrages Act is word for word a copy of the Punjab Murderous Outrages Act. (*Mr. V. J. Patel:* "I am sorry; it was an oversight".) My Honourable friend says it was an oversight. He may have overlooked it because Punjab is nearer his home than Malabar (*Voices:* "No, no!"); then probably because the Punjab is nearer his heart if not nearer his home. At any rate it appears to me that it would be a crime on our part to repeal this Punjab Murderous Outrages Act, and therefore I move that that item be omitted.

***Mr. V. J. Patel** (Bombay City: Non-Muhammadan Urban): Sir, I agree with my Honourable friend Diwan Bahadur Rangachariar that it is a crime; but I do not know that I agree with him when he says it is a crime if we repeal this Act. On the contrary, I think if we do not repeal it it will be a crime. That is my position. I see no distinction between this particular Act and the general Ordinance which has just been promulgated by His Excellency the Viceroy. The first eleven sections deal with the trial of certain offenders under the Act and the trial is to be before a Special Commissioner to be appointed by the Executive Government and there are to be no committal proceedings, no jury and no appeal. That is exactly on a par with the provisions of the Bengal Ordinance. Now if you turn to section 12, which is most dangerous, it gives power to the Executive Government to detain. It runs: any person who is suspected of committing or attempting to commit any particular crime without any trial whatsoever. So that also is exactly on a par with the provisions of the Bengal Ordinance. In the latter part of it any way it gives unlimited power to the Executive who can keep the man in detention under the powers given by clause 12 for any length of time without giving any reasons and without ever bringing him to trial. I see no distinction between the Bengal Ordinance and this particular Act which I seek to repeal. I may point out, Sir, that there may have been some justification for it at the time when that Act was passed in some districts, but when it is applied to the whole of the Province of the Punjab, when it empowers the Executive to extend it to the whole Province, then there is a little objection. If the Act were limited to particular districts . . . (*Diwan Bahadur T. Rangachariar:* "It is.") No, it is not. It says:

"It shall be lawful for the Lieutenant-Governor of the Punjab, with the previous consent of the Governor General of India in Council by a proclamation published in the official Gazette, from time to time to declare any part or parts, etc., etc."

*Speech not corrected by the Honourable Member.

Diwan Bahadur T. Rangachariar: All these years it has been applied only to the frontier.

Mr. V. J. Patel: This power is particularly dangerous and I see absolutely no reason why this particular Act should not be repealed. But I should like to say that as we know when to fight we also know how to unite, and it is our desire to present a united front against this Government and therefore I agree not to press this.

The Honourable Sir Alexander Muddiman: Sir, I am disappointed in Mr. Patel. He has now apparently agreed to maintain on the Statute-book an Act which he calls a crime; he has made a speech attacking the provisions of this law in the most violent terms and then calmly accepts the proposal to omit its repeal. (*Diwan Bahadur T. Rangachariar:* "Surrenders principle for compromise.") This is the first time we have ever known Mr. Patel compromise. (*Mr. V. J. Patel:* "Just to attack you.") I shall just read to the House an instance of the way in which this Act is applied—I put my hand on it just now; it gives an account of a typical outrage of this character and then the House will judge whether it is a crime to maintain the Act or whether it is a crime to repeal it.

"After dinner—on the evening of the 7th December 1919 (I leave out the names) Mrs. E. and her family were sitting in the bed room with Mr. E., station master at Peshawar Cantonment Railway Station, who was in bed with fever. The eldest boy, aged 17, had occasion to go to the dining room for something and in order to do so had to pass through the sitting room which has three doors leading respectively to the dining-room, bedroom and the garden; as he entered from the bedroom an Indian was coming in from the garden door; the boy at once questioned him as to what he was doing, whereupon the stranger immediately attacked him with an axe which he had hidden behind his back. In parrying the blow the boy's fore-arm was broken. The boy then closed with the man and his shouts for assistance brought his mother into the room. When she arrived the man had dropped the axe and was stabbing her son with a dagger. She rushed at once to the boy's assistance, and threw her arms round the Ghazi to try and prevent him from stabbing her son again. The man then attempted to stab Mrs. E. but the first blow only grazed her nose. She never relaxed her hold, however, and was then stabbed in her side. Even this failed to make her let go, and in spite of her wounds she managed to seize the man by his wrist. At this stage Mr. E. came from his sick bed to the rescue and the Ghazi wrenched his hand free from Mrs. E. and stabbed her husband in the thigh. Mrs. E. again tried to seize the dagger and at last succeeded in getting hold of the handle, but in so doing received several more wounds on her hand and wrist. Finally with the aid of some servants the assailant was overpowered."

Their assailant, who proved to be a murderous fanatic, was tried, sentenced and duly hanged under the North-West Frontier Murderous Outrages Regulation.

Now my Honourable friend the Diwan Bahadur has been on the frontier; he has some idea of what this means and that is why he moved his amendment and that is why I hope the House is going to accept it—not, Sir, because to retain it on the Statute-book is a crime, but to remove it from the Statute-book would be a crime.

Mr. M. A. Jinnah: Sir, I may tell the Honourable the Home Member that my reasons for supporting the amendment of my Honourable friend, Mr. Rangachariar, are these. First of all this Act deals with specific kinds of offences. The Preamble says:

"Whereas in certain districts of the Punjab fanatics have frequently murdered or attempted to murder servants of the Queen and other persons."

Therefore the object of this Act is really to direct it against fanatics who either wish to murder or attempt to murder. The second reason is that it is restricted in so far as the offences are concerned. I may draw the attention of Honourable Members to the fact that originally it included many other offences and they were all repealed except the offence of murder or attempt to murder. I cannot possibly stand here and say that because it is restricted in its scope and only deals with offences of murder or attempt to murder, therefore we shall depart from the normal, ordinary fundamental principles of law. But here again I find that the Government have not extended this Act beyond a certain part of the Punjab. Further this Act has been in force for a long time. It has been in force since 1867, and I have not heard of any case which was tried under this Act which can be characterised as gross or outrageous conduct on the part of the Government. Therefore, it stands somewhat on a very different and special footing, although I can tell the House that it goes against my grain, it is against my ideas of justice that any accused person should be tried in the summary manner which this Act provides. Also I feel with Mr. Patel that section 12 gives extraordinary powers to the Government to restrain the liberty of a subject. But, Sir, I also wish to show to the Treasury Bench, that since you are pressing and since you are impressing upon us constantly that these powers are necessary for you on the frontier, since we have got the result of the Repressive Laws Committee in which also it is pointed out that these powers are necessary, a Committee which consisted of distinguished men, therefore, for the present, we are prepared not to touch this Act, and I hope that my Honourable friend the Home Member will appreciate this at any rate, that we are ready to meet him if we can and if we think that it is really for the best interests of India.

Mr. President: The question is:

"That in the Schedule to the Bill, the whole of the entry relating to the Punjab Murderous Outrages Act, 1867, be omitted."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

Mr. V. J. Patel: Sir, I beg to move that the Bill as amended be passed. I do not wish to say anything at this stage, except this, that although circumstances have compelled me practically to withdraw one Act, of which I wanted to seek repeal, I may assure the House that it will not be very long before this particular Act as well as the Moplah Outrages Act which still find a place on the Statute-book will be brought forward in the form of a Bill by me.

Colonel Sir Henry Stanyon (United Provinces: European): Sir, I beg to oppose the motion that this Bill be passed into law. The Bill is directed against three Regulations and three Acts of the Governor General in Council, one of which, the Punjab Murderous Outrages Act, now disappears by amendment. The Preamble tells us that it is expedient to repeal all these enactments. When we look at the Statement of Objects and Reasons for the causes of this confidently asserted expediency, we read: (1) "The Regulation became obsolete on the enactment of the Indian Penal Code"; (2) "The Acts are no longer necessary". Reading this blunt

[Sir Henry Stanyon.]

statement left me unconvinced of the expediency claimed in the Preamble and created the impression on my mind that the real object and true reasons for this Bill had not been stated. Let us briefly examine those that have been stated. First, as to the Regulations. The Bengal Regulation III of 1818 has been extended also to the United Provinces, the Central Provinces, the Punjab, Bihar and Orissa and Assam. The Madras Regulation II of 1819, more briefly, and the Bombay Regulation XXV of 1827, in slightly different words, contain Preambles similar to that set out in the Bengal Regulation. It will suffice for my argument, Sir, to quote from Regulation III of 1818 as much as is now material. It reads:

"Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the promotion of tranquillity in the territories of Native Princes entitled to its protection and the security of 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 so on. It is thus clear, as pointed out by my Honourable friend Diwan Bahadur Rangachariar, that the objects of the Regulation may be placed under four heads: (1) maintenance of treaties with foreign powers, (2) protection of Indian Princes; (3) defence against foreign invasion, and (4) prevention of internal disorder. Manifestly, the provisions of the Indian Penal Code cannot touch the first three of these objects. The Honourable Mr. Denys Bray the other day gave us a striking illustration of the first of them in the case of a rebel against the Government of His Majesty the Amir of Afghanistan. There remains therefore the fourth object, namely, the prevention of internal disorder. As to this, it must not be forgotten that the Regulation is expressly reserved for use *occasionally* and is confined to those cases in which (a) circumstances make it necessary to arrest before collecting evidence, and (b) judicial proceedings may not be adapted to the nature of the case or for other reasons may be inadvisable or improper. Since what I have to submit will be equally applicable to the Acts aimed at by this Bill, it seems expedient to bring those Acts in at this point. The Statement of so-called Objects and Reasons merely declares that these Acts are no longer necessary. Reasoning of that kind merits no examination or any further reply than this, that they *are* necessary. Act XXXIV of 1850 is like the Regulations an enactment relating to State Prisoners only. Act XXIII of 1867 I need not talk about as it has now gone out of the Bill. Finally, we have the Prevention of Seditious Meetings Act, 1911. Mr. Patel's Bill says it is no longer necessary. My submission is that it is more necessary to-day than it was when first enacted, and I leave public opinion to judge between these conflicting views.

Now, Sir, there are two methods of dealing with crimes, namely, (1) prevention, and (2) punishment. All students of penology will concede that prevention is far better for all concerned than attempts to cure by punishment, even where both methods can be applied. But there are potential criminals and intended crimes,—crimes in embryo,—which can only be countered effectively by preventive measures. This fact is beyond reasonable dispute. It was brought home to the people of Bengal when the goonda developed his activities in Calcutta and its neighbourhood.

I commend to the attention of those of my friends who dispute this proposition the debates on the Goondas Act, 1923 (Bengal Act I of 1923), which took place in the Bengal Legislative Council on the 20th and 28th November, 1922, and the 30th and 31st January, 1923. They are reported in volumes X and XI of the proceedings of that Council. My friends will there find arguments from enlightened Indian politicians to support, far better than I am able to do, the proposition that there are cases the nature of which makes the ordinary law inadequate and preventive action the only effective weapon for the preservation of law and order. The enactments which Mr. Patel would repeal are, with one exception now swept away by Mr. Rangachariar's amendment, measures for arming the Government with preventive powers. Every Government in the world responsible for the maintenance of law and order must have such powers, and I was glad to hear so experienced a politician and sincere a friend of India as Mr. Rangachariar admit that fact. The occasions and extent of their use must vary with the conditions of time and place. We have heard more than once of the protection to the liberty of the subject which is secured in England by the common law right of *Habeas Corpus* and the Statutes in which from time to time that right has been embodied, notably the Statute of Charles II (31 Car. II, c. 2). It is known as the Habeas Corpus Act, 1679. But, even in England, the operation of the Habeas Corpus Act, 1679, has at various periods been temporarily suspended by the Legislature on the ground of urgent political necessity. Such suspension has usually been effected by a Statute enabling persons to be arrested on suspicion of treasonable practices or certain other crimes of a political nature, and detained in custody without bail or trial. The conditions in India bear no analogy to those in England, and comparisons would be entirely misleading. I hope the time is not far distant when we shall have a Habeas Corpus Act of our own. I should certainly support any reasonable effort which may be made to enact it in terms suitable for India. My friend Mr. Rangachariar unsuccessfully attempted to introduce, by an amendment of this Bill, a provision in the nature of *Habeas Corpus*. The defect of the position taken up by him was this, that if that provision had been made law, it would have allowed the provincial High Courts to override orders which, under the Regulations, must be passed by the Governor General. But, at present, it has been admitted and proved that we have amongst us in India a dangerous and secret enemy to the public weal,—a malignant growth the roots of which may reach to Moscow. This is not the time to deprive the Government of these preventive powers,—powers, be it noted, that have attached to them safeguards against misuse far stronger than those incorporated by the Bengal Council in the Goonda Act, 1923. I have said that when I read the Statement of Objects and Reasons appended to this Bill, I was left with the impression that the statement did not set out the real objects and reasons which had animated the author of the Bill. That impression has been confirmed by his own speech and the speeches of those who have supported the Bill.

Many years ago I was compelled by experience to the conviction that a serious obstacle to the progress of India towards her proper place in the sun was an almost universal want of public opinion among Indians against crime, as such. In recent years there have been signs of improvement in this popular defect of character among the educated classes. But, even now, public opinion against crime as such has not attained any real working strength. It is easily overcome by other impulses. It has been overcome

[Sir Henry Stanyon.]

in the present case by a more popular impulse—that of attacking Government. Under this impulse, the tendency, even among the educated classes, is to minimise conspiracies which threaten innocent lives and seek to undermine law and order. It has been easy for politicians whose creed is “Whatever Government does is wrong” to lose sense of the hidden dangers with which society is threatened, and to raise a popular agitation against exceptional measures used or taken to counter that danger.

It is this predominating impulse to attack a Government which he has taught and trained himself to distrust that is the real object of and reason for this Bill being introduced by my Honourable friend, Mr. Patel. I believe that at one time the loudly proclaimed distrust of the Executive Government was more of a political exploit than a real conviction. But since people learn to believe what they tell themselves to believe, that exploit has become chronic, and I must and do credit the author of this Bill with absolute sincerity. I hope he will try and believe that in opposing this Bill as unwise I am equally sincere. Preventive action is always difficult and must be necessarily more executive than judicial in procedure. But to obtain the best results the executive agency employed must have the support of public opinion and must be trusted. The support of vocal public opinion among educated India for the present Government is conspicuous by its absence. (*A Voice*: “Why?”) The continual derogation of every Government measure in season and out of season has become a habit among Indian politicians until it has passed from censure of the form of Government to distrust of the *personnel* of Government. We have had it roundly asserted that His Excellency the Viceroy and his Council are abusing laws designed to prevent crime for the purpose of stifling political progress and to obstruct the Swaraj Party. We have had it said that the European Members of Council are engaged in fraudulent devices to exploit India for ulterior purposes. We have had it said that the Indian Members of Council are lost souls who have passed from condemnation of Government through compromise to congratulation. It is indeed difficult for any Government to work preventive measures against crime if its very honesty is distrusted. But if public support continues to be withheld it is the public who will eventually suffer. The Government is in the position of having to protect a people who show no inclination, in some matters, to protect themselves. Such a state of things make the law-abiding citizen, who is alive to his interests, thank God that the maintenance of law and order and the protection of India from the cancer of Communism are in the hands of an Executive which is not responsible to those who are blinded by such a belief as occupies the mind and blurs the vision of my friend Mr. Patel. To try and combat revolutionary crime by ordinary law would be like trying to stop hostile mining by above-ground rifle fire. We have heard anarchy condemned in very definite terms by those who support this Bill. That seemed to me like saying to a man “We condemn those who would assail you with poisoned weapons, but we think it fair that you should be disarmed of all weapons of defence and should have your hands tied behind your back.” I implore this House before adopting this ill-timed Bill to consider what results are likely to ensue if this preventive power is taken away from Government. The Executive, in my humble opinion, can be trusted never to abuse its provisions wilfully or for any ulterior purpose. It is right that this House should be alert to inquire into executive action touching the

liberty of the subject, but, having inquired and obtained assurances from men of honour whose integrity of purpose is beyond reasonable doubt, let the House lead the educated people of India to trust and support their Executive. Let it abstain from so marked a declaration of distrust as will be implied by a vote to deprive the Executive of preventive power against concealed and dangerous crime. We have had a great deal said about the Executive Government not trusting the House. That complaint is constantly put forward by a certain section of politicians in this House. Have those gentlemen—has this House,—given that trust to the Executive Government which is necessary before we have any right to ask for trust in return? I raise my voice to-day against a large majority. But I have said what I believe to be true, and I have said it sincerely. If my views are not acceptable, at all events I have to thank the House for the courtesy and patient hearing which it has given me,—somewhat unusual now-a-days when one has to say something which is not in agreement with the view of the majority. Sir, I oppose the Bill.

Mr. O. S. Ranga Iyer (Rohilkhand and Kumaon Divisions: Non-Muhammadian Rural): Sir, I thank you very much for giving me an opportunity to answer some of the arguments of my esteemed friend Sir Henry Stanyon. Sir, I concede that he is very sincere in his opposition to this Bill. I concede, as he has conceded that every one who is opposed to this Bill is sincere and I also think that he is honest in his opposition. I do not attribute either dishonesty or want of sincerity to the other side; but, Sir, it is a case of sincerity *versus* sincerity, and I do think that those whose sincerity is based on Patriotism will triumph over those whose sincerity is based upon Imperialism. If I were an Englishman, who could say, I might have also been an Imperialist. It is the business of an Englishman to retain the English Empire from the Imperialist standpoint. The English Empire is "a mission" to the Englishmen and they think and they feel that the English Empire is in danger in India, but I happen to be an Indian and as an Indian, Sir, I am a patriot first and I am a patriot to the last. And it is my duty to fight Imperialism when

Imperialism stands between India and the light of the world. (Hear, hear.) We are to-day soldiers in the field of battle fighting a glorious fight. We are fighting the battle for Freedom; we are fighting the battle against Imperialism. (*Sardar Bahadur Captain Hira Singh Brar*: "Where are the soldiers?") My friend Captain Hira Singh asks, "where are the soldiers?" He is one of them and I do think that though he is fighting on the wrong side, the day will not be far distant when his own children will fight on the right side. He is an Indian and to-day he is fighting the Englishmen's battle, because he is not thoroughly convinced that we can succeed. Sir, we have a class of men in our country who like to be on the winning side, on the side which for the time being appears to be winning. But that state of affairs cannot continue very long. For the Englishmen, however mighty they may be with their modern weapons of warfare, however mighty they may be with their Ordinances and Regulations, cannot, once a great people is roused, stand against them. Sir, we are asking you to put aside those nineteenth century weapons, because I feel that the time has come when we should come together. I feel that England and India united can be a great organ of peace in the world. But union can be only on equal terms. Union there cannot be, so long as you hang above our heads those Damocles' swords, Ordinances and Regulations which you forged in the nineteenth century. The Regulations

[Mr. C. S. Ranga Iyer.]

which are included here are the Bengal State Prisoners Regulation of 1818, the Madras State Prisoners Regulation of 1819, a Regulation for the Confinement of State Prisoners, Bombay, of 1827, the State Prisoners Act, 1850, and the Prevention of Seditious Meetings Act, 1911. Sir, with the exception of the Seditious Meetings Act of 1911, all these Regulations were forged when the Englishmen came to India, when they did not understand us, when they did not trust us, when they came "as conquerors", as Lord Curzon said, and conquered the country with the help of Indians themselves. Sir, at such a time perhaps these Regulations were necessary. At such a time perhaps you could not get on without these weapons. But we gave you co-operation for years and years. We worked with you. Who are the people who are running "the steel-frame," as Mr. Lloyd George would put it, of the British administration? They are Indians. Co-operation is there. If non-co-operation were complete, the British administration would be paralysed.

You know the Indian temper. The Indian people have not sided with the revolutionary movement. That is at present confined to a handful of men who believe in violence. We do not believe in it. But is it proper for you when the people have given you their trust, is it proper for you when the people have given you their co-operation, that you should try their patience and stick to these Regulations? The Honourable the Home Member said the other day that he has got almost an indefensible proposition. He said that it was easy to elocutionise on the horrors of these Regulations which would remind us of *lettres de cachet*. But, Sir, it is more easy to take shelter under these Regulations against the united wish, the unanimous opposition of an awakened or rather a fast-awakening people.

My friend, the previous speaker, said, "crime has got to be prevented". He said that "public opinion against crime as such has not attained any real working strength." I understand that proposition. Sir, if public opinion against crime as such had not attained any working strength in this country, what would have happened? We would have become revolutionaries and fought you in the secret and perhaps in the open. The proof that public opinion against crime as such had attained a real working strength was furnished by the leader of the non-co-operation movement. Sir, my Honourable friend, Sir Henry Stanyon, could not be unaware of the fact that when at Chauri Chaura the non-co-operation campaign went beyond our control, when it began to travel along the path of violence, what did the leader of the non-co-operation movement do? Mahatma Gandhi gave up his Bardoli campaign, he laid down his arms—not because he was afraid of you.

Mr. K. Ahmed: Why don't you co-operate now?

Mr. C. S. Ranga Iyer: I do not propose to answer Mr. Kabeerud-Din's interruptions. I may tell him that I am not going to take notice of them.

Mr. K. Ahmed: You must not obstruct me, but you may obstruct the Government if you like. (Laughter.)

Mr. C. S. Ranga Iyer: Mahatma Gandhi, Sir, laid down the arms only because he saw that there was a danger of red ruin and the violent breaking up of laws. When the state of feeling in the country had reached a very high level, when there was an unprecedented upheaval, such upheaval as

was unknown to India before—at such a time, Sir, the leader of non-co-operation stopped that movement! That is the best answer to the remark of my esteemed friend Sir Henry Stanyon.

Then he talked of “attacking the Government.” I presume he referred to our attacking the Government. We attack the Government, we consider the Government, as my friend Mr. Goswami put it, devilish. We consider it to be Satanic—not any Member on the Government side, but the system; and I know that my friend, Mr. Goswami, when he called it devilish, meant the same even as Mahatma Gandhi meant when he called it Satanic. He did not attribute, the Mahatma is the last man to attribute any devilish qualities to the good men on the other side. Not a bit of it. They are as human beings as any one of us; but the engine of repression that you are working, “like a devilish engine,” in language Miltonic, “back recoils.” Yes, it is the devilish engine of repression that you are working; and when we attack the Government it is not the Honourable the Home Member that we attack, it is not His Excellency the Viceroy, the Earl of Reading, whom we are attacking personally. We are attacking the entire system of government, because that system stands between us and India's co-operation with England. That system stands between us and India's place in the English Empire, and until that system is removed willing co-operation is impossible; and so long as you cling to these Regulations, how can there be any hope of real co-operation? That is why, Sir, we want you to give up these things.

My Honourable friend Sir Henry Stanyon talked of “potential criminals.” Who are these potential criminals? Whom have you been detaining under Regulation III of 1818 as potential criminals? Sir, if I were an anarchist, if I were a revolutionary, if I believed in destroying the Empire with bombs and pistols, I would not have come to this Assembly and taken the oath of allegiance here. (Hear, hear.) And you have regulated men in Bengal who have taken the oath of allegiance to the King of England. Two of those men whom you have put in prison are men who came to your Councils and took the oath of allegiance to the King of England. You call them potential criminals, you call them revolutionaries. Sir, to the revolutionary, an oath is a very sacred thing, (Inaudible interruptions by Mr. K. Ahmed) to Mr. Kabeerud-Din Ahmed “oaths are wafer-cakes”! To the revolutionary who gives his life so recklessly on the gallows, an oath is a sacred thing. He fights in his own way the country's battle. I do not agree with him. You know people in your own country, in Ireland, who have fought their country's battle with revolutionary methods. You condemn them. But you cannot deny the fact that they keep their oaths more sacred than Mr. Kabeerud-Din Ahmed.

Mr. K. Ahmed: Day or night . . . (Inaudible.)

Mr. C. S. Ranga Iyer: Two gentlemen, whom you have interned as revolutionaries, came to the House and took the oath of allegiance to the King of England. If you have proofs, you will certainly try them openly. I say the Government have no proof against those men, for if you had proof, would you stop for a moment from trying to discredit the Swaraj Party, whom you hate? I do not think the Government would have missed one single opportunity to destroy or discredit this obstructive party. But you have no proof, and therefore you carry on a campaign of terrorism against the men who have not declared war on the King of England.

[Mr. C. S. Ranga Iyer.]

It is you, Sir, who under these 19th century Regulations are seeking to destroy a constitutional movement. If India should adhere to the constitutional movement, you must get rid of these Regulations.

My Honourable friend talked of preventing crimes and he also said that the analogy between India and England cannot hold good. "Conditions in India bear no analogy to those in England." That is what he said and I perfectly agree that conditions in India cannot bear analogy, because Englishmen govern England, aliens govern India. (Hear, hear.) If we had our own Government, we know how to deal with the revolutionary movement. We know who is revolutionary and who is not. But what has Government been doing all these years, ever since the Regulation came into existence? Sir, the Regulation was used against the constitutional movement. Men who were associated with Mr. Bipin Chandra Pal were regulated fifteen years ago and I believe if Mr. Pal had not gone away to England to preach his own propaganda there he too might have been regulated in Bengal. Two of his best friends, two of the old associates of Babu (now Sir) Surendra Nath Banerjee were regulated; and, Sir, it was the Home Member of Bengal who admitted that in regard to Aswini Kumar Dutt, they regulated him for his whirlwind political campaign. In regard to Krishna Kumar Mitter, he said the Regulation was an unfortunate application. He uttered words to the following effect: "We can never imagine, now that we know him, that he could have anything to do with the revolutionary movement. We are convinced that he had nothing to do with the revolutionary movement." And whom have you regulated to-day? My young and much respected friend Subash Chandra Bose. (Mr. T. C. Goswami: "Shame!") It is a great shame. It is difficult to speak with restraint when I think of a Government putting in prison a man of the character and calibre of Sriji Subash Chandra Bose. My esteemed friend from Bengal Mr. Willson will agree with me that his character is irreproachable. I believe he said something to that effect in the Corporation meeting of Calcutta. Sir, Europeans who came in contact with him, Indians who knew him, men like Pandit Motilal Nehru, whom you cannot accuse of flirting with the revolutionaries, men like Mr. Jinnah, others whom you cannot accuse of egging on the revolutionaries, these men had the greatest regard for him. Sir, Subash Chandra Bose is a great personal friend of mine, and I know that he dreaded nothing so much as the coming of a revolutionary movement, for he knew that the revolutionary could not successfully contend with a Bureaucracy which had better organization and more destructive weapons. He was a constitutionalist to the core; if he were a revolutionary, he would not have cared to join the Swaraj Party. Sir, I make this charge against the Government that they have laid their unholy hands on the Swaraj Party. They have snatched away one of the most prominent men of the Swaraj Party in Bengal, who was more necessary for the Calcutta Corporation than even Mr. C. R. Das. He was contributing to the successful working of the Calcutta Corporation. He left the Civil Service, though he stood very high in the I. C. S. examination, and the moment he left you and joined the non-co-operation movement, the moment he began to fight his country's battle, he became your *bête noir*. You began to loath him and you have heaped upon him crimes and curses,—on the very gentleman whose appointment Lord Lytton's Government sanctioned as an executive officer of the Corporation! Sir, you have regulated him. You did not and do not give him an open trial, and why? Because you have no proofs. Would

this Government whom, not Mr. T. C. Goswami this time, but an ex-Secretary of State, Lord Olivier, described as "champion hypocrites of the world", in a recent article in the *Manchester Guardian*, could this Government whom one of your own erstwhile Secretaries of State described as champion hypocrites of the world, have abstained for a moment, if proofs they had, from coming into the open and prosecuting him? You have no proofs, and when you say you have proofs, I say you are telling a lie and a double distilled lie. I challenge you to prove that Subash Chandra Bose was connected with the revolutionary movement; I challenge you to prove that other prominent members of the Swaraj Party whom you have interned, prominent lieutenants of the President of the Swaraj Party, are connected with the revolutionary movement. Do not brag that you have materials and proofs,—give up that vast amount of bluff,—you have relied on bluff a little too much here. You say you have proofs and you want us to take you to be demi-gods and angels, which certainly, as members of a system of government, you are not.

Sir, referring to Mr. Patel and "the Statement of Objects and Reasons" of his Bill, Colonel Sir Henry Stanyon said the reason is not there. "The reason is not adequately given in the Objects and Reasons," and therefore what shall I do? "I shall oppose it." That is his "reason." Sir, I am surprised that this is the statement of a great and learned judge, but I must respectfully submit that he knows we have enough reasons, for he is not an absentee or an absent-minded member of this House. You cannot write down all the speeches here in the Statement of Objects and Reasons. Mr. Patel, the Mover of the Bill, made a speech; Mr. Jinnah has made a speech; other Members of this House have made speeches, and if my friend at this last stage of the Bill takes up the Statement of Objects and Reasons and finds that Mr. Patel has not been ponderous, pedagogic and pedantic, I can only pity him. Reasons you have had, but if you are unwilling to listen to reasons, then all that I can say is, you are putting your head into the sand like the proverbial ostrich.

The Honourable Member talked of "law and order." Law and order, Sir, are certainly very good, but it was an eminent statesman, the late Lord Morley, who said "the law-and-order-people are sometimes responsible for the fooleries of history," and when you emphasise too much law and order, I am afraid you are preparing for one of the fooleries of history. We are unwilling to be fooled because we have to live in this country; you may leave us bag and baggage, but we have got to live here; and therefore we cannot support that excessive emphasis on Law and Order. (Voices: "Divide, divide." "Go on, go on.")

My Honourable friend said instead of censuring the form of Government, the censure has degenerated into distrust of the personnel of the Government. Sir, I do not think he has any justification to make that remark. Do we not meet at social functions as friends? Surely if our censure had degenerated into distrust of the personnel of Government, we would not be meeting each other (Colonel Sir Henry Stanyon: "You have just accused them of telling lies! Systems do not tell lies; persons tell lies!") (Mr. T. C. Goswami: "Some persons do, no doubt.") You may tell lies to prop up a system; and when you tell such lies, I do not say you are liars; you are diplomatic liars. Diplomacy requires that you must resort to certain statements which are not God's truth, certain statements which may be polite fictions or dangerous fictions. I do not accuse you of being liars; I make no personal accusations; but

[Mr. C. S. Ranga Iyer.]

foreign rule, the rule of one people by another, is the greatest lie on God's earth; and so long as you are perpetuating that rule, I can say to you as the rulers of this land that you cannot run the system on truthful lines. (Voices: "Divide, divide." "Go on, go on.")

Sir, in conclusion I must refer to three phrases which the Honourable Sir Henry Stanyon used: "Condemnation, Compromise, Congratulation." I look forward to that day when from condemnation we shall pass to compromise and end with congratulation. Do you not know the history of your own country? Take the case of Ireland—how they fought you, how they swore against you, how they hunted you down and how they killed you. They fought you and they shot you; but did you not compromise with them? Your papers, even the *London Times* which is supposed to be a dignified paper, your papers denounced Arthur Griffiths and Michael Collins as murderers and assassins; and yet were they not at a Round Table Conference shaking hands with His Majesty's Ministers? Sir, there can be no happier end to this great fight than that the stage of condemnation should reach a stage of compromise and conclude with congratulations. The olive branch of compromise has been offered to you by my leader Pandit Motilal Nehru when, after taking his seat in this House, he moved the Resolution on the Round Table Conference. Panditjee was supported by my Honourable friends Mr. Jinnah and Diwan Bahadur Rangachariar, whose presence, by the way, is necessary in this House; I do not agree with the remarks of his younger friend from Madras who said "We do not want him here". We want his wisdom, his learning, his sincerity and also his moderation; but for his moderation to-day how could he have succeeded in putting the Government in the wrong since even his moderate view has been rejected by them? (Voices: "Divide, divide!") Sir, all these gentlemen, members of this House, were parties to that compromise proposition; but you have not accepted the compromise. I hope when His Excellency Lord Reading comes back from England, if he comes at all . . . (A voice: "If he comes at all") My Honourable friend there, I believe Mr. Darcy Lindsay, rightly repeats, "if he comes back at all".

Mr. Darcy Lindsay: I never said anything.

Mr. C. S. Ranga Iyer: I see it was another Honourable Member sitting close by my friend Mr. Ghose, who repeated "if he comes at all". Sir, I did not make that remark in sarcasm. I read in a newspaper, the *Daily News*, London, Lord Reading's own party organ, that it was reported that the Viceroy was going on a particular mission; that he might resign if his mission failed. But if he comes to further regulate us, then he will find a nation prepared to lay down its life for its liberties, notwithstanding Regulations and such other abominations.

Mr. M. A. Jinnah: Sir, after these eloquent speeches of my friends, Sir Henry Stanyon and Mr. Ranga Iyer, I do not wish to detain the House for more than one minute; and the object with which I am going to address the House is this, that as we have now amended the Bill and as section 12 of the Punjab Murderous Outrages Act of 1867 stands, unless

a consequential amendment is made it might create some difficulty; and therefore what I propose is this:

"That the following be added to clause 2 of the Bill:

'Provided that the repeal of any enactment by this Act shall not affect the powers of confinement conferred by section 12 of the Punjab Murderous Outrages Act, 23 of 1867, or by any other similar enactment'."

Now, Sir, the reason is obvious because we are repealing all those Regulations in the Schedule of the Bill and section 12 of the Act of 1867 says this:

"The said Lieutenant-Governor shall have, in respect of the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor General of India by any law regarding the confinement of persons charged with or suspected of State offences."

Therefore, unless we have this safeguard, serious difficulty may arise in the interpretation of section 12 because we are saving the Punjab Murderous Outrages Act of 1867 completely and it is not going to be repealed. That is all I have to submit. I move my amendment.

The Honourable Sir Alexander Muddiman: Sir, I should like to ask my Honourable friend one question. What does he mean by the words "by any other similar enactment"?

Diwan Bahadur T. Rangachariar: The Moplah Outrages Act contains a similar provision.

The Honourable Sir Alexander Muddiman: Is that a similar enactment?

Diwan Bahadur T. Rangachariar: Word for word the same.

The Honourable Sir Alexander Muddiman: As a matter of drafting, will that meet the point? I submit it is very doubtful.

Mr. M. A. Jinnah: I am quite willing if you want to make it clear, because I was not sure whether there was any other Act or not.

The Honourable Sir Alexander Muddiman: The truth is that we must make an examination to see if there are any other Acts; I do feel some doubt as to whether you may not be omitting something which you do not intend to repeal. "Any other similar enactment" are curious words and they might cover the Malabar Outrages Act or they might not.

An Honourable Member: I think we might add these two Acts.

Diwan Bahadur T. Rangachariar: I think my Honourable friend mistakes the meaning of it. "Any other similar enactment" means any enactment similar to the Punjab Murderous Outrages Act. We are not repealing that Punjab Act; we mean any enactment similar to that Act which we are not repealing.

Sir Ohimanlal Setalvad: The words are rather vague—"by any other similar enactment".

Diwan Bahadur T. Rangachariar: I know that the Moplah Outrages Act contains—I think in section 6—a similar provision:

"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."

[Diwan Bahadur T. Rangachariar.]

Now we are repealing the Madras Regulation according to the Bill and therefore that will affect the power conferred by section 6 of the Moplah Outrages Act; so we want to save that power for the benefit of Government.

The Honourable Sir Alexander Muddiman: I quite appreciate your object and I quite appreciate the object of the amendment. What I am not clear at all about is that by putting these words in you do save it. What I am not clear about is in respect of the words "by any other similar enactment". You say "by any other similar enactment". What is the similarity? What is the *ejusdem generis*?

Mr. M. A. Jinnah: I am afraid, Sir, the Honourable Member does not appreciate our object.

The Honourable Sir Alexander Muddiman: I quite appreciate your object.

Mr. M. A. Jinnah: I submit, Sir, the position is quite clear. What we are doing is this. We are repealing certain Regulations which are in the Schedule to the Bill. Those are, the Bengal State Prisoners Regulation of 1818, the Madras State Prisoners Regulation of 1819, the Regulation for the confinement of State prisoners, Bombay. Then you have the State Prisoners Act of 1850. We are omitting the Punjab Murderous Outrages Act of 1867. As I have pointed out, section 12 of the Punjab Murderous Outrages Act, instead of having its independent provisions, relies upon the State Prisoners Act. Similarly, it may be that there may be Acts similar to the Punjab Murderous Outrages Act, and the Moplah Act. There may be something else, there may be some other Acts, because we are not repealing all the Acts, and they may in their turn instead of having independent provisions be relying upon the Regulations which we are repealing. Therefore, what we say is this, that the repeal of these Regulations shall not affect the Punjab Murderous Outrages Act or any other similar enactments of which we are not aware at present. We do not know how many more Acts there are of that character. Therefore, it is only saving those Acts which rely upon the Regulations which we are repealing. I cannot see what the difficulty is.

Mr. K. Rama Aiyangar (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural): Sir, I only wish to point out that those words are unnecessary now, because the present Bill only repeals those Acts in the Schedule, and one of those that is exempted is the Punjab Murderous Outrages Act.

Mr. M. A. Jinnah: No, Sir. These words are absolutely necessary, because we are repealing these Regulations and we are allowing the words "any other enactment of a similar character" still stand. If you want to repeal the others, then bring in a Bill and repeal those.

The Honourable Sir Alexander Muddiman: I will not oppose the amendment, but I am not by any means satisfied that it does what the House desires to do.

Diwan Bahadur T. Rangachariar: The House has already disallowed a similar amendment at a previous stage. These words are taken by my friend from that amendment of mine which the House has already disallowed. My Honourable friends now see the necessity for introducing these words, and they did not see the necessity for these words when they voted against my amendment. That is all I want to say now.

Sir Chimanlal Setalvad (Bombay: Nominated Non-Official): I am afraid, Sir, we are at cross purposes. The purpose which Mr. Jinnah has in making his suggestion is a necessary purpose. If we are repealing the Regulations mentioned in the Schedule, then any power conferred by section 12 of the Punjab Murderous Outrages Act which gives a reference back to those Regulations, it is necessary to save in some manner. Therefore, no doubt, the proviso as suggested by my Honourable friend with regard to the Punjab Murderous Outrages Act is necessary. But when the proviso proceeds further and says "or by any other similar enactment" I do not agree. I quite follow the object of Mr. Jinnah, but with great respect to him and to Mr. Rangachariar who had a similar amendment as part of his proviso, I may say that it is very loose drafting. It is bad drafting indeed to say "or by any other similar enactment". What is meant by 'similar' and who is to decide whether an enactment is similar or not? All sorts of difficulties will arise which the courts would have to deal with if the question was raised. Therefore I submit, Sir, that if you have in mind the Moplah Act as a similar enactment, then specify that Act along with the Punjab Murderous Outrages Act, but do not leave the wording of the section in such a loose manner as it is worded here "or by any other similar enactment", which may mean anything and which one court may construe in one sense and another court may construe in another. So I would suggest, Sir, that we should specify the two Acts which we have now in mind, the Punjab Murderous Outrages Act and the Moplah Act describing it properly. But do not use such loose phraseology as would lead to difficulties when you come to the application of the proviso. I would therefore accept a proviso as suggested by Mr. Jinnah omitting the words "or by any other similar enactment" and substituting in their place the Moplah Outrages Act, 1859. I think that would meet the requirements of the situation. I quite conceive that there may be other Acts besides these two which may have incorporated by reference some provisions of the Regulations which are being repealed. (Mr. M. A. Jinnah: "Quite so".) Then the only way is to pass this proviso mentioning these two Acts now and if after properly exploring the situation the Home Department discovers any other Act of similar import, then they should come in with an amending clause later. But you cannot leave it in this vague form "or any other similar enactment".

Mr. M. A. Jinnah: I suggest, Sir, that the Government should really make up their minds on this point and give us the information as to how many Acts there are which might be affected by the repeal of these Regulations. My whole object is that I do not wish by the repeal of these Regulations that all those Statutes or those Regulations which are still in force should be made absurd. If the Government will give us the entire list of those Regulations or Statutes which are affected by the repeal of these Regulations, they can be inserted in the amendment as formal amendments.

Mr. W. M. Hussanally: Why not adjourn the whole debate and pass the Bill after examining the whole point?

Sir Chimanlal Setalvad: Put in these two particular Acts for the present; then, if the Home Department after investigation finds out that some other Acts require to be included in the proviso the necessary amendment for the purpose can be put in by the Council of State.

Mr. President: Further amendment moved:

"That for the words 'or any other similar enactments' the words 'section 6 of the Moplah Outrages Act, 1859,' be substituted."

Mr. W. M. Hussanally: Sir, I move an adjournment of the whole debate until the Government have examined the whole point.

Pandit Motilal Nehru: Sir, I have only one word to say on this controversy. I think, as my friend Sir Chimanlal Setalvad put it, we are working at cross purposes. I do not think any amendment is necessary to carry out the purpose either of Mr. Jinnah or of Sir Chimanlal Setalvad. If there is any enactment which refers to any of the repealed Regulations and Acts, then I take it, Sir, as a canon of interpretation that that repealed Regulation or Act is revived by reference in that enactment. That is to say, the reference will stand good although the Act referred to may be repealed. Any reference in an Act which is not repealed to a repealed Act would ordinarily leave the provisions of the repealed Act unaffected for the purposes of the unrepealed Act and the said provisions would still be available on the correct interpretation of both Acts. That is how I understand it, Sir.

Mr. L. Graham (Secretary, Legislative Department): Sir, with reference to the point made by Pandit Motilal Nehru, I should like to draw his attention to the fact that there are two classes of sections. In respect of one class of section I entirely agree with him, but that is not the class of section with which we are now concerned. The class of section to which his remarks apply is the section of the Ganjam and Vizagapatam Act, 1839, which runs as follows:

"Each of such Agents as aforesaid shall have the power of making commitments by warrant under his hand which is possessed by the Governor of Fort St. George in Council by virtue of Regulation II of 1819."

That is exactly a case of reference which would keep that Regulation alive. But in the case of the Moplah Outrages Act and the Punjab Murderous Outrages Act, that is not the case. The provision in section 6 of the Moplah Outrages Act is:

"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."

That is a different class of section altogether. That says nothing by reference. That is what Mr. Jinnah is trying to do by his amendment.

Mr. President: The question is:

"That in the original amendment, the words 'or by any other similar enactment' be omitted and the words 'or by section 6 of the Moplah Outrages Act of 1859,' be therein inserted."

The motion was adopted.

Mr. President: The question is:

"That to clause 2 of the Bill the following be added:

'Provided that the repeal of any enactment by this Act shall not affect the powers of confinement conferred by section 12 of the Punjab Murderous Outrages Act, XXIII of 1867, or by section 6 of the Moplah Outrages Act of 1859.'

The Honourable Sir Alexander Muddiman: Is it the object of this House to save all subsidiary legislation which confers powers of detention by

means of reference? If so, I do not think that you have got the amendment right and I think that it is not quite easy to put it right now. The draftsman must have time to look into it.

Mr. M. A. Jinnah: In order to get this matter through I merely did bring this to the attention of Mr. Tonkinson, I am quite willing that the Government Department should produce a proper draft in order to give effect to that intention.

The Honourable Sir Alexander Muddiman: If so, the Bill cannot pass to-night.

Mr. M. A. Jinnah: Then we must have another day.

Khan Bahadur W. M. Hussanally: I proposed an adjournment of the debate.

The Honourable Sir Alexander Muddiman: There is another place where this could be set right, if necessary, if the Bill does pass.

Mr. President: The question is that that amendment be made.

The motion was adopted.

Mr. President: The question is:

"That the Bill to repeal certain special enactments supplementing the ordinary criminal law, as amended, be passed."

The Honourable Sir Alexander Muddiman: It is on the question of substance, Sir, that I now wish to speak. So far we have been merely discussing the question of the consequential amendment to be made on Mr. Jinnah's original motion. Sir, I cannot allow this House to proceed to vote on this measure without saying a few words even at this late stage on the proposals which it contains. The Bill on which you have now to vote is practically the Bill as introduced by my Honourable friend Mr. Patel. There has been a change in regard to one of the Acts contained in the Schedule, and in regard to that Mr. Jinnah said that the Government should be grateful. Sir, I am glad that the amendment is made, but I would say that the people of this country and not the Government should be grateful for it. I notice that Mr. Patel, pursuing his fell purpose to the end, gave us quite a clear warning that the moment he can leave this Chamber, having committed these Acts to the safe custody of the waste paper basket, he will come back as early as possible to repeal even the Punjab Murderous Outrages Act. That is exactly what his position is in that respect.

Now, Sir, many attacks have been made on the Government in the course of this debate. Very bitter attacks have been made on their good faith. One gentleman was good enough to say we were liars. I should take the point more seriously, but I gathered from his subsequent remarks that he used it in a Pickwickian sense. I therefore leave it at that. Still, Sir, these attacks have been made and it is almost impossible at the end of a long debate to take up every point that has been raised, to deal with every assertion that has been made or to follow through every province in India the alleged cases of abuse of the law or individual acts of harshness. No one man in India can possibly traverse those points at the end of a long debate. I have had instances brought forward of the great oppression recently perpetrated on three Members of the Legislative Assembly who while travelling on their peaceful avocations to Patna were subjected to the extraordinary outrage of an attempt to have the numbers of their tickets recorded! Sir, that frequently happens. I myself, a comparatively innocent person, certainly

[Sir Alexander Muddiman.]

not under the police supervision, have had to give up the number of my ticket. I suggest, Sir, that if that is the sort of case on which charges of undue and improper police supervision are based, that only gives the whole thing away. Surely, the number of the ticket is frequently taken for purposes which are utterly unconnected with police purposes, and I can assure the House, as far as I know . . . (Mr. A. Rangaswami Iyengar: "In this case they were for police purposes.") The Honourable Member is giving me information. I have heard of tickets being frequently examined in connection with the destination of the traveller for railway purposes—sometimes when people are travelling in a class the tickets do not correspond to, and matters of that kind. But as far as I know, to use ticket inspectors for police purposes is a matter I know nothing of. I can say no more on that. That is the kind of case that is brought forward as real acts of repression or oppression!

Then it has been said that we have powers to deal with foreigners, that we have powers of various kinds to expel people. But I have not heard one word said during the whole course of this debate of what we are to do with our own bad characters who have been brought back to India very often much against our will. That is one point. Secondly, it has been said by my Honourable friend, Mr. Ranga Iyer, that we have used these powers under the Acts which the House is now trying to repeal to break up the Swaraj Party. I will merely say looking round the House, that if that was our object we have used them exceedingly inefficiently. (Laughter.) That charge therefore rebuts itself. I will not detain the House any further, but will merely say that by taking away these powers which we have asked you to continue to us in circumstances which I have narrated before at great length, you are determined to make this, as my Honourable friend has said, a starting ground for depriving the Executive Government of all the powers that it possesses of an executive character. Just as he would deprive us of supplies to carry on the Government so he would deprive Government of all powers of an executive nature. That may be a perfectly sound policy in his view, but it is not a policy that I can support. Sir, I oppose the motion.

Diwan Bahadur T. Rangachariar: I wish to say one word in the final stage of this Bill. Much as I dislike one portion of this Bill I am bound to say that I cannot withhold my support from the Bill. I have quarrels with the Government that they have not carried out the recommendations of the Repressive Laws Committee, and if they come forward with a measure of the sort recommended by that Committee they will find me and others supporting Government in the way I have indicated. But as the Government have not chosen to take steps to do so, it is my duty to give my support to this Bill. With the four Acts mentioned there I have no quarrel. They should go. I had a quarrel with the Punjab Murderous Outrages Act which the House agreed to refuse to repeal and I have objections to the major portion of the Bengal State Prisoners Regulation. I have tried to improve it but the House would not help me. Notwithstanding that I am bound to give my support to this Bill as I agree with its principle and also with its main details.

Mr. President: The question is:

"That the Bill to repeal certain special enactments supplementing the ordinary criminal law, as amended, be passed."

The Assembly divided :

AYES—71.

Abhyankar, Mr. M. V.
 Acharya, Mr. M. K.
 Ahmad Ali Khan, Mr.
 Aiyangar, Mr. C. Duraiswami.
 Aiyangar, Mr. K. Rama.
 Aney, Mr. M. S.
 Ariff, Mr. Yacoob C.
 Bhat, Mr. K. Sadasiva.
 Chaman Lall, Mr.
 Chanda, Mr. Kamini Kumar.
 Chetty, Mr. R. K. Shanmukham.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Dr. S. K.
 Duni Chand, Lala.
 Dutt, Mr. Amar Nath.
 Ghazanfar Ali Khan, Raja.
 Ghose, Mr. S. C.
 Goswami, Mr. T. C.
 Gour, Sir Hari Singh.
 Gulab Singh, Sardar.
 Hans Raj, Lala.
 Hari Prasad Lal, Rai.
 Hussanally, Khan Bahadur W. M.
 Hyder, Dr. L. K.
 Ismail Khan, Mr.
 Iyengar, Mr. A. Rangaswami.
 Jeelani, Haji S. A. K.
 Jinnah, Mr. M. A.
 Joshi, Mr. N. M.
 Kasturbhai Lalbhai, Mr.
 Kazim Ali, Shaikh-e-Chatgam
 Maulvi Muhammad.
 Kelkar, Mr. N. C.
 Kidwai, Shaikh Mushir Hosain
 Lohokare, Dr. K. G.
 Malaviya, Pandit Madan Mohan.
 Mehta, Mr. Jumnadas M.

Misra, Pandit Shambhu Dayal.
 Misra, Pandit Harkaran Nath.
 Murtuza Sahib Bahadur, Maulvi
 Syad.
 Mutalik, Sardar V. N.
 Nambiyar, Mr. K. K.
 Narain Das, Mr.
 Nehru, Dr. Kishenlal.
 Nehru, Pandit Motilal.
 Nehru, Pandit Shamlal.
 Neogy, Mr. K. C.
 Pal, Mr. Bipin Chandra.
 Patel, Mr. V. J.
 Phookun, Mr. Tarun Ram.
 Piyare Lal, Lala.
 Purshotamdas Thakurdas, Sir.
 Ramachandra Rao, Diwan Bahadur
 M.
 Rangachariar, Diwan Bahadur T.
 Ranga Iyer, Mr. C. S.
 Ray, Mr. Kumar Sankar.
 Reddi, Mr. K. Venkataramana.
 Sadiq Hasan, Mr. S.
 Samiullah Khan, Mr. M.
 Sarda, Rai Sahib M. Harbilas.
 Sarfaraz Hussain Khan, Khan
 Bahadur.
 Setalvad, Sir Chimanlal.
 Shafee, Maulvi Mohammad.
 Singh, Mr. Gaya Prasad.
 Sinha, Mr. Ambika Prasad.
 Sinha, Mr. Devaki Prasad.
 Syamacharan, Mr.
 Tok Kyi, Maung.
 Venkatapatiraju, Mr. B.
 Yakub, Maulvi Muhammad.
 Yusuf Imam, Mr. M.

NOES—40.

Abdul Mumin, Khan Bahadur
 Muhammad.
 Abdul Qaiyum, Nawab Sir
 Sahibzada.
 Abul Kasem, Maulvi.
 Akram Hussain, Prince A. M. M.
 Ashworth, Mr. E. H.
 Bhole, Mr. J. W.
 Blackett, The Honourable Sir
 Basil.
 Bray, Mr. Denys.
 Burdon, Mr. E.
 Calvert, Mr. H.
 Clarke, Sir Geoffrey.
 Cocke, Mr. H. G.
 Cosgrave, Mr. W. A.
 Crawford, Colonel J. D.
 Fleming, Mr. E. G.
 Graham, Mr. L.
 Hira Singh Brar, Sardar Bahadur
 Captain.
 Hudson, Mr. W. F.
 Innes, The Honourable Sir
 Charles.
 Lindsay, Mr. Darcy.

Lloyd, Mr. A. H.
 Mahmood, Schamnad Sahib
 Bahadur, Mr.
 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.
 Naidu, Mr. M. C.
 Rau, Mr. P. R.
 Rushbrook-Williams, Prof. L. F.
 Sastri, Diwan Bahadur C. V.
 Viswanatha.
 Singh, Rai Bahadur S. N.
 Singh, Raja Raghunandan Prasad.
 Stanyon, Colonel Sir Henry.
 Sykes, Mr. E. F.
 Tonkinson, Mr. H.
 Webb, Mr. M.
 Willson, Mr. W. S. J.
 Wilson, Mr. K. A.

The motion was adopted.

THE INDIAN PENAL CODE (AMENDMENT) BILL

(AMENDMENT OF SECTION 375.)

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muham-
5 P.M. madan):

• Sir, I beg to move:

“ That the Bill further to amend the Indian Penal Code (Amendment of section 375), as reported by the Select Committee, be taken into consideration.”

Honourable Members are sufficiently familiar with the controversy which this Bill involved. The Members of the Select Committee have recommended that the age of consent be raised from twelve to thirteen, and I have given notice of an amendment that the age be restored to fourteen as it was in the original Bill before it was committed to the Select Committee. At this stage I do not propose, Sir, to tire this House by making a long speech, and I shall therefore formally move that the Bill be taken into consideration; and anything that I have to say I shall say later on if I get a chance. Sir, I move my motion.

Mr. S. C. Ghose (Bengal: Landholders): I rise, Sir, to oppose the motion of my Honourable friend Sir Hari Singh Gour, that the Bill be taken into consideration. The question which we have to consider is whether this Bill if passed will add to the social and national welfare of the country. I do not know whether the Honourable Members have read the debates of the Imperial Legislative Council when the Age of Consent Bill was passed (Act X of 1891). The matter at that time was threshed out thoroughly. What has happened in the meantime that we must again thrust another measure down the throats of the people of this country whom we are supposed to represent? Sir, Honourable Members will surely admit that India is a continent inhabited by different kinds and races of people living in different kinds of climate. Sir, Honourable Members will admit that this country has not got representative Government in the true democratic sense as prevailing in Western and other civilised countries. This measure if passed will affect the lives of every Indian family—Hindu, Muslim and even Indian Christian. We are legislating for people who have not heard even now of the Age of Consent Bill. We have no primary education. The people are not educated yet up to the standard of Western people. We have no press which permeates the masses of the people. I should like to know whether the masses of the people inhabiting this country have heard of this measure. If the people of this country had been educated, then I would have demanded that a referendum should be made among men and women over 21 as regards the necessity of this Bill. Much has been said and written that this Bill will tend to the welfare of the women and children of this country. I should like to know how many measures have been passed for the welfare of the women and children in this country. We have got no statistics to prove how many girl wives under 12, 13 or 14 have died through cohabiting with their husbands. India is a member of the League of Nations. India sends representatives to International Labour Conferences which are held annually at Geneva. This year even India will send representatives to the International Labour Conference to be held on 19th of May 1925, and I hear two Honourable Members of this House will go to Geneva as representatives of the

employees. May I ask why this House did not ratify the conventions and recommendations which were passed at the 3rd session of the International Labour Conference? All these recommendations were passed for the welfare of workers including women and children. Is there any Act in force in India similar to the National Health Insurance Act in England? Have you any old age pensions? Have you any Maternity Benefit Act? The Government of India pride themselves on having passed in the year 1923 the Indian Factories (Amendment) Act, the Indian Mines Act and the Indian Workmen's Compensation Act. India stands eighth among the industrial countries of the world. Will Members please compare the legislation affecting the social welfare of women and children in this country with the legislation of other countries? Coal in India up to the 30th June 1924 was stained with the blood of babies and children. Even now it is tainted with the blood of women and children over 13. There are many Honourable Members of this House who were Members of the Legislative Assembly when this Legislative Assembly first came into existence. Did any one table any Resolution to prohibit the employment of babies, women and children underground in mines.

Sir, Honourable Members may not be aware that the Government of India had power under the Indian Mines Act of 1901 to prohibit the employment of women and children underground in mines. Nothing of the kind was done. Sir Charles Innes in introducing the Indian Mines Act of 1923 in his speech said that the Secretary of State for India had written to the Government of India about 30 years ago to prohibit the employment of women and children underground in mines. But still not a single Honourable Member of this House, whose heart bleeds for the girl wife under 13 or 14, tabled a Resolution prohibiting the employment of women underground in mines. We want to pass this measure making it punishable for a husband to cohabit with his wife under 14, but to-day the spectacle can still be seen of girls under 14 working in the horrible atmosphere underground in mines in India and liable at any moment to be killed or blown to bits. Does not the heart of this Assembly bleed for these poor children over 13, both boys and girls, working underground in mines. Sir, if Honourable Members will care to peruse the report of the Chief Inspector of Mines they will see the large number of women and children killed yearly while working in mines.

Mr. President: Order, order. So far as I can gather, the Honourable Member seems to be discussing labour in mines. That is not the point.

Sir Hari Singh Gour: Labour in mines.

Mr. President: This is a Bill affecting women and children in a very different way from labour in mines!

Mr. S. O. Ghose: I shall now deal with the question at issue. Sir Provash Chandra Mitter, the Secretary of the British Indian Association, Calcutta, which represents the land-holders, says, "by interfering with the husband, the Legislature will make the life of the wife miserable." It is ridiculous to suggest as has been done by some of the Members that in case of a husband cohabiting with his wife between 12 and 14, the punishment may not be so severe as in the case of an outsider. Will any husband take back his wife after conviction and live with her? No doctor can swear if a girl is really between 12 and 14 and, if well developed, that she had not completed her 14th year two days before the date of the occurrence.

[Mr. S. C. Ghose.]

Moreover no father, husband, or the girl herself, will under any circumstance consent to the examination of the girl by a medical man. Sir Provash Chandra Mitter says that the proposed legislation is opposed to the Hindu Shastras.

I agree with Mr. Rangachariar when he states :

"So far as married women are concerned, it will be fraught with great danger indeed if the principle applying the Bill were applied to married women. It would create a lot of trouble having regard to the social habits and customs prevailing in the country."

Two Hindu Judges and one Muhammadan Judge of the Calcutta High Court say in a note that the evils of early marriage are much exaggerated and in any case should be removed by the spread of education and social reform and not by legislation. The religious idea of Hindus on the point is discussed in paragraphs 8 to 10 of the minute by the late Justices Ghose and Banerjee in connection with the Age of Consent Bill of 1891. In the mufasil in Bengal, where the bulk of people reside, it is still widely entertained that respectable families feel some social humiliation if a girl of the family is not married before puberty and the consummation of marriage is one of the ten Sanskarans enjoined by the Shastras.

The Government of Bengal consider that public opinion continues to be strongly opposed to raising the age within marital relations and such legislation was not desirable until public opinion was better instructed in the matter of social opinion and even if enacted was likely to prove a dead letter. The majority of the Judges of the Patna High Court are strongly opposed to this measure and even one of the Judges, Mr. Justice Foster, says that the Bill is "misguided" and "meddlesome". Sir, I am fortified in my opinion with the majority of the opinions of the High Courts and public bodies. I can cite another opinion, the Government of the Central Provinces, from which my Honourable friend the Mover of this Bill comes :

"The proposal to raise the age of consent within the marital relations has been condemned strongly both by officials and non-officials."

The majority of Indian Judges of the Madras High Court are opposed to this measure.

Mr. Bipin Chandra Pal: Are you quoting opinions on this Bill?

Mr. S. C. Ghose: Yes.

I wish to assure the House that the marriageable age of girls is automatically raised; education will force the pace. Now, this measure will only create panic and mischief. It might also be represented that the Government of India are unnecessarily interfering with social and religious customs of the people and the result might be that it will engender a feeling of dissatisfaction. We have already enough political troubles. Why create more?

I request my Honourable friend to devote his time to the social welfare of the masses of the country. He might go to the villages and see that the people are educated. Then those very people will not get their children married at an early age. There is one matter, Sir. Honourable Members are probably aware that there are 67 per cent. of married girls between the ages of 12 and 14 in Calcutta. You want, Sir, to send the husbands of

these girls to jail. What will be the fate of these girls? There is one point more. If a girl becomes pregnant, then what will be the effect? There will be cases of abortions, forgeries of horoscopes and perjuries. Let us advance, but let us advance cautiously. Sir, I oppose the measure

An Honourable Member: I move that the question be now put.

Mr. President: The question is that the question be now put.

The motion was adopted.

Mr. President: The question is:

"That the Bill further to amend the Indian Penal Code (Amendment of section 375), as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. President: In view of the fact that the Government have undertaken to put this Bill down after Government business on a subsequent day

The Honourable Sir Alexander Muddiman: On Monday, and subsequent days, if necessary.

Mr. President: On Monday, I do not propose to ask the House to sit any further to-day, because I think that gives the Bill a reasonable chance of passing.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 21st March, 1925.