

Tuesday, 26th September, 1922

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(Official Report)

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COUNCIL OF STATE.

Tuesday, 26th September, 1922.

The Council met in the Council Chamber at Eleven of the Clock.
The Honourable the President was in the Chair.

MESSAGE FROM LEGISLATIVE ASSEMBLY REGARDING POLICE (INCITEMENT TO DISAFFECTION) BILL AND CRIMINAL TRIBES (AMENDMENT) BILL.

The SECRETARY OF THE COUNCIL : Sir, a message has been received.

The HONOURABLE THE PRESIDENT : Let it be read.

The SECRETARY OF THE COUNCIL : *" I am directed to inform you that in accordance with Rule 36 (1) of the Indian Legislative Rules the amendments made by the Council of State in the Police (Incitement to Disaffection) Bill were taken into consideration by the Legislative Assembly at their meeting to-day, the 25th September, 1922, and that the Assembly have agreed to the amendments."*

" In accordance with Rule 25 of the Indian Legislative Rules I lay on the table a copy of the Bill further to amend the Criminal Tribes Act, 1911, which was passed by the Legislative Assembly at its meeting held on the 25th September 1922."

INDIAN TRANSFER OF SHIPS RESTRICTION (REPEALING) BILL

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I beg to request that the second motion on the agenda standing in the name of my Honourable friend, Mr. Lindsay, in connection with the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be taken into consideration may be allowed to be taken first. The reasons for which this request is made are these. In the first place, there are two or three matters connected with the certificated Bill which are still under consideration, and in the second place, my Honourable friend, the Home Member who is very anxious to take part in the debate on that Bill is just at this moment engaged elsewhere and is unable to be present in this House. In the third place, I have no doubt that the Honourable Members in this House will welcome a short delay in order to enable them to give further consideration to the provisions of this Bill.

The HONOURABLE THE PRESIDENT : I am sure that the motion made by the Leader of the House will commend itself to the acceptance of the House. I therefore call upon the Honourable Mr. Lindsay to move the motion standing in his name.

[Mr. H. A. F. Lindsay.]

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : I beg to move that the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be taken into consideration.

I think some explanation is due to the House on the legislation to repeal Act XX of 1917 which restricts the transfer of ships registered in British India. That Act, Sir, was passed under the severe conditions aroused by the War. At that time the scarcity of tonnage was very seriously felt. Tonnage was in keen demand everywhere and owners were willing to sell at the first available opportunity. Secondly, every ton of British shipping was urgently required for military and other national purposes. Munitions had to be carried from the centres to the various theatres of the War, and in addition, wheat and other food supplies had to be carried great distances to meet urgent requirements at Home and on the field. In the third place, it seemed likely that a long time would elapse before the supply of shipping again came up to the demand. Prices had risen very high indeed and freights had risen in proportion. The demand for shipping all over the world was very keenly felt indeed and was particularly felt in Britain which was serving so many areas of military occupation. Finally, Sir, it was felt that the temptation to avoid war service and to transfer registry to foreign ownership was in many cases too great to be resisted. In these circumstances legislation was passed by the British Government prohibiting, except under certain circumstances, the transfer of British ships to foreign registry.

That Act was entitled the British Ships Restriction Act and was passed in 1915. It was to apply only during the period of the war and it thus came to an end in August 1921, the statutory date of the termination of the war. Indian legislation however followed different lines. The Act was to remain in force until the end of the war and for a period of three years afterwards, that is to say, the Act would normally have come to an end in August 1924.

Now, Sir, the inconveniences occasioned by this Act have been very seriously felt in this country. As I have said, we did not expect the demand for shipping to fall off as rapidly as it did. The supply very rapidly exceeded the demand and we know how serious the slump in shipping at present is. Therefore the owners of ships have naturally felt serious inconvenience in having to apply to the Governor General in Council every time that they wish to sell their ships to foreign owners. We have several instances of that. One is an instance in which the Bombay and Persia Steam Navigation Company wished to transfer a ship to a Japanese owner and the negotiations were inevitably prolonged owing to the necessity of securing the prior consent of the Governor General in Council. Other instances might also be quoted, one instance in particular, where the delay of the negotiations occasioned a serious loss to the company selling in India. In these circumstances I trust that the House will agree that Act XX of 1917 is now a dead letter and ought to be removed from the Statute-book as soon as possible.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : I heartily support the motion made by my Honourable friend, Mr. Lindsay. There have been occasions, Sir, when owners of shipping companies here have been approached by foreign firms or foreign shipping companies either for amalgamation or for taking over their business. If the permission of the Governor General in Council is to be obtained for closing negotiations, the result very often is that the parties approaching the Indian companies do not like to delay matters and break off the negotiations. Not only that, Sir. All those who are connected with shipping interests, I hope my Honourable friend, Sir Arthur Froom will agree with me, will recognize that there is a slump in freights. Freights are going down like anything. The prices of ships are also going down. Now I would take a hypothetical case to show how this fall affects negotiations, if there is delay in carrying them through. Suppose a certain Japanese shipping company approaches one of our Indian companies and makes certain definite offers. On buying it out under the existing Act that offer will have to be approved of by the Governor General in Council, before the Indian company can accept that or enter into final negotiations. The matter having come to the Governor General in Council—and we were reminded yesterday that the wheels of Government move very very slow—it might take months and perhaps years before the necessary sanction is obtained. During that period the freights may have gone down still further and as a consequence, the prices may have gone down also and the party that began the negotiations will naturally try to back out. As a result the sufferers will be the Indian companies, that is the shareholders if they are a joint stock company, or if they are private companies the private owners of those companies, and I think it is but fair that these companies should be free to negotiate with foreign companies either for amalgamation or for selling them off, without the permission of the Governor General in Council. For these reasons, Sir, I think it is necessary that we should not delay the repeal of the Act till the 31st August 1924 and that it should be taken up at once and passed as proposed by my Honourable friend, Mr. Lindsay.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : Sir, I do welcome this Bill to remove the restrictions imposed on the transfer of ships registered in British India just as much as I would welcome any other measure to remove restrictions on trade. As the Honourable Mr. Lindsay has pointed out, during the war it was very necessary to prevent ships registered at Home or in British India being transferred to the flag of any other nation. It was very necessary, as it turned out afterwards, because as we all know Government assumed a complete control of all shipping and thereby reaped very large sums of money which must have gone a long way to pay for the war or to help to pay for the war. I do not know whether this is generally known to Honourable Members of this Council. Some people thought that during the war the shipping companies were standing on velvet and made very large sums. That was not so. The shipping companies were working their ships for the British Government and every pound of freight, every pound of passage money, that was received went into the coffers of the British Government. There-

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fore apart from the question of shortage of shipping the British Government reaped great benefit from having decided to prevent the transfer of any ships registered at Home or in British India to a foreign flag. The necessity for the restriction has of course disappeared. The amount of shipping all over the world unfortunately very much exceeds the demand, as my Honourable friend who is sitting behind me (Mr. Lalubhai Samaldas) who is taking a very keen interest in shipping has pointed out—; there is a world wide slump in freights, and the present time is one in which this Bill should be introduced to remove the restrictions, so that the owner of a ship who wishes to sell it to another country should be enabled to do so. Sir, I heartily welcome this Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I wish to support this motion for the repeal of this Act, first because it is in the nature of restraint of trade. My friends who spoke before me have dwelt much on the present slump in the trade. But my reason is different. We were on my side at any rate and specially on the Bombay coast a maritime people at one time and during the early days of the Company we often gave them battles on the sea and one ship which exists to this day is pointed out as having been taken from one of the captains of the Honourable the East India Company. It is kept as a trophy. Our great men were the *Dulaps* and *Angres*. There were a number of families who were as well known as the Drakes in England, and I look to a revival of this trade, more especially as there has been a little discussion about the capacity of the Indian lascars to navigate a ship and their behaviour in times of storm and all that sort of thing.

I expect our ships to be a little broader than the English ships,—and that gives us the advantage in fight. I expect that kind of construction will now come into fashion, and it will be not as a fighting ship but as trawlers and carry a great deal of weight in a very short time. I also expect that our maritime glories under English influence will revive in the interests of world peace, because the more we are able to fight, the less are people likely to be willing to fight with us, and that ensures peace. So I heartily support this motion.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be taken into consideration.”

The motion was adopted.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

INDIAN STATES (PROTECTION AGAINST DISAFFECTION) BILL.

The HONOURABLE MR. J. P. THOMPSON (Officiating Political Secretary) : I move, Sir, that the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be taken into consideration.

Sir, the Bill before the House is the first that has ever been presented to either Chamber of the Legislature under a certificate from the Governor General. The position which has arisen is not of Government's seeking. The Bill was placed before the Legislative Assembly last Saturday, and they refused leave to introduce it. It is not an ordinary Bill. It is a Bill which provides something which the Governor General has told us that his Government decided that they were bound by agreements, and bound in honour, to provide. Surely, Sir, those are words of tremendous weight. The Governor General, himself a lawyer of the highest eminence, has told us that the Government over which he presides has come to the conclusion that their agreements, that is to say their contracts, with the States oblige them to do something for the other parties to those contracts, namely, the States. They told us, too, that they feel that they are bound in honour to this course. Surely, Sir, a Bill that comes before either Chamber of the Legislature with credentials of this nature is one which deserves the most earnest and the most serious consideration. And what is the answer that the Legislative Assembly have given? I am willing to believe that when they gave that answer, they did not realize all that it implied. But, taken at its face value, what does that answer mean? They refused to allow this Bill within the precincts of their House; they have flung it back practically in the face of the Government of India; they have told the Head of that Government that his ideas about the interpretation of contracts, his ideas on the subject of honour, are less than dust in the balance. But what is more than this is that their decision, at its face value, means that, in their view, contracts and treaties have no meaning, that honour is a plea that they will not discuss, and that they recognize none of the agreements which have been concluded by the Executive Government of this country. Surely, Sir, that brings us to the edge of an abyss, and it is only the feeling that the Assembly did not really realize what their action implied that makes it possible for us to take a more optimistic view of the situation than we might otherwise have been able to do. But be that as it may, it must be perfectly obvious that no Government, unless it is prepared to abdicate, could accept that position. Two courses were open. They might either have the Bill re-introduced here or in the Legislative Assembly. That would have meant delay and uncertainty. The other alternative was the procedure which has been adopted—the procedure under section 67B. The Government of India feel that this procedure must have an appearance at any rate of ungraciousness towards this House which has so often supported them in difficult days. But they regret that the wording of the section leaves them no option, and I may perhaps take this opportunity, Sir, of informing the House that after full consideration the Government of India have decided that they are unable to accept any amendments in the form of the Bill as it has been recommended by the Governor General. The reason for this is that they fear the possibility

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that, if they did so, awkward legal objections might afterwards be raised in Courts if the validity of the legislation was challenged.

Now I will just give the House a very brief description of the Bill. I should have been glad to spare them that, but yesterday when I was discussing the case with a leading Member of the other House, he informed me—and I believe he was one of those who voted against the motion for Kave to introduce the Bill—that he had not realized that under the Bill the sanction of the Governor General in Council would be necessary before any prosecution could be launched. The Bill provides, as Honourable Members are aware, that whoever edits, prints or publishes, or is the author of, any book, newspaper or other document which brings, or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards, any Prince or Chief of a State in India, or the Government or Administration established in any such State, shall be punishable with imprisonment which may extend to five years, or with fine, or with both.—A sub-section of that same section 3 goes on to protect—in terms which are modelled on the Explanations to section 124-A—legitimate criticism. The next clause contains certain necessary provisions as to the power to forfeit offending publications or to detain them in course of transmission through the post; and the concluding section provides for the status of the Courts by which the offences may be tried, and also proposes to enact that no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Governor General in Council.

That is the Bill, Sir, which the Governor General considers essential for the interests of British India. He considers that it is essential, because he is convinced that the keeping of promises and the honouring of pledges is one of the basic principles on which all civilized Governments must rest.

That is the Government case in a nutshell. I have stated the case and it is now for me to prove it. The House will expect me to prove two points, first of all that the pledges exist, and secondly, that the Princes are justified in appealing to those pledges and that Government are justified in restoring the protection which they have lost.

Now first as to the pledges. The pledges fall into three classes. There are first of all those which are contained in the treaties and engagements which have been concluded with the States; secondly, there are those—second in point of chronological order—which are contained in the pronouncements which have been made by the Sovereigns of this country; and thirdly, there are those which are contained in the speeches which have been made by His Excellency the Viceroy and by the spokesmen of the Government of India on different occasions when the question of giving protection to the Princes has come up. I will deal only with the most striking of these.

First as regards the treaties. There are a group of some 20 States in India, including some of the most important in the country, which have treaties, many of them of very old standing, which provide that “there shall be perpetual friendship, alliance and unity of interests between the

two parties from generation to generation, and the friends and enemies of one shall be the friends and enemies of both." Several of these States have interpreted their obligations so as to include the duty of providing protection for the British Government against what we may call seditious attacks. The principle underlying the clause which I have read is that of reciprocity in regard to the matters therein mentioned. If one of these States which has passed an enactment of this nature comes to us and asks us how we have interpreted our obligations, what answer shall we give ?

There is another important State situated not far from one of our provincial Capitals which has a treaty, also of old standing, which provides that "the honour and rank and dignity of the Raja shall be estimated by the British Government in the same degree as that in which they were estimated by the former Emperors of Hindustan." Suppose a lampoon on that Prince is published at his very doors and is circulated broadcast among his subjects, and he asks us to mete out to the offender the same treatment that one of the Moghul Emperors might have been expected to mete out. What answer are we to give ? There is another important group of States in Northern India which have Sanads dating from 1860 which provide that the British Government "will likewise continue to uphold their honour, respect, rank and dignity in the manner it is done at present". There are some small States in Central India which have a century-old assurance that "if any person shall be convicted of calumniating them, he shall be treated as he deserves." If we allow calumny to revel unchecked, how could we look those Princes in the face ? More than 80 years ago a treaty was concluded with one of the great Princes of Rajputana. It provided that the British Government would permit no diminution of the honour and reputation of the Maharaja at the hands of others "and it becomes guarantee for the same." Recently, a neighbouring State has been the subject of some most infamous attacks. Suppose it had been this State which had this treaty, and they had appealed to the provisions of their treaty ; what answer could we give them ? We could not fold our hands and plead that we had forgotten our obligations.

I now come to the second class of pledges, Royal pledges ; and first of all I will deal with the adoption sanads of 1860 and subsequent years. Honourable Members will recollect that the adoption sanads were given after the mutiny in order to allay the apprehensions which had been excited by the previous policy of the British Government. Those sanads contain an assurance, given in the name of Her Majesty Queen Victoria, of her desire that "the Governments of the several Princes and Chiefs shall be perpetuated and that the reputation and dignity of their Houses should be continued". If we allow calumny and vituperation to undermine that reputation and that dignity, how can we square it with the terms of that sanad ?

I now pass on to the Royal Pronouncements which have been made on various great occasions since the Government of India passed to the Crown. The general tenor of these is no doubt familiar to most Honourable Members, but I should like to bring to their memory, for purposes of this debate, the terms in which the assurances were given to the

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Princes. The first of these is the great Proclamation of Queen Victoria in 1858 :

“ We shall respect the rights, dignity and honour of India's Princes as Our own.”

Each of her successors has renewed those pledges. The Coronation message of His Majesty King Edward VII to the Princes ran as follows :

“ To all My Feudatories I renew the assurance of My regard for their liberties, of respect for their dignities and rights, of interest in their advancement and of devotion to their welfare.”

Our present Emperor at the Coronation Durbar of 1911 again renewed those pledges :

“ Finally, I rejoice to have this opportunity of renewing in my own person those assurances which have been given by my revered predecessors for the maintenance of your rights and privileges and my earnest concern for your welfare, peace and contentment.”

The introduction of the Reforms seemed to His Majesty an occasion which called for a solemn renewal of those assurances ; and in the Royal Proclamation of the 23rd December, 1919, you will find these words :

“ I take the occasion again to assure the Princes of India of my determination to maintain unimpaired their privileges, rights and dignities.”

The Proclamation of the 8th February, 1921, is still more emphatic :

“ In my former Proclamation I repeated the assurance given on many occasions by my Royal predecessors and myself of my determination to maintain unimpaired the privileges, rights and dignities of the Princes of India. The Princes may rest assured that the pledge remains inviolate and inviolable.”

I repeat those words, “ inviolate and inviolable.” Am I wrong in thinking that when His Majesty penned those words he had in mind not only his own determination to maintain those pledges, but a firm faith that the Legislatures which were then being created would honour those pledges and redeem those promises ?

I now pass on, Sir, to the announcements which have been made by His Excellency the Viceroy and by spokesmen of the Government of India with specific reference to the question of the protection of the Princes against press attacks. His Excellency's speech at the opening of the Legislatures in September, 1921, contained the following passage :

“ If the Press Act is repealed it will become necessary to consider what form of protection shall be given to them in substitution.”

A year later, His Excellency stated in more definite terms, which I have already cited, the intention of the Government of India which was based on their obligations of honour and of contract, to introduce the Bill which is now before the House. Going back to 1910 when the Press Act was introduced, I find that Sir Herbert Risley used these words :

“ In the first place, we have included what I may describe as the preaching of sedition against the Princes or Chiefs of our Native States. We have had not a few instances of newspapers published in British India containing seditious matter of that kind. The Government of India cannot tolerate this ; they cannot allow their territories to be used as a safe asylum from which attacks can be launched upon Indian Princes.”

Why could not Government tolerate that such attacks should be launched upon Indian Princes? Simply I take it because of those pledges and those pronouncements to which I have referred, and it was in pursuance of those pledges that the protection was given.

I now come down to the speech made by the Honourable Sir William Vincent on Mr. O'Donnell's motion for the appointment of a Committee to examine the Press Act. Sir William Vincent said :

“ Another purpose, for which it is used, (that is, the Press Act),—and I think very justifiably used,— is to prevent the libelling and of attempts to blackmail Indian Princes. I do not know whether Members of this Assembly are aware that a certain section of the Press sometimes does publish such articles and we cannot prosecute any paper for such conduct under the ordinary law. At the same time, the Government of India and the people of India have received such loyal help from the Princes during the War and indeed at all times in all good work—that it is our duty to do what we can to protect them and to secure them immunity from such nefarious practices.”

I do not know whether the Honourable Member had that passage before him when he signed the report of the Press Act Committee, but it is clearly an announcement on the part of the Government of India of a limitation on the action which they thought themselves then at liberty to take in regard to the repeal of the provisions of the Press Act which provided for the protection of the Princes. That concludes all I have to say in regard to the pledges and the promises which have been given, and before I pass to my next point, I should like to summarise what I venture to think I have proved. The first point is that there are those pledges. The second is that those pledges will cover the action which Government now propose to take. The third point is that the protection which was given under the Press Act of 1910 must have been given in pursuance of those pledges, and the last point is that even when the doom of the Press Act was pronounced the Government still thought that the Princes were entitled to retain protection.

That brings me down to the period of the Press Act Committee's Report.

I will read to Honourable Members the finding of that Committee :

“ We understand that before the Press Act became law it was not found necessary to protect Indian Princes from such attacks and we note that the Act so far as the evidence before us shows, has only been used on three occasions for this purpose ; we do not, in the circumstances, think that we should be justified in recommending on general grounds any enactment in the Penal Code or elsewhere for the purpose of affording such protection in the absence of evidence to prove the practical necessity for such provision of the law. Our colleague Mir Asad Ali desires to express no opinion on this question.”

I want the House to note in the first place that that is not a finding that there is no case for the protection of Princes. It is merely a finding that no case had been made out to the satisfaction of the Committee. Their finding is based on two statements and an inference. I shall, I think, have little difficulty in showing to the House that both those statements are inaccurate and that the inference is unsound. The first statement is that, it was never found necessary to protect the Indian Princes before 1910. That, as I have said, is inaccurate. The first Regulation which was passed for the protection of Indian Princes was passed as long ago as 1823 when Mr. Adam was officiating as Governor General in the short interregnum between the departure of Lord Hastings and the arrival of Lord Amherst.

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I have a copy of that Regulation and of the rules made under it, and I can show them to any Honourable Member who would care to see them. Under the rules which were published in April 1823, observations or statements touching the character, constitution, measures or orders of friendly Native Powers, their Ministers, or Representatives, or the character, constitution, measures or orders of the Indian Governments, impugning the motives and designs of such authorities, or in any way tending to bring into hatred or contempt, or excite resistance to their orders, or weaken their authority, rendered a man liable to the confiscation of his license. Now, that Regulation remained in force for 12 years until it was repealed by Sir Charles Metcalfe in 1835. But it shows that, as far back as 90 years ago, the people who were responsible for the administration in India felt that there was a case for affording protection to Princes. The second instance in which protection was given before the introduction of the Press Act refers only to what are known as the administered areas, that is to say, those cantonments and civil stations and so on which are situated in Indian State territories but which are actually administered by officials of Government. In 1891 an order was issued that no newspaper should be published in any such area except under a license from the Political Agent. That order is still in force in those areas. These two instances which I have cited, show to my mind conclusively that the perniciousness of attacks on Princes was not a doctrine which was discovered for the first time in 1910. These attacks were a recurring nuisance against which Government had been driven more than once to take action.

The second statement which was made by the Press Act Committee was that so far as they knew the Act had only been used on three occasions with reference to attacks made on Princes in the press. I have gone into the figures, Sir. We have made inquiries from Local Governments and I find that, as a matter of fact, while the Press Act was in force, no less than 13 newspapers were warned for attacks of this nature, one of them on several occasions. One press was put on the maximum security and the security of another press was confiscated. I may claim, therefore, that the number of occasions on which the Act was used—for, I take it that the House will agree with me that although these warnings could not be given under any section of the Press Act, they would never have been given unless they had been backed by the Press Act,—therefore, the number of cases in which the Press Act has been used in connection with these attacks on Princes is very much nearer 20 than 3. But even if the Act had only been used in three cases I should still demur to the inference that was drawn by the Press Act Committee that the number of occasions on which the Act was used was the measure of its utility. The utility of a penal enactment, I take it, is to be gauged not by the number of offences it punishes, but by the number of offences it prevents, and I know of no criterion which would enable me to determine the ratio between the two. These are the arguments on which the Press Act Committee based their conclusions, and I think that the House will agree with me that they cannot be used with any effect against the Bill which is now before the House.

I have said, Sir, that those statements of the Press Act Committee were inaccurate. I do not wish it to be understood that I am imputing any blame to the Committee. It was the duty of the Department, which

I represent to place the case before the Committee, but unfortunately we were very much rushed and some of the information which I have now placed before the Council was not available in Simla, and consequently the department was not in a position to place the full facts before the Committee.

Another point that I wish to make in regard to the Press Act or rather the repeal of the Press Act is that it was brought about purely in our own interests. We wanted to conciliate public opinion and we felt that we had sufficient protection in other enactments for our own purposes but for the Princes, the protection under the Press Act was all that they had, and when the Press Act went, they were left without protection. We gave them protection under the Press Act in payment of a debt we owed to them and when the Press Act was withdrawn, that debt revived.

Now, Sir, I have shown that the pledges exist. I have shown that they cover everything that we want to do, and I have shown that since the repeal of the Press Act those pledges are crying for redemption. All that is necessary, I think, to complete my case now is to show that the Princes have solid grounds for making those very pointed representations which they have made, both individually and collectively, for the restoration to them of the protection which was granted by the Press Act. I shall give the House a few figures. I find that in the year ending May 1922 there were not less than 170 attacks made on Princes and their Administrations in the public press. Of these 23 were personal attacks, some of them very gross, on the Chiefs themselves and there were very nearly a hundred attacks on the acts of their administration. I will give the House some examples :

The inhabitants of a well-known State in Southern India are invited to imitate their predecessors who 200 years before 'packed away' an oppressive Diwan whatever that euphemism may mean. A Prince is charged with having married a foreign lady "from among those whites, unfit even to clean an earthen pot." Another paper which complains of harassment, says that the people will see to it that the present system of administration is "smashed to pieces within five years," if things do not improve. Again I find a warning "to the 700 odd gilded puppets in India to put their houses in order lest the flames of the popular movement should gut the old and moth-eaten fabric." A well-known Prince is told that his heart is as black as his skin and that his "rotten brain" cannot see that the bureaucracy think him a fool. States in India are described as boils on the body politic of India, and a Prince who was suspected of an intention to arrest a prominent agitator is warned that the "man who is not afraid to twist the lion's tail will certainly not mind the bark of a dog." One of the principal Indian rulers is given a year's notice that if he does not set up responsible government he will be ejected. In another case a whole pamphlet is devoted to a largely imaginary account of the action taken to suppress what might have been a dangerous rising. I could multiply instances but I will not weary the House and I think those that I have quoted are quite sufficient to prove that justification exists for redeeming the pledge that has been given to the Princes.

Now, Sir, I will not anticipate possible criticisms of this Bill. I will leave it to Honourable Members to raise them, but there is one point which

[Mr. J. P. Thompson.]

I feel that I must refer to. I believe that much of the feeling which exists against this Bill is due to a conviction on the part of members of the Legislature that there is a good deal of oppression and misrule in some of the Indian States. That feeling is a feeling which is based on humanity and it is a feeling which I honour and respect. I regret that I cannot deny the charge and I do not think that Ruling Princes themselves would deny it. It is true too that Government cannot always intervene even in the cases which come to its notice, but the question which I would put to Honourable Members who feel that difficulty about agreeing to this legislation is this. How are you going to improve matters by refusing to accept this Bill? That I cannot see. The Bill specially safeguards anything in the way of honest and legitimate criticism and the view that a Bill of this nature will stifle legitimate criticism must surely be based on the claim that criticism is inseparable from abuse, that you cannot put another man right, if I may say so, without putting yourself in the wrong and that criticism to be effective must be seasoned with hatred and contempt. That I believe to be an entirely wrong view. It is an argument which is often advanced against enactments of this nature, but I think, as the Honourable Sir William Vincent said in one of his speeches, the existing state of the press is a complete disproof of any such allegation.

Sir, I do not think that our case rests only on the pledges that have been given and on the safeguards in this Bill. Surely there are other considerations of prudence, comity and commonsense which must appeal to members of this House. It seems to me that now that we have started in this country on a new era it is most important that we should do nothing at this stage to antagonise the Rulers of two-fifths of the country. I feel that in the time before us unity and concord are the things, the great qualities, at which we have got to aim. They are qualities which require cultivation and I would beg this House to do everything in its power to cultivate them. I have not, Sir, covered the whole of the ground that I might have covered and there are one or two points which I feel very conscious of having neglected. One of those points is the possible reaction from any disaffection or disorder that may be allowed to harbour in the States beyond our borders. There is one more, Sir, to which the Honourable Sir William Vincent alluded in the speech from which I have quoted, and that is the debt of gratitude that we owe to the Princes for their unflinching support in the great crisis through which the Empire has passed.

This is a subject on which much has been written and much has been said. I would only add one sentence. Their troops and our troops have trodden many a march of glory side by side, and their dead and our dead have their rest together. That is all. Nothing more. Lest we forget. (Loud applause).

The HONOURABLE THE PRESIDENT: I think the Honourable Member would do well to conclude his speech by formally moving the motion standing in his name.

The HONOURABLE MR. J. P. THOMPSON: With your permission, Sir, I move that the Bill be now taken into consideration.

The HONOURABLE SIR EDGAR HOLBERTON (Burma Chamber of Commerce): Sir, but few words of mine are necessary to support the case put forward by the Honourable Mr. Thompson. As he has explained to this House, he has a case which is entirely four square, and in which, I feel sure, it will be impossible to find any loophole. We are exceedingly obliged to him, I am sure, for having gone into such detail and explained to us exactly why the occasion arose, and what steps were necessary to support the Princes.

There is, however, one aspect of this question on which I should like to be allowed to say a few words, Sir, and that is that the Honourable Member who has just spoken found it necessary to fear that this House might find in the fact of this certified Bill some appearance of ungraciousness. Sir, my personal view is that there is no symptom at all of ungraciousness in the whole occurrence. A careful student of the reformed constitution will find that a very free hand indeed has been given to the Indian Legislature. The two Houses have very full powers, and it was practically essential and natural that at all events in the first period of time in which those powers were going to be exercised, some sort of a veto, some sort of a power to remedy errors which young politicians and young political Houses might make, there must be. My surprise, Sir, is not that His Excellency the Governor General has found it necessary to certify this Bill; my surprise is that he has been so patient with us in the past and has not used his perfectly justifiable privilege before. I could detail to you cases where many of us have longed for the exercise of this veto. During the course of the last Budget debate, when I myself had the honour of putting up a proposition in this House, my personal view was that never in the history of the country was a more suitable occasion to be found for the exercise of the veto; but His Excellency the Viceroy held his hands in the spirit of that wonderfully patient policy which he has all the time displayed towards this Indian Legislature in its first efforts. Now, however, we have arrived at a position where a definite and an indefensible mistake has been made by one of the Houses. Time was not available to adopt the remedy, which I think was in the constitution, of introducing the Bill afresh in this House with the chance of it being passed when it went down again to the Legislative Assembly. The obvious course was taken, and the Bill was sent to this House as a certified Bill. Now, gentlemen, where is the ungraciousness in that? This House will use its privileges absolutely to the full. It has the power to record its vote in favour of passing or rejecting this Bill. None of that power has been taken away from it by this recommendation. It will have the fullest opportunity to debate it, although, for obvious reasons, which I foresaw yesterday, the amendments have had to be disallowed.

The HONOURABLE THE PRESIDENT: I may remind the Honourable Member that no amendments have been put forward, and no amendments have been disallowed.

The HONOURABLE SIR EDGAR HOLBERTON: I stand rebuked: I have before me a list of amendments, and I understood the Honourable Mr. Thompson to say that no amendments will be accepted by the Government. But I stand rebuked.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : That is a very different proposition.

The HONOURABLE SIR EDGAR HOLBERTON : As I have said, this House has the fullest discretion to express its opinion about this Bill and to discuss it. If, as I feel confident, the Bill is passed unanimously, the Viceroy will then know that even if one of his Houses has made a mistake, the other one has realized it and has stood behind his action and given it its fullest support. (Applause). If, on the other hand, the worst occurred, and this House found itself actually voting in a majority against this measure, the Viceroy would still have the support of most people in this country,—who read the speech of the Honourable Mr. Thompson whose case in favour of the Bill now before the House which has necessitated His Excellency's action, will appear to the eyes of the world beyond dispute or doubt. Therefore, Sir, I have only one more remark to make in giving my fullest and most cordial support to this Bill. This House to-day will carry out one of the functions for which it was intended ; it is an older and a more sober House possibly than the Assembly ; it consists of men of proved standing and stake in the country. It may not be so hard worked as the other House, but it certainly will always be able to record on any question, which may be put before it, a considered view from people with a stake and standing in the country. All I ask is that Government will consider this ; some of us have been discouraged ; we have thought that in some ways we have not been very well treated ; we have had to suffer from the absence of our leading and most prominent ministers and advisers from our Benches which has caused us the most intense regret. We have in many ways felt that more use could have been made of us in the past, and we have longed for more responsible and good work to do. Sir, I hope to-day's good work will be only a forerunner of many other useful services which this House may do for India. (Applause).

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, I stand to move that to the motion that the Bill be taken into consideration the words 'early next year' be added. Sir, in spite of the very friendly admonitions administered to us by the Honourable Mr. Thompson, I make bold to say that the amendment which I am moving is intended not to defeat the purpose of the Bill before the House, nor is it intended to call in question the fundamental principle involved in the Bill, but is intended to ask for time for the consideration of the various features of the Bill. The Honourable Mr. Thompson himself, in discussing the opinion of the Press Committee, observed that that Committee drew certain inferences which he tried to show were inaccurate, because the Department he represented had been rushed, and consequently all the necessary materials could not be placed before that Committee. May I, Sir, use the same argument and say that we should not like to be rushed and should have placed before us all the materials that the Government possesses. My Honourable friend has indeed tried to meet the House by giving a certain amount of information, by giving a number of illustrations to prove why the Bill is necessary and how the British Government is in honour bound and is bound by treaties and pledges to afford protection to the Indian

Princes and Chiefs. But Sir, in order that we may be enabled to judge of the merits of the various provisions of the Bill—the principle underlying the Bill being no longer under discussion or in doubt—in order that we may be able to study the whole situation, a postponement is essential. Exactly what protection is needed for the Princes, in what way that protection may be extended, what are exactly the pledges which have been given to the Indian Rulers by treaties, whether the interpretation put upon the treaties by the British Government, in the words of the Honourable Mr. Thompson, is an interpretation which may be accepted by us wholesale, or whether protection, if necessary, may not be granted in some other form, are many of the issues which arise in my mind. I do, therefore, want that time should be allowed for the discussion of all these features of the Bill. Then Sir, I must very frankly and gratefully admit that we have the highest respect for our Indian Rulers and Princes. I speak from the bottom of my heart when I say that we, in British India, are indebted to many of these exalted Rulers for some of the educational and other improvements which have taken place as a result of their philanthropy and charity; and it would be the height of ingratitude on our part not to give to these Rulers what is but their due. I do not, therefore, in any way, question the necessity of considering what sort of protection should be given and how it should be given. I only want that this House should be given more time and that this question should be taken up at some more suitable later date.

I will not follow the Honourable Mr. Thompson in the various remarks which he made concerning the attitude taken up by the other House towards the Bill. I do not know whether the other House committed a mistake or not. I also do not know whether the Honourable Mr. Thompson was quite correct in stating what he regarded as the constitutional position. His Excellency the Governor General was certainly entitled to use his powers, which have been given to him under the Act, and I do not think that there is anything extraordinary in that or that any objection can be taken by any one to the step which has been taken by His Excellency. We are not therefore, in this House, going to commit that mistake which is supposed to have been committed by the other House. All I ask for by this amendment is that sufficient time should be allowed, and I do not think that Honourable Members of this House will regard this request as unreasonable or as being intended to hang up the Bill or to hamper its progress. I do not want lastly, to notice what the Honourable Mr. Thompson said with regard to the fate that the many amendments of which notice has been given, are going to have. My Honourable friend, Sir Edgar Holberton, carried away the impression from what the Honourable Mr. Thompson said that all of those amendments had been disallowed. That shows the frame of mind of some of the Honourable Members, who seem to have taken fright at the observations made by the Honourable Mr. Thompson. But you, Sir, have already ruled that this Bill will be considered in all its details as any other Bill; consequently, I want to tell my Honourable friends that there is no objection from the opposite Benches if remarks are made and votes are given which are not exactly in consonance with the desire of the Honourable Mr. Thompson.

With these words, Sir, I move my amendment.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : To the motion under discussion an amendment is moved :

‘ That the words “ early next year ” be added.’

The HONOURABLE SIR BENODE CHANDRA MITTER (West Bengal : Non-Muhammadan) : Sir, I desire to say a few words only upon the question of this amendment. This Bill, Sir, comes before us I may say under extraordinary and unique circumstances. The Legislative Assembly has thought fit to refuse permission even to introduce this Bill. Speaking for myself, Sir, I must give them the credit that it gave to that decision that earnest consideration which a question of this character demands at its hands. The Assembly has not even thought fit to allow a discussion of this matter. I for my part, Sir, have always a wholesome respect for people who take a contrary view. I therefore cannot come to the conclusion, without further consideration and deliberation, that it has necessarily acted hastily or foolishly. On the other hand, Sir, I find that this Bill has been recommended to us by the Viceroy and Governor General of India, by a person who holds the highest and most responsible position under the Crown so far as India is concerned. This Bill has been recommended to us by one of England's greatest lawyers and statesmen ; is it permissible for us then to think that there is really not that demand or interest, so far as India is concerned, in the passing of this Bill. I should be sorry to come to that conclusion in a hurry. I desire just at present to express no opinion on the merits of this Bill, but I do think that a case has been made out that further opportunity and time should be given to us to consider this matter very carefully. I have heard with almost rapt attention the weighty words that fell from the Honourable Mr. Thompson, and the many cogent arguments that he has placed before us. But I for my part, Sir, would like to consider them more fully and coolly when I am no longer under the spell of his eloquence. I wish to consider carefully whether Mr. Thompson's interpretation of the treaties are sound or not. I do not desire it to be understood by the House that I disagree with him or that I say that protection is not to be given to the Princes. But I am not one of those who can come to important decisions and conclusions within five minutes.

This Bill, I take it, has been rejected on Saturday last by a responsible body, by a body which is said to have earned for it the reputation of sobriety and maturity of judgment. Now, from the Government's point of view, I should like to put it to the official members whether it is not desirable that if we are to pass this Bill we should do so after more mature consideration. Would not the votes given by us after a maturer consideration carry more weight with the public and create more confidence in the public mind ? I ask my Honourable friends on the other side of this House what is the particular hurry with regard to this Bill ? No doubt, His Excellency the Governor General has said in the sentences which my Honourable friend has quoted, “ We have decided that we are bound by agreements and in honour to afford to the Princes the same measure of protection as they previously enjoyed under the Press Act which is

the only protection available to them." Speaking for myself, Sir, I should be the last person not to attach the greatest weight to those sentences, and I am sure most of us will feel that it is of the utmost importance to all civilised Governments that treaty obligations should be scrupulously and jealously maintained, and that mutual understandings should be respected. The Bill has been introduced in this Council to-day. The speech of the Honourable Mr. Thompson explaining the reasons for its introduction will be read by the public all over the country. The Princes will know that steps have been taken to give effect to that understanding which is supposed to be between them and the Government of this country. Therefore, it cannot be said that the Princes can reasonably come to the conclusion that the Government is tardy in the fulfilment of those pledges which we are told exist between our Government and them. Sir, I, for myself, think that when the Honourable Mr. Thompson's speech is reported in the press and the intelligentsia of the country read the whole of it, consider it, and digest it, there will not be that amount of prejudice which unfortunately exists against this Bill to-day. Therefore, I say it is important from the point of view of the Government that further time should be given for the consideration of this Bill. Sir, there is not going to be any Select Committee over this Bill. That is all the more reason why we should have further time to consider if any amendments are necessary to check the drafting of the Bill. These are, I submit, cogent reasons why further time should be given to us to consider this Bill.

Sir, that is one of those Bills which, when passed, has got to be laid on the table of both Houses of Parliament under section 67-B. at least for seven days when the Houses are sitting. I am not aware whether there is going to be any autumn Sessions of Parliament or not. If there is not going to be any autumn Sessions at all and if this Bill is passed by us in January—that is in our next sitting,—then the time from which the Bill will take effect would practically be the same whether any adjournment is allowed by this House or not. From that point of view, no possible prejudice could accrue to the Government case or to the Princes. I think that I shall be within the bounds of truth if I say that there is no immediate pressing necessity for this Bill, necessity of such a character that it will be harmful to the interests of India if as a matter of fact it is passed in January and not to-day. The Honourable Mr. Thompson in his speech has pointed out to us that in 1823 there was a Regulation, that the operation of that Regulation came to an end in 1835, and that after that protection to the Princes has been confined to administered areas, but beyond that there was no further protection to the Princes till the passing of the Press Act of 1910, which after all was an emergency measure. I do not know whether I have understood him correctly but I believe I have. If, therefore, the Princes could have gone on from 1823 down to 1910 the question of a delay of a fortnight or so, because probably that would be the utmost extent of the delay between the date when this Bill will come into operation if it is passed to-day and the date when it will come into operation if it is passed in January, cannot be of much consequence. Therefore, I appeal again, to the official members and I say that this Bill is the first instance when a

[Sir Benode Chandra Mitter.]

certificate has been granted, when we have got to consider a recommended Bill. Sir, it is a Bill which raises questions of great constitutional importance, and, in these circumstances, I submit that the House will favourably receive the amendment which my Honourable friend Mr. Kale has moved.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Member for Education and Health) : The amendment moved by my friend, the Honourable Professor Kale, would, I venture to submit, have been perfectly justifiable had it been a Bill suddenly sprung upon Honourable Members without previous notice or without any previous warning. Or there might have been justification for this amendment even if the provisions of the Bill had been so complicated or so difficult as to require careful and prolonged consideration on the part of Honourable Members before they could make up their minds one way or the other upon the Bill. What are the facts? In 1910 an Act is placed upon our Statute-book which gives a measure of protection to our Ruling Chiefs against attempts to create disaffection against them. That Act remains in full force for 12 years. After the expiry of this period of 12 years, a step in the direction of constitutional reform is taken in this country which places India's feet on the path of responsible government. The Indian Legislature, or rather non-official Indian opinion, feels that in the new state of things the retention of the Act of 1910 upon our Statute-book is inconsistent with the spirit of the Chelmsford-Montagu Reforms. In consequence the Indian Legislature recommended the appointment of a committee to consider the question of repeal or modification of our press laws. That Committee reported that the Indian Press Act of 1910 should be repealed. The Government, sympathising fully with the feeling which led this Committee to recommend the repeal of the Press Act, introduced a repealing Act with which we are all familiar. But it should be remembered that the new era, the first step towards responsible government to which I have already alluded was introduced not in any Indian State but in British India, and in consequence the feeling among the non-official Indian circles that the retention of the Press Act of 1910 was inconsistent with the spirit of the Reform Scheme could have no application whatever to territories governed by the Indian Princes, for these Ruling Chiefs have taken no steps to introduce within their own territories any reforms on the lines of the Chelmsford-Montagu Reform Scheme.

In consequence there would be no justification, in so far as Indian States are concerned, for the existence of the feeling appreciated by the Government of India which led to the repeal of the Indian Press Act of 1910. Now, as was pointed out by the Honourable Mr. Thompson, the repeal of that Act led to this—that while section 124-A. of the Indian Penal Code and certain provisions in the Criminal Procedure Code still made it possible for the British Government to take action against any newspaper or even against any public speaker, who attempted to spread disaffection against the British Government in British India, the Ruling Chiefs were left entirely unprotected against any such attempt by reason of the repeal of the Indian Press Act. In consequence it became necessary for the Government of India, by

reason of the obligations based upon agreements as well as obligations of honour, to undertake this measure in order to extend protection to the Ruling Chiefs. The fact that the Government of India contemplated such an enactment was well-known in Indian political circles. It has been discussed during the deliberations of that Committee. Subsequently the Chamber of Princes passed a Resolution demanding from the Government of India, in view of the facts placed before this House, the protection which they require. That fact was well-known, it was an open secret. Again on the opening day of the legislative Session this year on the 5th of this month, His Excellency the Viceroy in his opening address gave notice practically of the measure which has ultimately been introduced in this House to-day. In those circumstances, can any one say that this measure has been sprung upon Honourable Members? Has any Honourable Member any justification for saying that this measure has been sprung on him and therefore it is necessary for Honourable Members to take time in order to weigh the pros and cons of the proposed enactment.

The HONOURABLE MR. V. G. KALE : Yes.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : I submit 'No.'

The HONOURABLE MR. V. G. KALE : The Bill has been in our hands for two days.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Two days certainly. The Honourable Professor Kale interrupts me by saying that the Bill has been in the hands of Honourable Members for 2 days. I know the Honourable Professor Kale and his experience of legislation. I know his keen and far reaching intellect. I am sure that two days are more than sufficient for him at any rate to make up his mind with reference to a Bill the essence of which really consists of only one clause, clause 3. In fact the remaining clauses refer to other matters which are more or less of secondary importance, so far as the actual object is concerned. The whole object of the Bill is embodied in clause 3, and if I may venture to say so the enactment which is embodied in that clause is one that does not require, cannot require more than even a day's deliberation, not to speak of three days, and that for the simple reason that the first portion of that clause merely reproduces, as was pointed out by the Honourable Mr. Thompson, a portion of section 124 A of the Indian Penal Code, an enactment which has been on the Statute-book for many years and has been the subject-matter of judgments of various High Courts, and in consequence it really does not require such a prolonged deliberation or consideration as the Honourable Professor Kale would have us believe it does. I would like to invite the attention of Honourable Members to the proviso to that clause, clause 3. Honourable Members will see that the proviso to this clause carefully protects honest criticism of the actions of individual Ruling Chiefs or of acts of their administration from any prosecution whatever under this Act, so that the scope of this proposed enactment is really very much limited, far more limited than are the provisions of section 124-A. of the Indian Penal Code. It will be remembered that under section 124 A of the Indian

[Mian Sir Muhammad Shafi.]

Penal Code attempts at creating disaffection whether verbal or written are made penal, while in the present enactment there is no interference with the right of public speech in any manner or in any kind whatever, but all that is made penal is attempt to create disaffection by written documents, books, pamphlets and so on. It is therefore clear that in its scope the present enactment is far more limited than the enactment embodied in the Indian Penal Code. And further no prosecution under the proposed Act can be launched without the previous sanction, not of the Local Government, not of the District Magistrate, not even of the Agent to the Governor General, but of the Governor General in Council, so that it is obvious that no one need be afraid of a groundless prosecution in cases that come under this Act, for in the first instance the scope of the Act is limited, and in the next place no prosecution can be instituted without the sanction of the Governor General in Council. It seems to me that in those circumstances the nervousness that seems to exist in certain quarters with regard to the proposed enactment is absolutely unjustified. It seems to me that this House which has already acquired a reputation for sobriety of judgment need have no hesitation whatsoever in agreeing to place this measure on the Statute-book of this country. Sir, in view of the extraordinary circumstances mentioned in this Council yesterday, under which the motion before us has now been made, I have had my most anxious consideration paid to the matter.....

The HONOURABLE SARDAR JOGENDRA SINGH : Is the Honourable Member speaking on the amendment or on the Bill ?

The HONOURABLE THE PRESIDENT : Both the amendment and the principal motion are under discussion.

The HONOURABLE RAJAH VASUDEVA RAJAH OF KOLLENGODE (Madras : Non-official Nominated) : And I have unhesitatingly come to the conclusion, that it is the paramount duty of this Council to support the motion before us. I may express my regret that owing to certain causes, of which we are all aware, the Governor General had been forced to adopt the only course left to him of certifying that the Bill was essential in the interests of British India and of recommending that it be passed.

In dealing with the necessity for this Bill, I may mention to this Council, that I know personally several of the Indian Native States and their affairs somewhat closely, and that, from my knowledge of those States and the scurrilous criticisms and seditious attacks that are sometimes published against them by a few unprincipled Newspapers, I think there exists a real necessity for a Bill of the kind that is proposed.

Most of the Members in this Council, and especially the European Members of it, read only the English Newspapers and not the various vernacular ones, which in some rare cases appear as if specially started with the deliberate intention of maliciously attacking the Indian Rulers and their administration. I am however happy to think that such Newspapers are very few in number, but at the same time it has to be admitted

that they do exist in this country. Those that come under this category are conducted by penniless upstarts whose object is simply black-mailing and they make attacks calculated to bring the Rulers and their administration into hatred and contempt. It is probably because that many of the Members do not read vernacular papers of the kind that I have described or that they do not take interest in matters affecting Native States which do not concern them, that they have not felt the necessity for a Bill of this kind. But I may assure the Members that I have often pitied the lot of the Indian Rulers who are unjustly attacked by British subjects in papers conducted in British India. If, in the past, Native Rulers have not freely taken action in the matter, it is due to their forbearance and magnanimity and not to the absence of the evil. It may be argued that the Native States are in a position to prevent the circulation of outside papers in their States, but this will not give adequate relief. Many of the Native State subjects are also British subjects and have great many relations in British India, and if such papers are circulated in British India, the dissemination of the mischievous matter in the Native State can be easily achieved.

No honest and fair criticism of any action taken by Ruling Princes is touched by the Bill proposed to be introduced and it is only such literature as is intended to excite hatred, contempt or disaffection that will come under the purview of this Bill. We have seen in Malabar the consequences of incitement and if anything similar happens in Native States as a result of excitement or disaffection, one can easily imagine that it is much more difficult to put it down there than in British India, as they have much less resources and military behind them. Further, the person and position of an Indian Ruling Chief are held by tradition in the highest esteem in their States, and I think it is the duty of Government to see that the British subjects, over whom the Native States have no jurisdiction, are not allowed to attack the Rulers maliciously or to do anything tending to excite hatred and disaffection towards them. It is only during the last few years that special measures had to be taken to prevent the dissemination of hatred and disaffection among the masses in this country, as those evils did not exist before, and since the year 1910 the Ruling Princes had enjoyed the protection of the special Press Acts along with our Government, but since those Acts have been repealed recently, the Ruling Chiefs are now placed in a position much worse than ever before, while the British Government have at least the protection of section 124-A of the Indian Penal Code ; as pointed out by the Honourable Sir Muhammad Shafi, the Native States have not I believe even that protection. If there has been necessity in the past for special protection, for which I have no doubt, I am equally certain that the necessity for protection of the Ruling Chiefs in the future is all the more. There is a wave of unrest in the country owing to the desire of the people to rule themselves and much of the power which remained hitherto in the hands of the Rulers in British India has been transferred to those of the people, either as a result of these agitations or as a concession by the Rulers themselves. With this example before them in British India and with the appearance of a new class of dangerous agitators called the Non-co-operators, it can be easily discerned that in future strenuous attempts will be made, and are probably being made, to change the form

[Rajah of Kollengode.]

of administrations in Native States also by adopting undesirable methods. There is nothing surprising therefore that the Indian Rulers should entertain some legitimate fear regarding the spread of disaffection by the numerous agitators around them in British India. If due and timely protection is not given to the Indian Rulers by the paramount power against the activities of these unconstitutional agitators, it may have disastrous effects and the Rulers will have every reason for resentment. Further, the Government will be rightly accused of not discharging their duties to the Indian Rulers who have, it will be admitted, been staunch adherents of the British Raj, and helped them in all ways and at all critical times in the past. It would be most imprudent and unstatesmanlike to create an impression that the Government are not sufficiently protecting their interests. As far as I can see there is nothing extraordinary in the Bill and the greatest possible safe-guard that can possibly be placed has been provided in it. No action can be taken by anyone except on the complaint and under the authority of the Governor General in Council, and if a Ruler has made out a case to the satisfaction of the Governor General in Council, it is astonishing to be told, that the Law should still not be put in motion. The Governor General's Council contains the best legal talent and experienced administrators and the Governor General himself is undoubtedly a distinguished statesman of great abilities, and if we are not to trust even this body, I really do not know which authority it is we are going to trust in this country. In my own opinion it would have been quite enough if a case had been made out to the satisfaction of a British Resident for setting the Law in motion, but extraordinary precaution has been taken that the Governor General in Council alone should deal with the matter evidently to satisfy the insatiable. If, in spite of all these safe-guards, we, in this Council, should fail to strengthen the hands of Government to fulfil their obligations to the Indian States, I think we would be guilty of great injustice both to the Native States and to our Government. Sentiments and temporary popularity should not at all weigh with us, and I trust that this Council will fully rise to the occasion and show their keen sense of responsibility and sound judgment in this matter. Before I close, I should like to say one word more. I think the sincere thanks of the Native States of India and of those who wish to see them preserved intact are due to His Excellency the Governor General for his firm and statesmanlike action in regard to this Bill, which may probably be regarded in some quarters as only a half-hearted measure. For it is always not an easy matter for those who are in Cape Comorin to convince those authorities in the Himalayas of the need for immediate action. I use the word Cape Comorin only to show the distance without meaning any particular State. I may also add, Sir, that in supporting this Bill, I have absolutely no personal interests. I hold no brief for any Native State nor am I a subject of any one of them. It is merely as one of the many who would like to see the Indian States preserved in their Eastern glory, happiness and contentment that I speak.

Lastly, I should like to congratulate the Honourable Mr. Thompson on the lucid and forcible presentation of the case and I hope he has been able to convince the House of the necessity of the legislation proposed, as he has convinced me.

With regard to the amendment proposed by Mr. Kale, Sir, I must say that I strongly oppose it. The Bill is more in the nature of a preventive measure against the spread of an evil into the Native States. If any delay is allowed preventive measures may be found useless and more drastic curative measures may have to be taken after a great deal of mischief has been done, which will be more difficult. The very fact that the Governor General has certified as to the necessity of the Bill so quickly must show that there is urgency in the legislation. Any delay will therefore be undesirable. With these words I strongly oppose the amendment but support the motion before us.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh) : Sir, I must begin by assuring the Government that no Member of this House or the other ever thinks of going back on any pledges given by His Excellency the Viceroy or any Member of the Government. Pledges in India have been always respected, whether verbal or written, and I am sure they will be respected in future. Now coming to the question of this Bill, Sir, and the way in which it has been presented to this House I cannot approve of the procedure. I always take it that we are members of the same team. Some of us are playing forward, some are playing as hacks, but with one object only,—that India should be better governed ; and if at moments we criticize the Government, we criticize with one object only—that Government may be stimulated to right and helpful action. Here, Sir, I respectfully submit that the rules of the game have not been observed in presenting this certified Bill to the House. I submit, Sir, whether it would not have been right, as pointed out yesterday by our President, in whose hands the dignity of this House is altogether safe, to bring in an ordinary Bill in the ordinary course of things which we could have sent to the other House after passing it. The rules of the game would have been observed. I am not enamoured of the veto, as my Honourable friend Sir Edgar Holberton is. I think.....

The HONOURABLE THE PRESIDENT : Would the Honourable Member mind raising his voice. I cannot hear a word.

The HONOURABLE SARDAR JOGENDRA SINGH : Very well, Sir. I said that I am not so much enamoured, as Sir Edgar Holberton seems to be, of the veto ; that I wish to emphasize that the rules of the game should be always observed and that no Bill should be rushed, certified or otherwise, so that the whole team may play the game together, according to the rules which have been laid down. I will say nothing more regarding the presentation of this Bill. But I say, Sir, that it would be wise to postpone the consideration of the Bill to the next Session. The Honourable Mr. Thompson dwelt a good deal on the pledges and treaties made between the paramount power and the protected States. His knowledge of Persian and Indian History, so far as I know, is unrivalled in this House ; and there can be no greater authority in this House on this point. How the Moghul Emperors would have dealt in older days with questions such as arise to-day is another matter. What I would like to ask the Honourable Mr. Thompson is, have any of the Chiefs asked for this Bill ? One of the very important Princes told me that he did not need any Bill of the kind to protect him. I do not know if any of the Chiefs have approached the Government of India and

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asked for such protection as the Government of India is to-day offering to them. If not, I do not think there is any case for hurrying the Bill through at the last moment of this Session. Then, Sir, I would like to ask the Honourable Mr. Thompson, whether he was not putting too far-fetched a construction on the words which he quoted from the treaties. Was it ever considered, at the time when these treaties were made, that there would be such a thing as a Press Act? I know that the words as employed can bear no such meaning:—"the friends and enemies of one shall be the friends and enemies of both." But is a critic a friend or an enemy? And if in British India the paramount power can be criticised for certain of its actions, is it not necessary that in the States also there should be full and free scope for an expression of free opinion? We are bound by our treaties to respect the Chiefs and to keep them in power and position; but we are at the same time compelled to recognize our duty to the people who live in those States, and that duty, so far as we are concerned, has always been recognized by the Government of India, much more strongly than is allowed by the treaties. I would ask the Honourable Mr. Thompson who has quoted from some of the newspapers, whether he would care to lift the veil and reveal some of the facts which are in the faithful custody of his confidential files. That would make an interesting revelation indeed and might enable him to secure more support than he has done by quoting extracts from the press. The Honourable Sir Muhammad Shafi in his speech pointed out that a section in the Penal Code—124 A,—I think it was good enough to give all the protection that was required in India. Then why do we need another law to afford adequate protection to Indian States? That is another point to be considered. Then we have the report of the Press Committee and the Press Committee clearly said that there was no need for any special legislation of this kind. I want to ask the Honourable Mr. Thompson whether he is justified in putting the construction he has put on the treaties, whether he is justified in enacting a Press Act for the Indian States, which was never contemplated when these treaties were made? Is he justified in committing his Government and in saying that the Government is in honour bound by those treaties to pass a Press Act? Is it a fact? If it is not a fact, is he not carrying the interpretation too far and putting a construction on the treaties which they were never meant to have? Under these circumstances, Sir, I strongly support the amendment that the consideration of the Bill be postponed to the next Session, when there will be time for us to consider what the Ruling Princes themselves require and whether they have made any demand for this protection. If they make no demand, the case falls through. If they make a demand, there will certainly be a ground for further consideration. At the same time, Sir, I would personally support the Bill if it is a question of honouring the pledges given by the Viceroy. I would only point out that the people of the protected States need protection, since the protection which the Moghul Emperors gave is not now available. In its absence we require something more clear in order to control some of the activities of the States.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, I must at once admit that the eloquence of the Honourable Sir Muhammad Shafi left me quite unmoved as to the question of this House having had the Bill which we are now discussing a sufficiently long

time in our hands, or perhaps I should express it, as long a time as we might have had it. From their own showing Government have had this measure in their mind for some very considerable time and I cannot help thinking it is a great pity that they did not introduce this Bill earlier in the Session. No doubt the Honourable Mr. Thompson had this in mind when he went into such detail and explained to us so fully the reasons for, and the object of, this Bill. Without delaying this Council with a long speech, I wish to say that the Honourable Mr. Thompson convinced me most thoroughly of the necessity for this measure, and I hope that the other Honourable Members of this House were also convinced. There is no getting round the extracts which the Honourable Member read from papers,—most abominable attacks on the Ruling Princes of this country. Now, Sir, having been thoroughly convinced by the Honourable Mr. Thompson of the necessity for this Bill, and recognizing that we can all make mistakes—and I think that Government did make a mistake in not introducing it earlier—I am strongly against its postponement and am in favour of its being taken into consideration in this Council to-day. I see no object in postponing it. I think Honourable Members must have been convinced of the reasons for this Bill. The Honourable Mr. Thompson informed us that the honour of the Government of India was at stake. Are we, the Members of this Council, not going to support the Government of India when it comes to a point of honour? I think we are.

I have stated, Sir, that I think this measure should have been in our hands a longer time. At the same time, I hope we are so convinced of the necessity for the Bill that on this occasion we can waive any objection we might otherwise have to make. I support the consideration most heartily and oppose this amendment for procrastination which we all dislike.

1 P.M.

THE HONOURABLE SIR WILLIAM VINCENT (Home Member): Sir, I should like to say at the outset that I do not take the same view as the Honourable Mr. Thompson took of the action of the Legislative Assembly in respect to this Bill. I do not believe and I have every authority for what I am saying, that they ever intended in any way to flout His Excellency. I do not think that the suggestion that the honour of the Government of India or the honour of the Viceroy has not weighed with them as dust in the balance is correct. I believe

THE HONOURABLE MR. J. P. THOMPSON: May I rise to a personal explanation, Sir?

THE HONOURABLE THE PRESIDENT: If the Honourable Member gives way.

THE HONOURABLE MR. J. P. THOMPSON: I think the Honourable Sir William Vincent is really explaining that he is in full agreement with the view I have expressed.

THE HONOURABLE SIR WILLIAM VINCENT: I believe that the Assembly acted unwisely in rejecting the motion for introduction, and I believe that that feeling is shared by many here. But I feel with Mr. Kāle that it is neither fair to them to criticise them in the manner

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adopted, nor do I think it will do this House or the Government any good. I cannot believe that remarks made here in antagonism to the other House can produce good results. I agree that we have been forced by the action of the Assembly into a very unfortunate position. If it had been possible to re-introduce the Bill in the other House, if it had been possible to introduce it here without a certificate and get it passed and then take it to the other House in this Session, that course would obviously have been preferable, but those who read the rules will see that without a certificate it would not have been possible to enact this Bill for another year at least, and we should have been uncertain as to whether that would be possible even then because of the approaching elections. Under the Rules you cannot bring a motion of substantially the same nature before a House twice in the same Session, and this rule would, in our interpretation of it, have prohibited us from taking this Bill back to the Legislative Assembly at any rate till next September, unless the Assembly had been prorogued. So, as we wanted to get this Bill passed, it was essential that it should be certified at the earliest opportunity. I am very anxious that this Council should not think however for one moment that this certification is due to any doubt as to their readiness to assist the Government. It was due to nothing of the kind. If the Bill had not been certified, it would not have been possible to secure its enactment in reasonable time. I was myself confident and am confident that this Council will accept this measure as a just and reasonable one. There has never been any suspicion whatever as to the attitude of this Council, and it is unfortunate, therefore, that the form of the statute should have made it necessary for the Governor General to certify the Bill in order to secure its enactment, as this course might, in the absence of explanation, tend to create the impression that some slur was cast on this Council where none was at all intended. It was in fact obligatory on His Excellency to take this course in order to get the Bill through with reasonable expedition. We should have been very glad indeed if it had been possible by any means to avoid certification—even up to yesterday I was struggling to avoid this method of legislation. Unfortunately, we could find no way out of the difficulty. Another point was mentioned by the Honourable the Mover and I think, put a little bluntly or plainly, when he said, that the Government of India will accept no amendments.

Now, I want to explain that and to put it, if I may, a little more . . .

THE HONOURABLE MR. J. P. THOMPSON : May I rise again to a personal explanation, Sir? The Honourable Member has misunderstood what I said. What I said was that the Government felt that they could not accept any amendments, not that they would not.

THE HONOURABLE SIR WILLIAM VINCENT : I am sorry if I have in any way misrepresented Mr. Thompson. I thought I was repeating the very words, but I want to explain that in my experience of this Council and the Assembly, I have always found that statements of that kind put very forcibly sometimes create misapprehension and antagonise instead of winning Members over, and I want to explain why it is that the Government cannot accept these amendments. It is very simple. We are in some doubt as to whether if we accept any such amendments

the validity of the certificate may not be called in question. There are some of these amendments which I will deal with later, which seem to me of a more or less reasonable character and which I would have liked to examine with greater care and in greater detail. But I think any one who examines the Statute and considers the facts will see that it would be very unwise for us to pass a penal enactment on the validity of, which any shadow of doubt can rest, particularly in a matter of this kind, and I am sure I shall have the support of every legal Member of this Council in this view. I will deal with the amendments in detail as they come up later and I shall be very glad to have an opportunity of doing so. As to the main principles of this Bill our obligations in regard to this matter are based as Mr. Thompson said, firstly on treaties and on obligations of honour. He has said that we have undertaken to give these Princes the same protection that was given them in the Moghul days. In this connection my Honourable friend, Sardar Jogendra Singh has suggested that there was no thought of a Press Act then. Well, there is no idea of the old Press Act in this Bill, no suggestion of it. The Bill penalizes the publication of seditious attacks on Indian States and it is a law that obtains in every civilised country. I dare say it prevailed in the days of the Moghuls in a more drastic form. I imagine that those who were tempted to libel ruling monarchs during the days of the Moghuls met with very short shrift. (*The Honourable Sardar Jogendra Singh* : "That is what I meant.") We on the other hand propose a fair trial for men who have committed the offence ; evidence will be recorded before Magistrates according to the law of British India, and each case will be full inquired into before any man is convicted ; that I think is a perfectly fair position. The accused person will also have the right of appeal as is remarked by my Honourable Colleague.

The second reason for this Bill is this. Here I want to go back and discuss the Report of the Press Act Committee to which such frequent reference has been made in this Council. It is only reasonable that I should support that Report because I was one of the signatories, indeed I took an active part in the work of that Committee. I am told in the first place that the statement of the Committee that there was no law protecting the Indian Princes from attacks in the press prior to 1910 is inaccurate. I had little thought that any one would have referred to the old Press Regulation of 1823 to refute the statement that we made. The Press Regulation of 1823 itself contained no reference to Indian Princes at all, though they were protected by rules made under that Regulation.

If Honourable Members have ever studied those rules, they will see that there is much in them besides the protection to Indian Princes and even such a stalwart conservative as my Honourable friend would scarcely venture to defend those rules now in this or in any other Council. If any one here has read the petition of Raja Ram Mohan Roy which he took to the Privy Council against those rules, he will remember the great protest put forward against these rules unsuccessfully it is true, but I venture to say that if he was unsuccessful, he had not the worst of the argument ; and I cannot regard the Regulation of 1823, which was in fact repealed in 1835, as affording any support for the proposition that

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legislation of the present kind was needed at the time the Committee reported. Well, Sir, the Press Committee was attacked on other grounds because it was stated in the report that only three instances of attacks on Indian Princes were brought to their notice. That is a fact and what was the reason for that? Whose fault was that? Was it our fault? Was it the duty of the Committee to hunt round for a justification for the protection of Indian Princes. Was it the non-official Member's business or was it the Home Member's business to spend their time delving into old records for the purpose? The committee gave ample opportunity for the production of evidence, but in my judgment adequate evidence was not produced and up to that time the necessity for this Bill was not proved. There is nothing more than that in the report. I defy any one to read into the Report anything more. We had no material brought before us to show that at that time it was necessary to protect the Princes and I will not resile from any single word that I put down in that Report. I maintain that adequate evidence was not produced before us and that we were correct in the attitude we took up on the material before us. Since then there has been a change. I am satisfied from the numerous instances that have been read out that these Princes have been shamelessly defamed in the Press. I have never seen anything like some of the articles. They excel indeed anything that the press says about me. There is, Sir, great force in the arguments put forward by Sir Arthur Froom that the Council has had very little time to consider this question. I regret it. I admit that his is a reasonable complaint. On the other hand the Council and the public were clearly told this legislation was necessary, they were well aware that this Bill was going to be introduced. Copies of the Bill have been in the hands of members of the other Chamber for some time and there has been constant reference to it in the public press. After all, Sir, the Bill is not a very long one; it consists of five clauses only and it would not be a difficult thing for any one to master it completely or even to learn it by heart in a couple of days. It has been explained that it merely repeats, *mutatis mutandis*, the language of section 124-A. Sir, the Honourable Sardar Jogendra Singh asked me whether there has been any demand from the Princes for this legislation. I am happy to be able to assure him,—and I trust that this assurance will carry his vote, that there has been a unanimous demand from all the Princes for this legislation.

THE HONOURABLE SARDAR JOGENDRA SINGH : Not in the Chiefs' Conference.

THE HONOURABLE SIR WILLIAM VINCENT : I am expressing the views of the Princes as put forth as a result of the Chiefs' Conference. I think the Honourable Member is mistaken about this. He must be thinking of something else. The matter was brought before the Chamber of Princes in November last and the following Resolution was passed in that House without division :

“ That in view of the contemplated repeal of the Press Act of 1910, section 4 (1) (c) of which provides for the safeguarding of the Ruling Princes and Chiefs against attempts by the Press in British India to bring into hatred or contempt or to excite disaffection towards any Ruling Prince or Chief, this Narendra Mandal (I suppose it means the Chamber of Princes) is strongly of the opinion in view of the firmly established relations of alliance and friendship and of the identity of in-

terests between the Imperial Government and the Princes of India, that His Excellency the Viceroy be moved to very kindly and favourably consider the urgent necessity of providing and adopting measures to safeguard and secure the Princes and Chiefs, their States and their Governments, against any such insidious or dangerous attempts."

The HONOURABLE SARDAR JOGENDRA SINGH : Then I withdraw my remarks.

The HONOURABLE SIR WILLIAM VINCENT : In a way I am glad ; in a way I am sorry, for I could have added a few more comments on this statement. Then, Sir, we have been asked why we should not delay this legislation. We are as unwilling as any one else to force legislation in this way on the Council, but there are reasons for that. Look at the action which has been taken in the Legislative Assembly. I believe that was due largely to error, oversight or lack of wisdom. But what is the present position. His Excellency's solemn declaration which was read out to you by Mr. Thompson has been disregarded and the Princes undoubtedly feel that their interests and their authority have suffered seriously. Is that a position in which either the Government or this Council can let matters rest ? I submit not. I know there are men here who differ from me on this point. Again His Excellency has certified that the passage of this Bill is essential for the interests of British India. Therefore in His Excellency's judgment, the passage or the enactment of this measure is essential without delay and after all what is being done ? We are only restoring to the Princes the protection which was given them by the Act of 1910 in a safer and, if I may say so, in a better form. Those who offend against this law will not be liable to summary action at the hands of the executive. They will be tried before a Court of law or a Magistrate and the accused will, I suppose, ultimately have a right of going up to the High Court. Surely that is a reasonable safeguard against any injustice. Further, there is the great safeguard of the previous sanction of the Governor General in Council. Sir, would it be fair to leave the Princes indefinitely without this protection in view of the instances which have been cited by Mr. Thompson and in view of the proved necessity for this measure ? If it was a long and complicated measure, then I might agree with Sir Benode Mitter, whose views carry great weight, but it is after all a very short Bill for him to consider in this time. It is a Bill which we consider necessary to fulfil our obligations,—our honour and Treaty obligations. It is a Bill which the Princes demand for their own protection. It has been proved to be necessary for the safeguarding of their legitimate interests, and I hope that this Council will accept it even with the short notice that they have had. It is no good denying that they have had very short notice ; I regret it very much ; but I hope they will take up the same attitude as the Honourable Sir Arthur Froom and accept the Bill before them. Sir, if anyone needs a recent instance of the danger that has arisen from the evil which the Bill seeks to prevent, let him consider what happened a few months ago—the rising among the Bhils in Mewar, incited, I am afraid, largely by agitators in British India. What has been the result of allowing this to go on ? The result has been a loss of the lives of many ignorant, misguided people ; are we to risk further loss of lives, while we in this Chamber, delay legislation ? Is it right that we should hesitate to afford reasonable protection to these unfortunate people, and to afford it to those Princes who have

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done us such great service in the past, is it right that we should refuse, or delay to grant them the protection to which they are entitled ?

I have only one word to add, Sir, and that is with reference to what fell from the Honourable Sir Edgar Holtberton, when he suggested that Government did not assess adequately—I hope I am putting it rightly—the value of this Council. I can assure this Council that there is no foundation whatever for this suggestion. If some of us are detained in the other Chamber on important business, I think Honourable Members will realize that there are good reasons for this. Further, as I said the other day, this Council does not rest for its authority on the support of Government ; it needs no backing of that kind. Its authority is based on the weight and character of its Members. The Government has every reason and, doubtless, will have every reason, to be grateful for its support on all occasions of difficulty. (Applause.)

THE HONOURABLE THE PRESIDENT : I think it will be convenient now to adjourn for Lunch. The Council will now adjourn till Three of the Clock.

The Council of State re-assembled after Lunch at Three of the Clock. The Honourable the President was in the Chair.

THE HONOURABLE NAWAB SIR BAHRAM KHAN (Punjab : Nominated Non-Official)* : Sir, I rise to support this Bill strongly. It is one of the most necessary measures in the present circumstances considering how some misguided and malicious people are apt to take liberties if no safeguard is provided against the Princes and rulers of India. This body of reliable and staunch administrators are a bulwark of the Empire, are administering their respective States for generations. Though in some isolated places there may have been some flaw in their administrations the Chief himself considers his subjects as his own children. Now-a-days when the ablest British officers as Residents and Political Agents are watching the affairs of the States which are now run on modern lines by able Councils there is not much chance of any serious mismanagement. One of the main causes for which these distinguished personages are maligned by the agitators and evil doers in the country is because they are strong supporters and allies of the British Government and do not help such people in their propaganda or other dangerous movements against the country. The ruling Chiefs have amply proved their worth by their services to their King and country during the Mutiny of 1857, in the Kabul War and in nearly all the Expeditions from time to time. Their unique effort in the World War is too conspicuous to require any mention. Thus the main object of seditious people is to create dissensions and misunderstandings between this body and the Crown.

It is for this as well as other vital reasons that it is of the utmost necessity that such a law should be introduced. I again support the measure in the strongest terms.

* Translation of a speech delivered in the vernacular.

• The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, as I think the amendment is still under discussion, I will just say a word on that, though I am permitted at the same time, by your kindness, to speak on the Bill also. If I were to put forward any amendment, it would be that no amendment be allowed in this Bill at all. Sir, it has been said that a long time had elapsed I think from 1823 to 1910 during which the necessity for this enactment did not arise. On this point I may say that I have myself been at the provincial headquarters ; in the old days there used to be Munshikhanas, where each State always had a servant. Directly some of the people wanted to blackmail the Rajas they were given one or two thousand rupees ; and after that money was exhausted during the period in which those men had kept quiet, they again published some other offending article. In this way a number of people absolutely lived on the States. That is one of the reasons why I think there should be no delay. If this is passed to-day, there is nothing to prevent any member who wishes to do so to bring in an amending Bill later on. The House knows that when the Press Act was being repealed I think I was the only member who spoke very much against it. All that I wanted then was that it should continue in operation for six months more. If that had been done in Delhi to-day this Bill would have taken effect immediately after the cessation of the Press Act, which would have been very opportune and useful.

Sir, in the luncheon interval to-day I had the honour of speaking to some of the members of the Legislative Assembly and they asked me if we were going to pass this Bill. I said I had a conviction that we would pass it to-day. And from what I could see, they were all very sorry that they had not passed it themselves. I come now to the Bill generally. The new reformed Government, Sir, has just stepped into the shoes of its predecessor ; and, like a son succeeding his father, it has to carry out the obligations which were binding on its predecessor in regard to these Indian States. If the previous Government had any understandings with the Princes we ought to be bound by them. So when this measure was placed before another House, it should have been their duty to realise their position. At any rate, they ought not to have rejected it, but should have taken it into consideration and, modified it or even rejected it afterwards. But when it was treated in the way it has been done, though I am told that I should not pass any reflection on the other House, I think I should say it was a Himalayan mistake that they committed. If there is a mistake, the sooner we rectify that mistake the better for us and for the country. A friend of mine said something about the rules of the game. If we wait there is danger lest the other side should make a goal and then it will be too late. Now, all of us who have had the honour of participating in the last War, have seen what these Princes had done for the King and the country. (Hear, hear.) Nearly all of their best Imperial Service Troops were sent and even that was not considered sufficient by them. Some of them put all their resources at the disposal of the Government, and furthermore some of them went to the Front in person and bore the danger of being killed, one of the extreme things that a living man can do on this earth. Now, I want to ask those who

[Colonel Sir Umar Hayat Khan.]

want to withhold this protection from them, what they have done for the King and the country during that struggle? We all know what a magnificent reception the Prince of Wales had during His visit to this country whenever he went to the territories of those Chiefs, and we also know of something else when he was not there, are we going to hamper such Chiefs in the administration of their territories so that they should become powerless? We have got a great deal of trouble in the country going on now and we expect that if anything more serious happens these Chiefs will come to our help. But are we going to paralyse them before that? If you do that, that will be a great mistake. Sir, a great deal has been said about the various treaties. Supposing there was no treaty at all, why do they call our King as Emperor? He is called Emperor because many kings in India are under Him. The word "Emperor" is merely sufficient to show that he should look after the interests of those Kings who are under him. That is quite sufficient. If this measure is going to be carried by the present Government—that is what they are doing now—we must congratulate them on that. This is a thing that I emphasised the other day too,—that we do not realise, some of us, that we are part and parcel of the Government, and if Government wants a thing like this, we ought to give our support to them and uphold them, and I am sure that this House will demonstrate its existence as a House worthy of being called an Upper House. Then, Sir, you remember when the Prime Minister made his speech, how from the Himalayas to Cape Comorin a cry was raised which I think would have rent the skies above us because some people wrongly thought that their rights were going to be curtailed. Now, we call the reforms as our Magna Charta and we are very much frightened if anything happens to it. What about the Princes? They have been assured of their rights, which is their Magna Charta, and as a Persian proverb goes,

Har cheh bar khud mapasandi bar digaran mapassand.

Any treatment that you do not like for yourself, don't accord it to another. So I hope that this Council will pass this measure unanimously.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadian) : Sir, while I heartily congratulate the Honourable Mr. Thompson on the lucid and clear manner in which he put the whole case before the House, I regret I cannot congratulate him as regards his references to the attitude of the other Chamber. Now, Sir, we have got to be very careful in what we state about the other House. If I remember rightly, Mr. Thompson said that their action might be taken as an insult to the Governor General. He went a little further and said that it might appear as if that House did not want to keep up the contracts and treaties, as if they were of no value whatever and that honour will not be recognized. I think, Sir, that perhaps my Honourable friend made these reflections in the excitement due to the present occasion, and I hope that when he considers them carefully he will see reason either to withdraw or to modify them. (*An Honourable Member* : "Why.") A question is asked from the opposite benches "why." I will answer it. I do not think that that House, as it

is constituted at present, could ever have meant any insult to His Excellency. The respect for His Excellency is not limited to this House, but it also extends to the other House, and I know, as a matter of fact, that the other House holds the Viceroy in as great respect as we here, and no insult could have been intended when they rejected the Bill. It may be, as the Honourable Mr. Thompson said, that they did not realise what they did, they did not realise that this motive might be attributed to them, but I do not think that they could have meant any insult to His Excellency. Mr. Thompson gave us one piece of advice which I am prepared to accept and which I value very much. He said that this is a new Legislature, and we are working under the new reforms. Let us not give an impression to the Indian Princes that we are likely to go against their rights in any way. It is up to us—I am repeating Mr. Thompson's phrase,—not to do anything that may antagonise them. Not only that, if the reforms are to be a success the peoples of India and the Princes of India should march together. We should not create an impression in the minds of the Princes that this House, whenever it gets full responsible government, will use their power to curtail the powers of the Princes or to abrogate their treaty rights which they have been enjoying under the present Government. I am entirely at one with him and I am quite sure that all the Members of the House, to whichever party they belong, will support what has fallen from the Honourable Mr. Thompson that it is our duty to do nothing in a manner which might be understood to be antagonistic to the Princes. We want to be friendly with them, not merely because we owe a deep debt of gratitude to them, or because of the possible reaction that sedition spread in the Indian States may have in British India, but because we look on them as a part and parcel of the country. We want to work with them and we want to march with them to our final goal.

There I believe that the House, to whichever party the members may belong, will entirely agree with what has fallen from the Honourable Mr. Thompson. It is true, as he said, that the Bill will not affect the subjects of the Indian States in any way in fighting for introducing reforms in those States and that throwing out the Bill is practically out of the question. I only wish that the Bill had been allowed to be introduced in the other House, when it could have gone to a Select Committee, and the Select Committee could have examined the actual wording of the Bill and made the necessary amendments. Some amendments are, I think, necessary in view of the difference between the wording of 124-A and clause 3 (2), but the Honourable Member has said that under the Government of India Act the Bill must be passed as it is. I do not think there is any good in pressing these amendments now. What I would request Government to do is that after they have passed the Bill and satisfied the Princes that they are prepared to stand by them, later on if and when they are satisfied that certain portions of the Bill ought to be removed, then they would take the first opportunity to modify those expressions and do what they can to put it in such a way that the fair criticism of the Princes and their Administration will not in any way be disallowed by this clause. Speaking on my friend Mr. Kale's amendment, I want to ask Government one question. If the Bill had been introduced in the other House and if it had been referred to a Select Committee, would there not have been

[Mr. Lalubhai Samaldas.]

delay ? I would like to know why, if Government would have accepted that delay, they should rush the measure now. An explanation is due to this House why in the one case they would have accepted delay and not in the other. With these few words I support the Bill.

The HONOURABLE THE PRESIDENT : I would remind the Council that this Bill has been under discussion since 11-30 this morning on one session.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support this Bill. The Honourable Mr. Thompson has so ably and fully put forward the necessity of this legislation that he has not left much for me to say. The defence of the Assembly has been well made out by the Honourable Sir William Vincent. The Government is bound by pledges and treaties to protect the Ruling Princes and Chiefs in this respect, and so we think it our bounden duty to co-operate and help them to honour their pledges and redeem their promises. The pronouncements made by our gracious Sovereigns from time to time in this connection must be loyally carried out. According to Indian Tradition, the sooner we fulfil our pledges the better. I cannot therefore understand why my Honourable friend Professor Kale wants to continue the violation of pledges. His Excellency the Viceroy in his opening speech gave a sort of notice about the coming of this Bill so this House had practically a notice of about a month. Government is fully aware of the misrule which does exist in certain Indian States, and realises its duty to use its great influence to get it put right. This House expects that every possible step will be taken by Government to mend wrongs which are being committed by certain Rulers.

The word "disaffection" is rather vague and means want of affection as has been interpreted by the Bombay High Court. We hope that in the rules which Government will frame under this Act, this word will not be given such a wide meaning.

As Government is solemnly bound to keep up its promises and to honour its treaties and pledges, and which it must, I request this House to pass this Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-official) : I do not propose to be long. There need be no anxiety on that point. My remarks will be divided into two parts, one addressed to the principle of the Bill and the other the amendment about asking for time. About the principle of the Bill I quite agree and I believe the whole House agrees that obligations either inherited or now entered into have to be discharged and we must carry them out as pledges and promises already made. As we put it in the Hindu Law, the son must pay the debts of his father and as we have inherited them, so must we meet the obligations. How are those obligations to be met ? If the gentlemen in whose favour they were incurred had persisted and taken the necessary steps, they would have been paid. I said 'paid' because they have been compared to debts by the Honourable Mover. They are ancestral debts that have to be paid. I quite agree but I say that I shall pay them in

my own way and in the most convenient manner possible. It may be that these debts have accrued. The present debts were incurred in 1823 and kept up till 1835. Then they fell into abeyance and nobody knew anything until we come to the year 1910. If I were speaking in a Court, I should say that the debts are barred but I do not want to put forward that technical plea. We agree that no matter how incurred the debts, have to be paid and we hope to pay them but we ask for time so that we may consult our house keeper, see how our accounts stand with the Banker and then pay them in the way in which they can be paid. It has been said that we ought not to ask for time because the measure was contemplated some time ago, to use the word which is common in the newspapers now adumbrated in the speech of His Excellency the Viceroy. I quite agree but it was only adumbrated and the concrete proposal was not before us. There is a difference between a proposal made generally and a proposal put specifically before us. This is a specific thing which has come and it has come only two days ago and in our Hindu life when a child is born, for ten days they do nothing but only hold feasts and are happy and then they take measures. This child was born only two days ago and to-day it claims the rights of inheritance and wants partition from me. It is too early. However that may be, let us put that argument away for the time being. It appears to me that the words 'loyalty' and 'disaffection' have been used rather loosely. Affection and loyalty are relations which exist between ruler and ruled. We in British India understand what is meant by disaffection towards our Government. We understand what is loyalty to our Government but in this case the loyalty is to a neighbour, not to a Government under which I am born, not to a Government which protects me but to a Government which is friendly with my Government. The relationship is that of an uncle and not that of a father and son. So, it comes to be that the words affection, disaffection and disloyalty are not used in their right sense.

Disloyalty subsists between persons who have the relations of rulers and ruled. That relation does not subsist in this case. Therefore, in this particular Bill the words 'disaffection' and 'disloyalty' have been wrongly used. It is like a gentleman asking for the restitution of conjugal rights when the marriage itself is denied. So, there having been no marriage, restitution could hardly be asked for. Now, there is no relation between me and the Indian Princes. They are not my rulers, nor am I their subject, how am I going to be guilty of disaffection by speaking against them? If I speak wrongly, if I speak stupidly, of them, if I defame them, under the law they have a remedy against me; and some of the Indian Princes have, within my knowledge, availed themselves of this remedy, for, they took proceedings and they have instituted criminal cases in the Bombay High Court, and I had the honour to appear for the defence—as a junior—but anyhow, that was so. So these terms to my mind appear to be misplaced and wrongly introduced. There is no difficulty about this also for me. It is said that the measure is a very small one, that it is only three sections, that it is practically one section, and that that section is practically taken from the Criminal Code, and, therefore, you do not require any time to consider it. I humbly submit this involves a fallacy of the volume being the measure of the import-

[Mr. G. S. Khaparde.]

ance. But a microbe is also almost invisible, and if there is a microbe coming in somewhere, you have got to fight it. Similarly in the case of this 'small' Bill; it may be one word, it may be very small, but it involves a great principle. It is unknown up to this time in British jurisprudence, and also in Indian jurisprudence, namely, British subjects having relations with a foreign Prince. I am a subject of His Majesty the King, and I am supposed also to owe allegiance to a person who is outside, who rules a different province altogether; and, by these terms of 'loyalty', 'affection', 'fealty' and other words that may be introduced here, you introduce not only here but also in British jurisprudence a new relationship, a relationship such as has never been recognized up to this time; and this is a House of eminent lawyers and very eminent statesmen, and I would like to know if they have ever known a single case decided on the point, namely, that a British subject owes a duty to France or to Germany or to Switzerland. Such a thing has been unknown; and therefore this principle requires to be considered very carefully, and I submit the measure would have to be redrafted in the sense of avoiding these terms which involve the relationship between rulers and ruled. I may be wrong, but I am anxious that any promise made by the Government of India should be binding. I am not going to tell a story (laughter), but even if a promise has been made even then I would say, you kindly let me think it out, and let me see if this can be embodied in a better form,—whether it can be understood, and then certainly we shall carry that out; I mean to carry it out, there is no doubt about that. So my argument therefore comes to be this, that we agree that the Government of India should perform their obligations, and I also concede that we are bound under oath to help the Government of India to keep its promise. That I agree with, but I further submit that I wish that you kindly give us a little time to think it out, say six months. If between 1835 and 1919, I suppose, they have slept over it for nearly 50 years, there is nothing difficult in waiting for another six months. I would say that I did not see the terms, I had no opportunity of judging the effect of these terms, and so I humbly submit that the amendment that has been moved by my Honourable friend, Mr. Kale, is a very good one, and I support it very heartily, though at the same time I maintain and I concede that we are bound to carry out the promise made by the Government of India. Otherwise, Sir, I heartily support the motion.

The HONOURABLE MR. J. P. THOMPSON : Sir, Speakers on this side of the House have left me very little really to reply to. The Honourable Mr. Khaparde's criticisms, or perhaps some of them, are more appropriate to the discussion of an amendment than to the discussion of the principle of the Bill. But I may perhaps remind him that under the common law of England any person who attempts to create feelings of hatred or contempt against a foreign ruler renders himself liable to be punished. The Honourable Sardar Jogendra Singh put one or two questions to me, and I am glad to say that the Honourable Sir William Vincent has made it unnecessary for me to reply to all of them. He said, among other things, that it would be dangerous to read specific meanings into Treaties of 100 years ago perhaps, which were expressed in general terms; and that, for instance, a Treaty expressing, as one of those which I

cited did, the condition that there shall be perpetual friendship and unity of interests between the high contracting parties ought not to be used to support a demand for legislation to protect the Princes against attacks in the Press. I am not sure, Sir, that that argument is sound. These general agreements must be held to cover a large number of specific cases as and when they arise; and in particular regard to attacks in the Press, I may remind the Honourable Member that the Regulation of 1823 was prior to some of the Treaties which I quoted, which shows that even at the period when these Treaties were concluded, the Government of India must have had in their minds the possibility of the need arising for the protection of Princes against these attacks. Another point which the Honourable Sardar put was that although I had quoted a number of attacks on Princes and their Administrations, I had not cited any of the passages which spoke of them in terms of praise. Well, Sir, if it had been a part of the proposals of this Bill to penalize anybody who praised an Indian Chief, then I think that remark would have been relevant, but as it is, I do not quite see that it carries us any further.

Then, Sir, with regard to the Honourable Mr. Kale's motion for adjournment, I regret very much that the Council have been so restricted in the time that they have been allowed for the consideration of this Bill. But they must recognize, I think, that the circumstances are peculiar.

The Honourable Mr. Lalubhai Samaldas asked why, if we were prepared to allow the Bill to run its natural course, if the Assembly had moved that it should be referred to a Select Committee or circulated for opinion, why, if we were prepared to do that, we are not prepared to give them three months' time now. The reason, I think, is clear. When the Bill was still in the Assembly, the crisis had not yet arisen. The action of the Assembly, as I pointed out yesterday, was bound to cause apprehensions in the States. Some Honourable Members have said that these apprehensions need not be taken seriously. The danger is that the States may apprehend that the Government of India is weakening.

Lastly, His Excellency the Viceroy has told us that it is a debt of honour, and where it is a question of the payment of a debt of honour I think this House will agree with me that time is always of the essence of the contract.

The most serious attack that was delivered on my position was a flank attack from the left. As regards that, Sir, my only regrets are that I failed to make my meaning clear, and, secondly, that this is the last time probably that we shall hear the Honourable Member in this Chamber. The first of these regrets will be short-lived. I feel sure that any obscurity there may be in regard to my meaning will disappear as soon as the Honourable the Home Member and the Honourable Mr. Lalubhai Samaldas are in a position to read what I actually said in print. The second regret that we shall hear the Honourable Member no more is one, alas, which will remain with us always. (Applause.)

The HONOURABLE THE PRESIDENT : The original motion was :

“ That the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to

[The Honourable the President.]

excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be taken into consideration.”

To that motion an amendment has been moved :

“ That the words ‘ early next year ’ be added.”

The question is that that amendment be made.

The motion was negatived.

The HONOURABLE THE PRESIDENT: There remains the original motion :

“ That the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be taken into consideration.”

The motion was adopted.

The HONOURABLE THE PRESIDENT : The Council will now proceed to the consideration of the Bill clause by clause. We will, as usual, reserve the Preamble.

The question is :

“ That clause 1 stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

The HONOURABLE MR. V. G. KALE : Sir, to clause 3 I have two amendments. The first amendment runs as follows :

“ That in sub-clause (1) of clause 3 of the Bill :

(i) the words ‘ brings or is intended to bring into hatred or contempt, or ’ be omitted ;

(ii) after the word.....”

The HONOURABLE THE PRESIDENT : May I ask the Honourable Member if these amendments are connected in any way ?

The HONOURABLE MR. V. G. KALE : No Sir.

The HONOURABLE THE PRESIDENT : Then they can be moved separately.

The HONOURABLE MR. V. G. KALE : Then my first amendment is :

“ That in sub-clause (1) of clause 3 of the Bill :

(i) the words ‘ brings or is intended to bring into hatred or contempt, or ’ be omitted.”

My object in moving this amendment is that the words are rather too vague and comprehensive. It is very difficult to say what is calculated to bring into hatred or contempt the ruler of an Indian State, and I am afraid that the safeguard which is provided in a later section will be nullified if these words stand. Even ordinary temperate criticism of the administration or the measures of a ruler might be considered as intended

to bring him into hatred or contempt, for this reason, in particular, that in Indian States we have not yet got what is called a popular form of government. In most of the States we have an autocratic form of government and in those States it would be difficult to distinguish criticism of measures from criticism of the ruler. To my mind, therefore, these words are likely to occasion injustice and are not likely to help in the attainment of the object aimed at. For these reasons, Sir, I move my amendment that these words be omitted from clause 3.

The HONOURABLE SIR WILLIAM VINCENT : Sir, I am afraid that, apart from any question of the difficulty of inserting amendments in the Bill at the present stage, I must oppose this amendment on the merits. I think any one who has examined the law, as I am sure the Mover has, and has examined section 124A of the Penal Code will see that the words are taken from that section. They have been the subject on many occasions of judicial interpretation and are, in my humble judgment, entirely suitable in the present Bill. And if I might develop the argument used by the Political Secretary just now, I may say that malicious and scurrilous reflections upon foreign sovereigns and publications tending to degrade and defame such persons, are indictable in England. There is really no fear whatever of the danger to which the Honourable Mr. Kale has alluded, and I think if he will again read sub-clause (2) of clause 3 he will see that any kind of reasonable criticism is effectively safeguarded. That clause runs :

“ No person shall be deemed to commit an offence under this section in respect of any book, newspaper or other document which, without exciting or being intended to excite hatred, contempt or disaffection, contains comments expressing disapprobation of the measures of any such Prince, Chief, Government or Administration as aforesaid with a view to obtain their alteration by lawful means, or disapprobation of the administrative or other action of any such Prince, Chief, Government or Administration.”

Now, our intention is to exempt all reasonable criticism from the mischief of this Bill. I believe we have done so. I am fortified in that view by the fact that the same words and the same exception are used in section 124A and have been judicially interpreted repeatedly in the manner in which I have described. I hope that the House, quite apart from any other question which I may have to urge later, will reject this amendment on the merits.

The HONOURABLE THE PRESIDENT : The question is :

“ That in sub-clause (1) of clause 3 of the Bill—the words ‘ brings or is intended to bring into hatred or contempt, or ’ be omitted.”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The next two amendments appear to be connected and may be moved together.

The HONOURABLE MR. V. G. KALE : Sir, I move that :

“ In sub-clause (1) of clause 3 of the Bill :

(ii) after the word ‘ excite ’ the words ‘ among the subjects of any Prince or Chief of a State ’ be inserted ;

(iii) between the word ‘ any ’ and the word ‘ Prince ’ the word ‘ such ’ be inserted.”

[Mr. V. G. Kale.]

My Honourable friend, Mr. Khaparde has already anticipated me in connection with this amendment. The clause, as it stands, speaks of any print or book or document which brings or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards any Prince or Chief of a State in India. The question is, creation of disaffection against whom? The offence will be committed in British India. An article will be written and a document will be circulated which, let us suppose, is calculated to have this effect. But upon whose mind? There cannot be, in my opinion, disaffection created in British India by any article or document with respect to the ruler of a Native State, because the relations between the ruler of an Indian State and the British subject are not the relations of a sovereign and his subject. So far as I understand the matter, I think there can be disaffection only when there is the relation of allegiance, loyalty,—the relation between the rulers and the ruled. No such relation can be contemplated between a British subject and an Indian ruler. For these reasons, I think this amendment is absolutely necessary. The third amendment is consequential upon the second.

The HONOURABLE THE PRESIDENT: To the proposed clause No. 3 (1) amendments moved:

“After the word ‘excite’ the words ‘among the subjects of any Prince or Chief of a State’ be inserted: and

Between the word ‘any’ and the word ‘Prince’ the word ‘such’ be inserted.”

The HONOURABLE SIR WILLIAM VINCENT: I really do not think that there is any room for doubt as to the meaning of the clause as drafted. If I take the clause and read it, I think this will be clear.

“Whoever edits, prints or publishes, or is the author of, any book, newspaper, or other document which brings or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards any Prince or Chief of a State in India.....shall be punishable.....”

I have no doubt in my mind that the disaffection referred to is disaffection among the subjects of the State concerned. It is true that these subjects need not necessarily be in the State, it may very well be that they are for the time in British India, and that is a point of some importance. This is however one of those amendments, which, if we find there is any substantial difficulty in the point raised by my Honourable friend, we shall have to consider later. I may say that after the Bill is passed we shall be prepared in fact to adopt the course suggested by the Honourable Mr. Lalubhai Samaldas just now. If this Act proves to be defective in its operation or there are any amendments which we find are necessary, I give an undertaking that they will be considered by the Government of India in the most careful manner, but I really do not think myself as at present advised—I am quite open to conviction—that there is anything in the present amendment, I will however have it further examined later.

The HONOURABLE THE PRESIDENT: Does the Honourable Member desire that the question should be put?

The HONOURABLE MR. V. G. KALE: On the assurance that has been given now by the Honourable Sir William Vincent.....

The HONOURABLE THE PRESIDENT : The Honourable Member cannot make a speech ; he must simply inform me whether he desires that the amendments should be put to the vote of the Council or whether he asks leave to withdraw them.

The HONOURABLE MR. V. G. KALE : I think I should like the question to be put.

The HONOURABLE THE PRESIDENT : To the proposed clause 3 (1), amendments moved :

“ After the word ‘ excite ’ the words ‘ among the subjects of any Prince or Chief of a State ’ be inserted : and
Between the word ‘ any ’ and the word ‘ Prince ’ the word ‘ such ’ be inserted.”

The question is :

“ That those amendments be made.”

The motion was negatived.

The HONOURABLE MR. V. G. KALE : As regards the next amendments, I need not move them as the other amendments which I have moved have been thrown out.

The HONOURABLE THE PRESIDENT : There is one amendment which is not consequential—the substitution of three for five.

The HONOURABLE MR. V. G. KALE : I thank you, Sir. I have overlooked it. My amendment is :

“ For the word ‘ five ’ the word ‘ three ’ be substituted in clause 3 (1).”

My reason for moving this amendment is that the ends of justice will be sufficiently met if the punishment is only three years instead of five.

The HONOURABLE SIR WILLIAM VINCENT : Under section 124-A, which is a very analogous section, my Honourable friend knows very well that one of the possible punishments is transportation for life, or that punishment, in a Bill which has already been introduced in another place, we propose now to substitute a maximum of five years' imprisonment and we have adopted the same punishment in regard to sedition preached against an Indian ruler. I do not think myself that there is really any very great difference in the gravity of the two offences, and I cannot think that a punishment of three years is necessarily sufficient for the worst class of case, say, the case of a man possibly successfully promoting a rising against a State and thereby causing many innocent lives to be lost.

The HONOURABLE THE PRESIDENT : The question is :

“ That for the word ‘ five ’ the word ‘ three ’ be substituted in clause 3 (1).”

The motion was negatived.

The HONOURABLE THE PRESIDENT : [The Honourable Mr. Khaparde not rising to move his amendment to sub-clause (2) of clause 3]. The question is :

“ That clause 3 stand part of the Bill.”

The HONOURABLE THE PRESIDENT : If the Honourable Member does not move any amendment to clause 3, I shall put the clause. He has on paper certain amendments to sub-clause (2) of clause 3.

[Mr. G. S. Khaparde.]

The HONOURABLE MR. G. S. KHAPARDE : 'The amendment which I beg to move runs as follows :

“That in sub-clause (2) of clause 3 of the Bill after the word ‘ comments ’ the words ‘ on facts which are true or contains comments ’ be inserted.”

The reason why I am bringing this amendment is that in British India as in England the truth of the allegations is not a defence in a prosecution for sedition. Truth is a defence in cases of defamation under certain circumstances, but not in others. This is an anomalous thing as I pointed out in an earlier part of my speech, and therefore I say that if the facts are true and the criticism is there, then it should provide a good defence in a Court of law. That is my object in putting forward this amendment. That truth is no defence in the case of disaffection—it should be a good defence. In this case it is not disaffection strictly so-called but by analogy or in a loose way, and therefore truth should be permitted to be a defence. That is the reason why I put forward that amendment.

The HONOURABLE SIR WILLIAM VINCENT : The Honourable Member is quite right in his statement of the law that in a prosecution for sedition the defence that the statement made is true, is not open to a man and I do not think that that defence should be open to a man who is prosecuted for sedition against Indian States. But apart from that point, quite apart from the merits, I think, if the Honourable Member will read the sub-clause, that he will see that unfortunately his desire is not effected by the amendment that he seeks to make. Sub-clause (2) provides that in certain cases comments will not be an offence and on my reading of the sub-clause I think his amendment rather limits than increases the scope of this sub-clause. But the real safeguard against a prosecution, an improper prosecution when a man is putting forward something which is true lies in a different direction. It lies in this fact that the Governor General in Council has to sanction the institution of the proceedings and by sanctioning a prosecution of this kind the Government make themselves responsible that there are good grounds for prosecution and the Government will take very good care to ensure, in the interests of its own good name, that no man is prosecuted for attacking an Indian Prince, unless he has really done so without justification. I maintain that that is and must be a real safeguard in cases of this kind.

The HONOURABLE THE PRESIDENT : The question is :

“That in sub-clause (2) of clause 3 of the Bill after the word ‘ comments ’ the words ‘ on facts which are true or contains comments ’ be inserted.”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“That clause 3 stand part of the Bill.”

The motion was adopted.

Clause 3 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“That clause 4 stand part of the Bill.”

The motion was adopted.

Clause 4 was added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : I move that in clause 5 of the Bill for the words " that of a Presidency Magistrate or a Magistrate of the first class " the words " a Court of Sessions " be substituted.

My reason in moving this is this. When the prosecution is sanctioned by the Governor General in Council, there would be some amount of difficulty if the case were tried by a first class Magistrate. That is not the only reason. The other reason is this. In trials before Magistrates, there is nothing like opening the case and Public Prosecutors have declined to tell you beforehand by what evidence they wish to prove a particular offence. When the case once opens and charges are framed, then there are certain facilities for defence in a Sessions trial which do not exist in the case of the first class Magistrates. Moreover the parties will be unequally matched. There will be the resources of an Indian Prince behind the prosecution and the accused will probably be a journalist or a poor man. Therefore in order to prevent miscarriage of justice, these cases should be tried by a higher tribunal like that of a Sessions Court. For these reasons I move my amendment.

The HONOURABLE SIR WILLIAM VINCENT : I do not think there is much force in the first argument that was used by the Honourable Mr. Khaparde, namely, that an accused derives great benefit from the opening of a case before evidence is adduced. I do not think that accused are prejudiced by the omission of this procedure in trials before Magistrates, and there is in any case no reason why offenders under this law should be in a better position than other accused persons. Further, offences under section 124-A, the analogous section to this, are in fact triable by first class Magistrates and by Presidency Magistrates. At the same time I realise the force of one of Mr. Khaparde's arguments, namely, that there will be in many such cases a powerful Prince behind the prosecution and it is desirable that the accused should be confident that he will receive fair and impartial justice. It is also important that trials of this nature should be carefully conducted, and in my own experience trials are conducted in a Court of Sessions better than before Magistrates and I propose to put this amendment into the category of others that I have postponed for examination by the Government of India after this Act is passed. I trust that this will meet the Honourable Member.

The HONOURABLE MR. G. S. KHAPARDE : Yes. In view of this assurance, I beg for leave to withdraw my amendment.

The amendment was by leave of the Council withdrawn.

The HONOURABLE THE PRESIDENT : The question is :

" That clause 5 stand part of the Bill "

The motion was adopted.

Clause 5 was added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I move that after clause 5 of the Bill the following clause be added, namely :

Trials by jury. " 6. All trials under this Act shall be by jury."

Supposing I take it for granted that that suggestion would be accepted and trials will be held before a Court of Sessions, some trials are held with the aid of assessors whose opinions do not count for much and if trials take

[Mr. G. S. Khaparde.]

place with the aid of a jury, the jury is supreme so far as deciding on facts goes. Trials by jury will be very helpful and therefore I propose that a 6th clause be added saying that all trials under this Act shall be by jury.

The HONOURABLE SIR WILLIAM VINCENT : Under the Code of Criminal Procedure, section 269, a Local Government may by order in the official gazette direct the trial of all offences or any particular class of offences to be held before a jury and I see no reason why this offence should be placed in a different category from other more serious or equally serious offences. So far as I recollect, and I speak subject to correction, cases under section 124-A are not tried by a jury anywhere except in High Courts. I cannot at the moment recollect any single district in India where such cases are tried by jury, and I suggest that the present class of cases should be treated exactly as cases under section 124-A are. I will remind the Honourable Member also that there are many districts where it is impossible to have trials by jury, and districts some of which possibly are on the borders of these Indian States, where to get a jury competent to try cases of this character would be impracticable. The amendment is in conflict with section 269 which I have just cited, and moreover as I have said the law already provides for jury trials in any case where the Local Government thinks it necessary.

The HONOURABLE THE PRESIDENT : The question is :

“ That after clause 5 of the Bill the following clause be added, namely :
Trials by jury. ‘ 6. All trials under this Act shall be by jury .’ ”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Preamble stand part of the Bill ”

The motion was adopted.

The Preamble was added to the Bill.

The HONOURABLE THE PRESIDENT : That includes the detailed consideration of the Bill.

The HONOURABLE MR. J. P. THOMPSON : I beg to move that the Bill be passed.

The HONOURABLE MR. K. V. RANGASWAMI AIYANGAR (Madras : Non-Muhammadan) : Sir, it is rather late in the day to oppose the Bill but yet I should have my say about the Bill on the whole. As between the press and the Princes, the Bill presupposes that the press is always in the wrong and the Princes are always in the right. I do not go into that question at all, but I want to oppose the Bill for the sake of the prestige and honour of the Ruling Princes themselves among whom I count many estimable friends. Sir, I am an admirer of some of the Princes and their Administration. I have come across many, and I have nothing to say against them or their Administration. I even memorialized Government that even the bigger Zamindars should be invested with ruling powers,

my Resolution to that effect having been negatived. I beg to say that I am one of those who have the greatest esteem and regard for the Princes ; and if at all I oppose this Bill, it is for the sake of the prestige of the Ruling Princes and their Administration. Sir, I do not think it would be an exaggeration if I say that in many of the States I do not find any Hindu-Moslem rupture or any class hatred or anything of that sort, in the name of democratic Government. Sir, if I oppose this Bill, it is because this Bill implies that there are some Princes who have to be shielded by a Bill of this sort, and that their Administration has to be given an armour or a purdah to be shielded by a Bill of this sort. I do not think that many of the Administrations of the Native States require a purdah of this sort. Sir, there are two classes—there is the other side also—there are good Administrations and bad Administrations. A good Administration does not require a Bill of this sort ; and a bad Ruler with a bad Administration, does not deserve to have a Bill of this sort. Their action should be exposed by the public Press. My Honourable friend, Sir Muhammad Shafi, and other speakers emphasised the fact that there is ample provision in the Bill for criticism, for right criticism, with a view to correcting an Administration. I do not think, Sir, that a line of demarcation can be drawn with precision, to distinguish between disaffection and right criticism ; and it is left to the State and the Magistrate to draw the line of demarcation between disaffection and right criticism. Sir, now we have no check upon the Administration of the Princes. If the Chamber of Ruling Princes should be invested with the powers of examining petitions and memorials from the subjects of Native States, then that would be some sort of check upon bad administration. The only existing check upon an autocratic Ruler is this public criticism. For any form of criticism in the Native States there are no public newspapers worth the name, and the Legislative Councils and the Courts are but creatures of the Rulers. We would be depriving the public of legitimate criticism if we should introduce a Bill of this sort.

The HONOURABLE THE PRESIDENT : The Honourable Member must remember that this is the third reading of the Bill.

The HONOURABLE MR. RANGASWAMI AIYANGAR : Sir, there is one more point which I have to say, in protesting against the Bill which I do in the interests of the Princes. I want the Princes to be classed in the same line with the International Powers. Where is an Act now to prevent newspapers from criticising the Heads of other Administrations, say the Governor of the Dutch or the French Dominions in India, or say the French or the American Presidents abroad ? Where is a Bill to protect these people ? It is because I am very zealous in guarding the prestige of the Princes, it is only because I want them to be treated on the same lines as we treat allies like America, France, etc., that I oppose this Bill.

The HONOURABLE THE PRESIDENT : The Honourable Member should either continue, or sit down.

The HONOURABLE MR. RANGASWAMI AIYANGAR : I want to continue. If I am not allowed to say anything unsavoury I shall sit down.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : It is very difficult for me to deal with the Honourable Member who never hears anything I say. I expressed my wish to him that he should either go on speaking or sit down.

The HONOURABLE MR. RANGASWAMI AIYANGAR : Then I don't want that our Princes should come to the British Magistrates to seek justice here. A great deal was said about blackmail. I do not think the Princes are blackmailed. I think they have attained that stage that an adventitious aid like this Bill is not necessary to check their being blackmailed. There was much said about the Treaty obligations. I have not come across any Treaty where they were guaranteed that they would be protected against the Press existing in India. The Princes have got ample powers to stop the newspapers that speak ill of them from entering their territories and that itself is a sufficient penalty upon newspapers. I do not think it just that any armour is needed to protect the undesirable rulers. Sir, I wanted to consult some of the Princes who are my friends, but since Mr. Kale's amendment was negatived, I have no time to consult them,—and the Bill was circulated only the day before yesterday ; and with this short period of time given, I have only to oppose the Bill.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, my Honourable friend, Mr. Aiyangar, started by saying that it was rather late in the day for him to oppose the Bill.

The HONOURABLE MR. RANGASWAMI AIYANGAR : Because I was not given time.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : In that observation, that profound observation, he was perfectly right. But he proceeded nevertheless to oppose the Bill on certain grounds some of which I propose to examine in a very few words. He started by saying that he opposed the Bill in the interests of the prestige of the Ruling Chiefs ! Whatever his meaning might have been, whatever was at the back of his mind, when he gave utterance to that statement, I am afraid I for one am not able to appreciate the validity or the logic of that observation. Does my Honourable friend mean that the prestige of the Ruling Chiefs is enhanced by attempts at creating disaffection against them among their subjects ? Opposition to the Bill only means that my Honourable friend is against taking any steps to prevent the spread of disaffection against the Princes ; if so, how that enhances their prestige, I for one cannot understand. Then my Honourable friend stated that the Ruling Chiefs did not require this armour—to use his expression—to shield them.

All I can say is that the Ruling Chiefs, in a Resolution passed at a meeting of the Chamber of Princes, have unanimously asked the Government to provide them with this armour with which to defend themselves against unwarranted attacks in the press calculated to spread disaffection against them amongst their subjects.

The next argument put forward by my Honourable friend was that the actions of bad rulers should be exposed. I am entirely at one with him that the actions of bad rulers should be exposed. But there is nothing

in the measures proposed, nothing in the Bill before the House to prevent the exposure of wickedness on the part of bad rulers. Does my Honourable friend imagine that where a *bona fide* critic in an article or pamphlet or book intends to expose the bad actions of Princes the Governor General in Council will give sanction for the prosecution of a critic of that description? Of course, apart from the sanction of the Governor General in Council, no prosecution is possible. The provisions of the Bill are clear; a prosecution can only lie in certain circumstances, and the proviso to clause 3 would prevent such a prosecution, as that from being launched.

Then my Honourable friend said that we have no check at present on the bad administration of Ruling Chiefs. That remark again will not bear examination. There is in the first place the Suzerain Power whose duty it is to see that there is a check on the bad administration of Ruling Chiefs. In the second place there is the weight of public opinion. In these enlightened days, even the Ruling Chiefs are amenable to public opinion—though possibly not in Madras—(Laughter) and I am sure that enlightened Chiefs like His Highness the Maharaja of Gwalior, His Highness the Maharaja of Bikanir, His Highness the Maharaja of Mysore and His Exalted Highness the Nizam of Hyderabad, all pay due deference to public opinion.

And now Sir, before I close, there is one position which I have to re-state in order to make the situation perfectly clear to Honourable Members. A glance at section 67-B of the Government of India Act will show that :

“Where either Chamber of the Indian Legislature refused leave to introduce, or fails to pass in a form recommended by the Governor General, any Bill, the Governor General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon.....”

I am turning to sub-clause (b) of this section :

“.....If the Bill has not already been so passed, the Bill shall be laid before the other Chamber, and, if consented to by that Chamber in the form recommended by the Governor General, shall become an Act.....”

and so on. It is therefore perfectly clear that under this section a certified Bill, in order to come within the purview of this section, has to be passed in the form recommended by the Governor General. It is for this reason that Government was not in a position to accept any of the amendments; because if the amendments had been either accepted or passed by this House, then the Bill as finally passed would not be the Bill in the form recommended by the Governor General in Council. That being so, an undertaking has already been given by my friend the Honourable the Home Member that if the operation of the Bill discloses any defects, such as have been mentioned in the amendments to-day, the Government will give its best consideration to those points.

The HONOURABLE SARDAR JOGENDRA SINGH : Sir, I rise to support the Bill, as I promised in the early stages of this debate. I must remark that the Honourable Sir Muhammad Shafi, by reciting the powers of the Governor General to certify the Bill, has not necessarily assured the House in the same way as the speech of the Honourable Sir William Vincent in the early stages of the debate did. I think it is the general

[Sardar Jogendra Singh.]

feeling of this House, and possibly of the other also, that this power is to be used only on rare occasions. I will say no more about it.

There is a word of personal explanation which I must make. The Honourable Mr. Thompson attributed to me the remark that I said something about not penalizing the praise of Princes in the press. I never made such an absurd remark. What I meant to ask was that, when he was quoting from newspapers calumnies against the Princes, did he take into account official reports which he himself confidentially received ?

I will refer to only thing more, and that is the great regret which I believe is shared by every Member of the House that we shall not hear Sir William Vincent in this Council again. He is one of our best debaters, and I think the feeling is shared by the whole House that in losing him we are losing one of our best Members. (Applause.) He ought really on retiring from the Government side come and sit on the Benches on this side. If he did, the only trouble would be that when responsible government came he would be claimed again by the Government.

The HONOURABLE MR. LALUBHAI SAMALDAS : Sir, I move that the question be now put.

The HONOURABLE THE PRESIDENT : The question is :

“ That the question be now put.”

The motion was adopted.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be passed.”

The motion was adopted.

ATTENDANCE IN COUNCIL AND DEPARTURE OF SIR WILLIAM VINCENT.

The HONOURABLE THE PRESIDENT : Before I proceed to adjourn the Council there are just a few remarks which I think are ~~due~~ at this stage. In the first place, I should like to congratulate the Honourable Members who are non-officials on the very excellent attendance this September. They will remember that at last meeting in Delhi I had occasion to remark on the fact that many of our debates were held with very thin Houses. The attendance this year has been gratifyingly better. I only hope Honourable Members will attend at Delhi in a way which will equal or, if possible, beat the record of the present attendance. ”

There is one other matter in regard to which the Honourable Sardar Jogendra Singh anticipated me in a manner which is not strictly in order. (Laughter.) There is nothing in the third reading of a Bill creating criminal offences which can justify him in considering it relevant thereon to regret the departure of Sir William Vincent. (Laughter.) I am quite

sure however that Honourable Members would like to express their great regret, to which I would add my extreme regret, that we shall not again, I fear, hear the voice—the eloquent voice—of the Honourable Sir William Vincent in this Chamber. In the placid atmosphere of this House it rarely happens that a breeze occurs. I can hardly recall in my experience many occasions when the air was slightly agitated; but when it has been so, it is a curious fact that the Honourable Sir William Vincent has always been in the House. (Laughter.) We feel that the Government will lose a great deal when our Honourable friend no longer attends our debates. But, apart from that, the Council generally will lose heavily, for it has appeared to me sitting in the Chair, sometimes slightly somnolent, that he brings a broader view, a fresher atmosphere to our debates. I am sure the Council will desire that I should wish him the best of health, happiness and prosperity in his comparative retirement. (Applause.)

The HONOURABLE SIR WILLIAM VINCENT: I only rise to thank you, Sir, and the Members of this Council very heartily for your appreciation of my work. I am afraid that there have been times when a rough note from me has disturbed the placid atmosphere of this Chamber, and my only excuse is that I came from more democratic surroundings sometimes perhaps a little livelier, and rougher than this Council. I would ask you to extend to me your pardon for any roughness that I have been guilty of here. It is at any rate a great satisfaction to me to have worked with this Chamber, the more so, because, as I have said frequently on other occasions, many of the Members are old friends of mine and I have reason to know the value of their services to their King and country.

ADJOURNMENT OF COUNCIL.

The HONOURABLE THE PRESIDENT: It only remains for me now to say that the Council stands adjourned to a date in January next which will be subsequently notified to Honourable Members.

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