

LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 20th JANUARY, 1931

Vol. I—No. 6

OFFICIAL REPORT



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DELHI
GOVERNMENT OF INDIA PRESS
1931

Price Five Annas.

LEGISLATIVE ASSEMBLY.

Tuesday, 20th January, 1931.

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

MEMBER SWORN:

Maulvi Badi-uz-Zaman, M.L.A. (Bhagalpur Division: Muhammadan).

THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) BILL.

Mr. President: Order, order. The House will resume consideration of the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, the consideration of which has been moved by the Honourable Sir James Crerar, and of the amendment moved by Mr. Abdul Matin Chaudhury for circulation for the purpose of eliciting opinion.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): Mr. President, I am very glad that I have been able to catch your eye, the first thing this morning. I think I owe it to myself, as well as to my constituency, to speak a few words on the Bill which was introduced by my friend, the Honourable the Home Member, yesterday. Several people from my Presidency have spoken on the subject and it seems to me that none of them has really tried to bring to the notice of the House what are the salient features which the Bill contains. Sir, I had had time to go through every word of it and what has been stated in the Statement of Objects and Reasons. I do not think it contains any thing like a bugbear to frighten away sober-minded people, not extremists, but logical and reasonable people who want to see the ordered progress of this wonderful country. I do not blame anybody in this world for holding his own opinion. I might differ from them and if my idea of things and my way of looking at things does not agree with theirs, of course it would be the height of injustice on their part to be uncharitable and say, "You are wrong, we are right", or for me to say, "You are wrong and I am right". On that dispassionate view of the matter, taking that as my theme, I am on my legs now. The Home Member stated that after the recrudescence of terrorist activities in my part of Bengal, the Government of Bengal had to take recourse to the special emergency measure known as the Bengal Criminal Law Amendment Act of 1925, and that Act, Mr. President, as you know, has been revived, not fully, not in all its aspects, but in respect of certain matters only. As a matter of fact, it has been stated in the Bill itself that that very salient and beneficial feature in the measure which allows the accused an appeal before the High Court, and also the similar feature in the measure which we

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passed yesterday with regard to the Punjab Bill, is one of review by the High Court in case of capital punishments is still in the Bill and that was passed by the Bengal Legislative Council last year. Now if indications have any meaning in this world, you will agree, Mr. President, that in these times when one is likely to see some form of autonomy in the provinces—and I am sure from that blessing, Sir, my poor province will not be debarred—, to me it would seem that if I were to sit in judgment on the opinions of the Members of the Bengal Legislative Council on that measure, it would be the height of impertinence on my part as a legislator.

Secondly, you will observe that in the body of the Bill, at the time of its passage through that Council, they did not think it necessary that the provisions of clauses 3, 4, 5 and 6, which were left out then, should be inserted, and with regard to the enactment of those clauses, of course, the Local Government have not got the power of making any such laws, and, of course, the Government of Bengal finding the necessity, feeling that a necessity has arisen for the enactment of those clauses in that Bill has approached the Government of India, with the result that an amending Bill has been introduced in this House. Some of my Honourable friends, like my esteemed friend Mr. Abdul Matin Chaudhury, feel that perhaps there is no inordinate hurry for the passage of this Bill here by this House. Well, Sir, I am sure, I am not going to cross swords with him on that score. I am sure that, as an intelligent and rising hope of his people, he will agree with me that, since last April up to now, there have been indications in my part of Bengal which are sufficient even to terrorize a monarch, if there was one in existence, like the Czar of Russia. I am sure I will not be wounding the sentiments of my Bengali friends, if I say that, since April 1930 up to a very recent date last year, there have been many ugly actions of which any Bengali should be ashamed. If my life is not secure, if my property is insecure and I feel that the life and property of people inhabiting our part of the country are insecure and if on the representations of people, the Government of Bengal take recourse to a measure, and if that is passed by the Bengal Legislative Council, for us to sit here in judgment on that and for us to question their intelligence, of course, I think that by that process, we will be paying a very poor compliment to them; for do not we Bengalis feel proud of Sir Surendra Nath Banerjee, the maker of Indian nationalism? Do we not say that we Bengalis are an intellectual race? If measures of this kind are passed by a majority of the Bengal Legislative Council, I do not feel justified myself in going against their wishes.

There is one other matter to which I should refer in this connection. Sir Abdur Rahim, yesterday, was very solicitous for the religious consolation of people living inside the jails. I had the pleasure of knowing Sir Abdur Rahim, while he was an Executive Councillor of the Bengal Government. He had been to my part of the province and perhaps he knows the people there too. I remember when I was the Chairman of the District Local Board of Chittagong, there was a controversy going on in the Bengal Legislative Council with regard to the portfolio of which he was in charge. My Honourable friend Dr. A. Suhrawardy, who is

sitting in front of me, will bear me out when I say that when that controversy arose with regard to giving spiritual consolation to people inside the jail, perhaps, as a Member of the Government, he did not see his way to accede to that request. I am very happy indeed to find that Sir Abdur Rahim himself sees the necessity of giving such consolation to people inside the jail now. I can tell you, Sir, from my personal experience, though not as a visitor, that in the Central jail of my town, we have both Muhammadan and Hindu gentlemen to preach before the prisoners, before all classes of prisoners, and I am sure, if their bent of mind is in that direction, they can always take their spiritual inspirations from them.

One other matter has been adverted to by the noble occupant of the Front Bench of the Independent Party, that is, with regard to allowing the detenus the facility of interviews with their own people. Perhaps, he feels that if those facilities are available ready and handy, those gentlemen whose activities have been temporarily suspended will come round and perhaps will behave like good citizens. Well, Sir, I know a little of that arrangement too. I can tell you that in my town one special tribunal is sitting now and there are about three dozen prisoners, all *bhadraloks*, sons of gentlemen, sons of Government officers, and if the environments in which they were brought up and nurtured from their early boyhood were not sufficient to bring into their minds the fear of God, and duty to mankind, I do not know, Sir, if, after they find that their mischief has been found out and that their activities have been stopped for a little while, I do not know if they will listen to any reason. Mind you, Sir, I do not blame them. I have said at the beginning that everybody is entitled to have his own opinion. Thus far, Sir, I have answered one or two points which were made by our friend Sir Abdur Rahim. There were one or two speakers yesterday who complained—perhaps it was my Honourable friend Mr. Abdul Matin Chaudhury, himself—who complained that these gentlemen, who are taken into custody under the laws of the land, are entombed and they are made to undergo all sorts of hardships. I have the authority of a very great Indian, I can assure you, Sir, who told me not months ago that gentlemen who have been under this discipline gained weight by several pounds and enjoyed their stay. Otherwise how could they have gained any weight?

Mr. B. Das (Orissa Division: Non-Muhammadan): Who is that great Indian? May I know his name? Will the Honourable Member please tell me the name of that great Indian who said that detenus were enjoying their stay in jails? I am waiting for an answer. Perhaps my Honourable friend has forgotten the name.

Mr. President: You have asked him. He is not bound to give any reply.

Mr. Muhammad Anwar-ul-Azim: One or two Honourable friends have asked, "Why, what about the *habeas corpus*?" Well, Sir, any Government, even if it was the Government of my Honourable friend, Mr. B. Das, or even if it was the Government of anybody to my right, would not have waited one second in trying to save their own skins, if they had any sense of responsibility in them. The Honourable the Home Member has very pertinently spoken before the House and said, yes, it is a certain amount of curtailment of activities of the people of that sort. You know.

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Sir, that if anybody has taken notice of things taking shape in this country, he must have noticed that these gentlemen, who are detained under these emergency measures, do not stay there long, and as soon as they want to get out of it, they can easily do so.

In this connection, Sir, I would like to tell the House that in 1927 when the third Assembly was elected, His Excellency the then Governor of Bengal invited all Members of the Central Legislature from Bengal to a conference with regard to the detention of Mr. Satyendra Chandra Mitra; and His Excellency Lord Lytton plainly told every one of us, including Mr. Goswami who was then a Member of this House, that if Mr. Mitra as a gentleman told Government that he would like to be at home and would not do things which he had been accused of doing, he could come out at any time. So, Sir, the charge of entombing these gentlemen and keeping them in solitary confinement and subjecting them to torture will not hold much water.

Mr. Amar Nath Dutt was very charitable yesterday. He said from his place in the House that Government have not made out any case of recent emergency. Perhaps Mr. Dutt has not forgotten what happened during the last three or four months in Chandpur, Chittagong, Dacca and even in Writers' Buildings itself; and if Mr. Dutt himself were the Governor of Bengal or an Executive Councillor there, I am sure, he would have been the first man to advise the Assembly to get measures of this kind through.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): There was an ex-Executive Councillor from my constituency who opposed this.

Mr. Muhammad Anwar-ul-Azim: I am not here to criticise the ways of the Executive Councillors.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): You are here to approve of them.

Mr. Muhammad Anwar-ul-Azim: I do not question the propriety of double Knights, C.I.E.'s and Nawabs shaping their policy when they come to this House, because that is their own concern. But what I do feel as a very humble citizen and as a very humble member of society, who has got a stake in the country, both as a public man and also as a middle-sized zamindar, is that unless we support the Government in adopting measures which they feel they want on emergencies—and it seems that we are going to have our own Government very soon—we here shall not have very much to say to the outside world with regard to our being a responsible body.

In conclusion, Sir, I will say this, that I am a humble back-bencher in this House, and I should be the last person to wound the susceptibilities of any one; and if my frank speaking has not been liked by any one, I hope he will be charitable, because it is really one of the good qualities of a citizen to have charity towards his neighbours. With these few words I commend this Bill for the consideration of the House.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I wish to remind Honourable Members of this House that this Bill is a revival of a similar Bill which this House threw out in 1925. Clauses 2 and 6 of the Bill of 1925 are sought to be reintroduced in the form of the

present Bill and I have before me the debates of the Legislative Assembly in that year. Honourable Members will find that Members of all shades of opinion, Hindus and Muhammadans, combined in throwing out the Bill by the overwhelming majority of 44. I will give you the exact figures; there were 39 for the Bill and 73 against it, a majority of 44. I am quite sure that, if the motion of the Honourable Member is pressed to a vote, the result will not be far different. But I wish to place before the House a few considerations why Members of all parties should combine to resist this encroachment upon the power of the Legislature. Honourable Members are aware that the 1925 Bill was intended to enlarge the power of the Executive. The present Bill is, as I have said, a revival of clauses 2 and 6 of that Bill. Those who have read the Bengal Criminal Law Amendment Act will find that it gives the Local Government an absolute and unfettered discretion to lay by the heels any person whom they consider to be dangerous and to send him into imprisonment for an indeterminate period. Section 2 says:

“Where in the opinion of the Local Government there are reasonable grounds for believing that he has acted or is about to act in contravention of the provisions of the Indian Arms Act . . . has committed, or is committing, or is about to commit any offence specified in the First Schedule, or has acted or is acting or is about to act with a view to interfere by violence or threats of violence in the administration of justice, then he may be detained . . . etc. :

Provided that such order shall be reviewed by the Local Government at the end of one year.”

The result of the whole thing is that the Local Government is the prosecutor, the Local Government is the Judge. There is no intervention of the judiciary to decide whether the man has been rightly detained or has not been rightly detained. As was pointed out by Mr. Gaya Prasad Singh, the matter is no doubt placed before two Judges under section 9, but the Local Government are not bound to accept their report. Therefore there is no check of the judiciary even to that extent against the action of the Executive. Sir, I was reading the other day a book written by the present Lord Chief Justice of England, Lord Hewart, and I find in that book the following passage, which is very pertinent to the discussion on hand. At page 29 he says:

“At various times in periods of political unrest, statutes have been passed enabling persons to be arrested on suspicion of treasonable practices and certain other offences, and detained without bail or trial. Measures of this kind do no doubt to a limited extent suspend temporarily the operation of the Act of 1679 (i.e., the Habeas Corpus Act). But these statutes, though they have been called Habeas Corpus Suspension Acts, have not in any sense suspended the general right of the writ of Habeas Corpus, nor have they legalised any arrest or imprisonment which would not have been otherwise lawful. Hence it is clear that such statutes have nearly always been followed by Acts of Indemnity protecting from liability all persons who acted in pursuance of the Suspension Acts.”

To my non-lawyer friends may I point out that under the English constitution in cases of grave national emergency, while Parliament does pass Habeas Corpus Suspension Acts, after a period of sometimes one year and sometimes more it immediately passes another Act called an Act of Indemnity. And when that Act is passed, every person has got a right to prove that the detention that was made by the executive was not lawful; and before passing that Act of Indemnity, all cases are therefore subjected to review. What have the Legislature done in the present case? Honourable Members will find that, instead of following this practice, they have,

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in section 14 of the Act, given all persons indemnity in advance. Now, the Lord Chief Justice points out that these repressive laws are laws which are in derogation of the ordinary rights of the citizen; in another place he says—and I would like to read to you three sentences:

“The business of the executive is to govern; the only persons fit to govern are experts; the experts in the art of government are the permanent officials who, exhibiting an ancient and too-much neglected virtue, think themselves worthy of great things.”

Now, Sir, I submit that the passing of the present Bill would be arming the executive with larger powers than they possess under the Bengal Act, and it is therefore the duty of this House to see whether a case has been made out for arming the executive with this larger power. I wish to submit for the consideration of this House a few facts which are conclusive of the whole question. The first point is that we cannot possibly permit the executive to imprison people without trial. If the executive are in a position to place these people before a court of justice within a reasonable period, there would be no objection to this Bill. But as it is, they wish not merely to take the power to deport Bengalis out of Bengal, but also to suspend indefinitely the Habeas Corpus Act, which corresponds to section 491 of the Code of Criminal Procedure. I therefore submit that the fundamental principle underlying this Bill is vicious; it is opposed to all constitutional practice of civilised countries, and as I have pointed out, quoting the language of the Lord Chief Justice of England, it is a piece of legislation which no civilised Government can tolerate. Sir, that this is not only my view, but the view of the Government themselves, as expressed as far back as 1921 is clear from the unanimous Report of what is known as the Repressive Laws Committee. May I read a short passage from para. 12 of that Report? It reads:

“We recognise the force of these arguments—(the arguments which have been advanced to give the executive larger powers)—, in particular the difficulty of securing evidence or of preventing the intimidation of witnesses. We also appreciate the fact that the use of the ordinary law might in some cases advertise the very evil which the trial is designed to punish; but we consider that in the modern condition of India that risk must be run. It is undesirable that any statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the legislature.”

Mr. G. Morgan (Bengal: European): Which Report is that?

Sir Hari Singh Gour: The Repressive Laws Committee's Report of 1921. Lord Sinha, then the Governor of Bihar and Orissa, sent to the Repressive Laws Committee a minute in which occur the following sentences:

“His Excellency in Council desires again to emphasise the importance of removing from the Statute-book as far as possible all special laws of this character, so that the Government of India under the reformed constitution may proceed with a clean slate.”

Sir, that is the opinion of one of the wisest and greatest men that India has produced; and when this question came up in 1925, let me recall the words of another distinguished son of India, the Honourable Mr. Jinnah. This is what he said:

“It is nothing else but a disgrace to any civilised Government to resort to a measure of this character.”

Sir, I do not think there can be two opinions upon this question. This is an intensified repressive law, and the executive, it may be, taking advantage of the fact that many Members of this House are new and ignorant of the history of legislation in this House, are trying now once more to place upon the Statute-book a measure which in 1925 was rejected by the majority I have mentioned. I submit that this House should not have the slightest hesitation in rejecting this measure promptly and decisively, as it did in 1925. I wish to point out that no fresh reasons have been given why this measure should receive the consent of this House. It has been stated by the Honourable the Home Member that we want to remove the detenus from what he considered demoralising environments. Sir, those are words which signify nothing to us. If the Honourable Member had come before us and given more specifically the reasons which have impelled the Government to reintroduce this measure after it was once debated and buried by this House only five years ago, we would have been in a position to consider it; but the reasons that he has given are nothing except a *rechauffe* of the reasons which his distinguished predecessor, Sir Alexander Muddiman, gave when introducing the measure before this House.

There is another fact which this House must bear in mind and that fact is this: if you give the executive the larger power which they demand of deporting people outside Bengal, you would necessarily be agreeing to the power of the executive to detain persons without trial. I ask Honourable Members of this House, "Are you in favour of giving the executive the power of imprisoning people without trial?" That is the whole question; and if you are not in favour of it, you cannot be in favour of giving them the larger right of deporting them outside the province where they were arrested.

Sir, I was reading the other day a history of the French Revolution, and I find that in those days they had what they called *lettres de cachet*; they used to give blank warrants, and people used to go and knock at the doors of houses and say, "Look here, you have been maligning the Government. Come along with me", and then transport them to other parts of the country. That this system of arbitrary seizure of the person and deporting him and detaining him for an indeterminate period is a vicious principle is recognised now in the jurisprudence of all countries. And more so, it is recognised in the jurisprudence of the British Commonwealth. In England where the suspension of the Habeas Corpus Act is resorted to only in cases of extreme emergency and where it is immediately followed by an Indemnity Act giving the Legislature the right and the power of examining all cases in which the executive had used their authority, even there the judicial authority, the highest in the country, has condemned this procedure as the negation of the right of citizenship, and I understand, Sir, from the newspapers that this book, the "New Despotism", published, by the Lord Chief Justice of England created such a sensation in England that they have appointed a Committee for the purpose of revising all these measures for the purpose of ensuring the liberty of the subject. While they are doing that in England, is this Legislature to take the reverse course of arming the executive with much larger powers, with powers which are absolutely unfettered and unqualified, and which give them the right, without any judicial control, of arresting and detaining persons for reasons which they are not bound to disclose? Sir, Honourable Members are well

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aware of what is intended to be implied in practice from the language of clause 2 about the opinion of the Local Government. The Local Government, Sir, is a figure of speech. The Local Government act upon the advice and, perhaps on the confidential reports, of the police officers, and there is no check by way of cross-examination, and there is no safeguard by way of a judicial or *quasi*-judicial trial. I understand, Sir, there are over 300 people who are held in detention in Bengal, and if you give the executive power to deport these people outside their province, you would be not only enlarging their powers for deporting them outside Bengal, but ratifying their act and justifying the use of their power of arbitrary seizure of the person and of indeterminate detention. Are you prepared to do it? That is the short question. I have already recalled to you the language of one of the leaders of this House in 1925, and I hope, Sir, that every elected Member in this House will combine to throw out this repugnant measure.

Maulvi Muhammad Yakub: Sir, yesterday when I was listening to the great speech of a distinguished member of the Calcutta Bar, I thought that he alone enjoyed the single distinction of being a past master in making incoherent speeches; but today listening to another speech of another great and distinguished member of the same Bar, I found he was not alone in that art and that there were others too, and on this great distinction achieved by the Calcutta Bar I beg to offer my sincere congratulations to the ex-Advocate General of that Bar.

Sir, I fully share the joint responsibility of the Members of this Assembly to assist Government in taking any measures for the preservation of peace and law and order in this country. I have never shirked my responsibility in lending my support to such measures, even if it were at the loss of cheap popularity with the masses. I also fully realise that in abnormal conditions the State has sometimes to take abnormal measures and to forge arms necessary to meet such abnormal conditions. I am also fully conscious of the fact that now-a-days we are passing through abnormal conditions in India, and that if any measures were really needed to meet the present conditions we should not shirk our responsibility in supporting the Government in passing such measures into law. But, Sir, we must also bear in mind that in forging such measures we should not inflict unnecessary hardship upon those persons who are going to be the victims of such laws. In fact, even a prisoner whose offence has been proved, whose guilt has been established by a Court of law, need not be given unnecessary punishment and should not be subjected to unnecessary hardship, much less in the case of persons whose guilt has not been established in any Court of law and whose liberty is to be restricted only on suspicion. It may be, Sir, that the reports on which his record is framed and the information which is supplied against him may be the result of a *bona fide* mistake on the part of those who are charged with collecting such information or it may be the result of the *mala fide* activities of some officers whose very existence depends only upon procuring and, if they cannot procure it, upon forging information against certain persons. Therefore, Sir, it is most necessary that in supporting such measures we must see that unnecessary hardship is not done to anybody who comes under the ordeal of those measures.

Now, Sir, let us see what is the necessity for the Bill which has been placed before the House today. We are not discussing the question of arming the Government with authority for curtailing the liberties of persons against whom there is some suspicion. I am conscious of the fact that in certain circumstances Government cannot bring before the law courts the evidence which they have in their possession against certain persons. I am also conscious of the fact that in certain cases there may be some evidence which it would not be in the public interest to place before the law courts, and therefore in extraordinary cases Government should be armed with the power of curtailing the liberties of certain persons, but that power they have already got. That measure is already on the Statute-book, and in discussing this Bill we are not reviewing that Act. The only question before the House is whether, in addition to the curtailment of the liberties of such persons, we should also deport them, we should also exile them to strange parts of the country. That is really the question, and we have got to see whether we are justified in passing such a law or not.

Now, Sir, I was really surprised to hear the most solemn and grave speech, of twenty minutes duration, of the Honourable the Home Member in depicting the horrors of communism in this country. I thought that he was presenting before the House some measure which would stop those horrors of communism and eradicate the evil of terrorism. If my Honourable friend, the Home Member, is prepared to give us an undertaking on the floor of this House that by passing this measure he will eradicate all the crime in the country, that by putting this Bill on the Statute-book, all the communism in the country will be stopped, then I am sure that this House will not shirk its duty in lending its support to him. Let him say that, after this Bill is passed, everything has been done to eradicate the evil of communism and that they will not introduce the Press Bill or bring any other repressive measure before the House. If this measure does not go far enough, then I do not find that there is any justification for adding to the injury which we will be doing by curtailing the liberty of the people of this country. To me, Sir, it seems that the measure which is placed before the House is tantamount to a confession on the part of the Government that they are unable to perform their duties and that their officers, who are in charge of keeping the peace in the country, are quite inefficient.

To put it in a nutshell, what does this measure mean? It means that there are 300 detenus in Bengal, that the Government of Bengal are incapable of disconnecting them from the rest of Bengal, and that they cannot prevent secret intercourse between these detenus and the people of the province. This shows the inefficiency of their officers who are in charge of the work. The next thing is that they are unable to provide accommodation for these 300 detenus. Are these two considerations sufficient to bring in such a measure before the House and to deliver a speech of twenty minutes duration, pregnant with such solemnity? If the Government of India are prepared to spend lakhs and lakhs of rupees, for instance, forty lakhs of rupees in building a separate recreation club for the sake of half a dozen railway officers, in a town where already an European club exists, it is surprising that they cannot find money to provide separate accommodation for these 300 detenus in the province to which they belong. If they cannot find efficient officers to perform their

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duties and to stop the sources of connection between these detenus and the people of the province, then they cannot justify their existence in India, on the pretext that they are the guardians of the peace and that the duty of preserving law and order in the country has devolved upon them. These are the only two grounds on which the Government have brought this Bill before the House, and I think that those grounds have got no force and they fall to the ground.

Now, Sir, the rigour and the extraordinary hardship which this Bill would entail upon those persons who would become victims of this malicious measure have already been fully given expression to by the previous speakers, and I need not go into them over again. Some of these hardships, of course, it is in the power of the Government to remove or to mitigate, for instance, to provide these people with the same food which they get in their own province, and things like that; but there are certain hardships over which the human hand has no control, as for instance, climatic conditions. For example, if you deport a man from Madras to Peshawar, what will be his condition in the month of December?

Sir Hari Singh Gour: He will be frozen to death.

Maulvi Muhammad Yakub: Surely. Then there is the difficulty about language. If a man living in Madras is deported to a place in my province, say, Allahabad, suppose he tells the man in the jail that he wants some rice. In Madrassi language they call it "Chour". In Urdu "Chour" means a thief. If the deportee wants rice, I do not know how the jail official in Allahabad is going to help him. These are the difficulties of climate, difficulties of language, difficulties of surroundings, over which the Government, even if they wanted to, have no control, and for these reasons, I think that this Bill should not be supported.

Before I conclude my remarks, I wish to inform the House that my Honourable friend Mr. Anwar-ul-Azim, who alleged that he had personal acquaintance with the *ex*-Member of the Bengal Executive Council, has made certain allegations against him which are totally false

Dr. A. Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Why does he not speak?

Maulvi Muhammad Yakub: When his time comes, he will speak. (*An Honourable Member:* "He has already spoken.") He spoke before these charges were levelled against him. I am perfectly justified in saying that what has been said about Sir Abdur Rahim, that he opposed giving any religious facilities to prisoners in Bengal, is totally false, and that Sir Abdur Rahim was the first man who showed his sympathy and who allowed facilities for religious observances to the Indian prisoners. If Members of this House make such irresponsible statements on the floor of the House, I think that instead of curtailing the liberties of suspicious persons in Bengal we will have to bring in some measure to curtail the liberty of speech of such irresponsible Members of the House.

With these remarks I oppose the Bill.

Dr. A. Suhrawardy: Sir, although I find myself in agreement with the views expressed by the distinguished legal luminary from Moradabad, I have no desire to imitate his good taste or his good example in paying compliments to the relevancy or coherency of his speech. I do admire his championship of an *ex*-Member of the Bengal Executive Council who was in charge of the Jail portfolio, but I think that the Honourable Member can take good care of himself and does not stand in need of any help from Moradabad or elsewhere.

Sir, if I rise to intervene in the debate, I do so because with all the goodwill and the desire to support Government and strengthen their hands in fighting the terrorist movement, I find myself unable to lend an unqualified support to the measure before the House. My reasons are quite different from the reasons advanced by my Honourable friends like Sir Hari Singh Gour or Mr. Muhammad Yakub. Apart from the legal and constitutional grounds there are other grounds for opposing the Bill. I have had exceptional opportunities of knowing the practical difficulties in the way of a measure like this, and the harsh and oppressive operation of the law, especially when a person is deported from outside the province. I have read and re-read the Bill, and I find that the salient features of the Bill boil down only to this, that it confers power to deport a person outside Bengal. I am not quite sure whether deportation, or committing a person to custody in any jail outside Bengal, contemplates deportation or committing a person to custody in any jail outside British India. If it had been a case of deportation outside British India, perhaps I might have been in a better position to support the Bill, because, so far as India itself is concerned, India in the year of grace 1931 is quite different from the India of 1911, when the Government of India ran away from Bengal and sought refuge in the dilapidated citadel of the great Moghul. Revolutionary movements might have been confined to Bengal and Bengal alone in 1911. But I do not know where now to find the head and centre of the revolutionary movement. Its tentacles or its net-work have been spread all over India. And where are you going to deport the so-called terrorists and revolutionaries of Bengal? I say so-called, because the persons whom you are going to detain are alleged terrorists and I have no proof, no evidence before me to show that they are terrorists, nor can I be convinced unless they are tried and convicted, that they are terrorists. If you deport them to the Punjab, well, we have had examples of the terrorist outrages in Lahore itself. We have got the Lahore Conspiracy case going on.

What are the reasons for the Government of Bengal or the Government of India asking for power to deport people from Bengal to places outside Bengal. I have not yet been able to find out the reasons. I think Sir James Crerar said in his speech that the reason for deporting people outside Bengal is this, that people outside might get into contact with the detenus inside the jail and that there was an apprehension that some rich detenu might bribe subordinate jail officials. I do not know whether Sir James Crerar actually made use of these words.

The Honourable Sir James Crerar (Home Member): They are not quite what I said.

Dr. A. Suhrawardy: Anyway, I have had considerable experience of Bengal jails as a constant visitor of jails, and I know who are usually jail officials. They are Europeans; there are in some cases Anglo-Indians. They are in the majority. So far as warders are concerned, they are not

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people of Bengal. The majority of them are Sikhs or Punjabis or up-country people. Who are the subordinate jail officials intended? In the name of those ill-paid unfortunate Bengalis, Hindus and Mussalmans, who occupy very subordinate positions as subordinate Assistant Jailors, I repudiate the suggestion that they are more amenable to bribery or corruption than people in other parts of India. Then from the practical point of view, I think that by deporting the Bengal revolutionary or alleged revolutionary or terrorist to any other part of India, you simply act as a propagandist of the revolutionary movement. When Mr. S. C. Mitra was deported to Mandalay, the eyes of the whole world were concentrated on Mandalay, and if I am not mistaken, even in the Burma Legislative Council there were questions and Resolutions about the Bengal detenus in Burma. You remove a man to Lahore jail. He goes on hunger strike and sometimes it may happen that he dies. You afford an opportunity for a big procession from Lahore to Calcutta. What more powerful agency do you want for propaganda or for arousing the indignation of the people and their sympathy towards the alleged terrorist whom you allow the opportunity to die in a place outside his province, where the people, generally speaking, are not at all in sympathy with the terrorist movement. Then there are all sorts of stories of ill-treatment of the prisoners in jails. When such a story gets abroad from a local jail in Bengal, we have immediate means of finding out that it is not true. Not very long ago we had great excitement in Calcutta on the alleged ill-treatment of Mr. Subash Chandra Bose and Mr. Sen Gupta inside the Alipore or the Presidency jail. Sober-minded people had had opportunities of having access to the Honourable Member in charge of jails and of visiting the jail and ascertaining what the truth was. Not long ago, if my memory serves me right, rumour spread in Calcutta that a certain detenu or inmate of a jail was so ill-treated in Benares that he died and that he had gone previously on hunger strike as a result of the ill-treatment. It is alleged in certain quarters that the terrorist outrage in the Writers' Buildings in Calcutta and the murder of Colonel Simpson were somehow connected with this rumour spread from Benares and published in certain newspapers.

The Honourable Sir James Crerar: The Honourable Member knows quite well that it was a totally false rumour.

Dr. A. Suhrawardy: That is exactly my point. It is a totally false rumour. That is a ground for your Press Act, the consideration of which you have postponed in view of the long-expected announcement of the Premier in order to create an atmosphere of goodwill, but you have not the good sense to postpone this measure. The redeeming feature of that unredeemed Act, in the words of my friend Mr. Arthur Moore, the Punjab Act

Mr. Arthur Moore (Bengal: European): On a point of explanation. I never referred to the Punjab Act in that way.

Dr. A. Suhrawardy: I beg your pardon. I adopt the expression, never mind whose words they are. The redeeming feature of that unredeemed Act, the Punjab Act, is not present so far as this measure is concerned. It is quite a different thing to lend support to the Punjab Amending Bill, but this Bill is a highly controversial measure. There is no doubt about it. From the point of view of Government themselves it is not advantageous to hurry through this Bill and to pass it in the teeth of opposition of

the elected majority in this House. You have no doubt got the weight of majority on your side, with your nominated Members and the official bloc. On the eve of the constitutional announcement of the Premier, unless it is going to be a jugglery of words, it is highly improper that this measure should be pushed through, and I oppose this Bill on general grounds. Assuming for argument's sake that there may be nothing wrong in giving the Government of Bengal and the Government of India the power of deporting a person outside Bengal, I am not prepared to assume that in Bengal there are officials who would administer this Bill in a spirit of humanity. Liberalise the whole system. Give me an assurance that the administration of this Bill and the application of power will be humanised and then I may consider whether I should support this Bill or not. If the Government are really anxious to crush the revolutionary movement, they should seriously think whether they should not transfer from Bengal to the Government of India or outside India some of their own officials, whose personal unpopularity is responsible for much of the discontent in Bengal. As regards the question of detention and deportation, I am not quite sure whether it will always be to the advantage of Government. I have been a student of philosophy and of psychology. To a certain extent I know the influence of change of environment and of climate on persons. But it does not necessarily follow that it will be always to the advantage of Government. I see how the gentle and meek lamb from Madras roars like a lion in the wilderness of Kumaon. I also conceive how the strong arm of bureaucracy which deported my friend Mr. S. C. Mitra from Bengal to the Mandalay jail now sits by his side, when transported from Bengal to Behar, as his greatest and strongest champion. Then, Sir, I am reminded of a personal experience of mine, and Sir Abdur Rahim might remember the case. There was a young man, a young poet of the name of Nazr-ul-Islam. He was incarcerated in the Hooghly jail. Rumour spread in Calcutta that he had been on hunger-strike for 35 days and was on the point of death. A meeting was held under the presidency of the late Mr. C. R. Das and he very kindly—I do not know for what reason—conferred upon me the honour of undertaking a journey from Calcutta to Hooghly in order to interview—as I happened to be a jail visitor at the time—this young man and persuade him to give up the folly of persisting in his hunger-strike. Well, I could not very well decline the honour, in spite of the personal and domestic difficulties which I had to contend with, because there was illness in my family. But I myself had to suffer some privation and to undertake a journey from Calcutta to the Hooghly jail to persuade this young man; and I was glad that the result was satisfactory, because he immediately gave up the hunger-strike. But is it always possible for me or any other person, however enthusiastic he may be, to undertake a journey from Calcutta to, say, Mandalay, and persuade a man like Mr. Satyendra Chandra Mitra or any other person, if he adopts the suicidal attitude of going on hunger-strike, as would be possible for us to do if any such man were incarcerated in the Alipore jail? I ask, what facilities do we get; what facilities do the relations and persons incarcerated and transported outside the province get for interview? What facilities would you give me and other Members of the Assembly, who would like to visit detenus in jails and satisfy ourselves as to the treatment accorded to them? Am I going to be given a gold pass to travel all over India and to visit the Yeravda jail or the jail in Coimbatore or to go to the North-West Frontier Province or Burma? I cannot afford

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at my own cost, in spite of my enthusiasm, to undertake a journey and then be confronted with all sorts of difficulties when I approach the jailor there. Sir, I am reminded of the fact that, during the three years of incarceration of Mr. Subhas Chandra Bose and Mr. Satyendra Chandra Mitra in the Mandalay jail, when there were 18 detenues there, only one person could visit the Mandalay jail and that was Mr. Sarat Chandra Bose, a flourishing lawyer of the Calcutta Bar, who could only visit his brother, Mr. Subhas Chandra Bose, and that only on the eve of his release when a rumour, perhaps false, spread that he was dying and was suffering from tuberculosis. Well, I said that perhaps the rumour was false, because, unless Subhas Chandra Bose had discovered the remedy of curing himself of consumption, I cannot understand how a gentleman whom my friend, Mr. Amar Nath Dutt, described as having returned to Bengal late in 1927 as a perfect wreck, how on the 3rd of February, 1928, he was a wrecker himself of the Presidency College and many other institutions. (Laughter.) Anyway I have already foreshadowed my reasons for being disinclined to support the Bill. I do not do so, Sir, in any spirit of obstructionism or opposition. Honourable Members will realize that I am doing so with the best of goodwill. I have had practical experience of the difficulties, of the great hardship, and of the suffering of the detenues and their relations and friends.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): Sir, coming as I do from Bengal, I feel I cannot record a silent vote on this question. Sir, the debate has travelled over a very wide range, much wider than it need have done. The whole question of the policy underlying the main Act which it is proposed to supplement by the provisions of the present Bill has been opened up. Much as I think that that aspect of the question should have been put aside, when it has been raised, I cannot but join my voice to the protest which has gone up from the floor of this House against the principles of that measure. (Applause.) I make bold to say that any law which authorises arrest and detention without trial for an indefinite period is something of which no civilized administration can feel proud (Hear, hear); but, placed as we are,—and that is the tragedy of the situation—there are some things which we have got to accept as settled facts; and so far as we are concerned here today, the Bengal Criminal Law Amendment Act of 1930 is such a settled fact. I know it is claimed on behalf of the executive that this measure aims at striking at terrorists and terrorism. I am one of those who have no reasons to have any love, not even a sneaking sympathy, for terrorists. In the early days of terrorist agitation in Bengal, Sir, more than 20 years ago, I lost a very dear and near one as the victim of a terrorist outrage. All the same, Sir, detest as I do terrorists and terrorism, I cannot at the same time reconcile myself to any proceeding which seems to me to be nothing but a negation of all law, a challenge to the fundamental rights of citizens, a denial of the right which you give to the meanest criminal of being tried before a judicial tribunal. (Applause.) If I could feel assured, Sir, that by enacting measures like this you could eradicate the evil which you are trying to suppress, I should have accorded my unstinted and whole-hearted support, but I ask, has that object been achieved? Sir, I will not go back into past history. I shall refer only to recent events. I would ask my friends opposite to tell the House if, in spite of such measures as the Bengal

Criminal Law Amendment Act or its temporary substitute, the ordinance, it was possible for the executive to prevent such deplorable outrages as have disgraced the fair name of my province within the last few months. Was it possible for them, by keeping in detention suspected revolutionaries, to prevent the murder of Mr. Lowman, or the murder of Col. Simpson, or to prevent the attempted assassination of Sir Charles Tegart? That is, Sir, why I say that the very object with which such special legislation is enacted has, so far as past experience shows, been not achieved. I know, Sir, that the times are exceptional; exceptional situations call for exceptional remedies, but exceptional remedies have got to be justified by the results. I venture to think, if you examine the facts, you will not be satisfied that the expected results have been obtained. Be that as it may, the Act is there, and it is our business here to see that the fetters are not made more rigorous than they need be.

Sir, turning to the present Bill, I have examined very carefully the Statement of Objects and Reasons. I have listened very carefully to the speech which was made by the Honourable the Home Member yesterday. I am not satisfied that a very convincing case was made out. This Bill, as you must have seen, takes power, first of all, for the Local Government to transfer any detenu from Bengal to some other province, and secondly, it abolishes the writ of *habeas corpus* so far as these persons are concerned. What are the grounds, Sir, on which it is suggested that these persons ought to be transferred out of Bengal in the public interest? Some of the previous speakers, especially my Honourable friend Dr. Suhrawardy, have dealt with the first ground which was brought forward by the Honourable the Home Member. I know there have been occasions recently in Bengal jails of outbreaks of indiscipline, and sometimes of violence, among the inmates. That is a state of things, which none of us, I believe, will approve of, and if any measures were needed for the purpose of securing discipline in jails, I am quite sure that Members of this House would lend their support to such measures. But to say that it is not possible to secure discipline in Bengal, constitutes a libel upon the Bengal administration. What right have you to assume that what the authorities in Bengal cannot do, the authorities of some other province will be able to accomplish? After all, the number of persons so far dealt with under this Act is about 350. The object is to isolate them, to segregate them, to keep them away from other people who might contaminate them or whom they might contaminate. I ask, Sir, is Bengal so small that no accommodation can be provided within its four corners for these 350 people? In Bengal, they have opened special jails for the accommodation of those who have been and are being arrested in shoals from day to day in connection with the civil disobedience movement. Why, then, should not the Bengal Government be able to provide special jails for these detenus? Why should it not be possible for them to hire houses for these men, if necessary. if it is not deemed expedient to keep them in ordinary jails along with other prisoners? Sir, the risks involved in the transfer from Bengal to another province have been referred to by more than one speaker. The difficulties are not imaginary; the grievances are not sentimental. Sir, remember that the persons whom you are dealing with under this enactment are not persons who have been tried and found guilty; they are persons against whom, on their own showing, Government find it difficult or inexpedient to enforce even the preventive sections of the Criminal Procedure Code. That being so, it is only just and reasonable that these persons should not be put to

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any worse treatment than their status and position in life entitle them to. (Hear, hear.) It is enough, Sir, that you deprive them of their liberty, it is enough, Sir, that you restrict their movements, but for Heaven's sake, do not subject them to any unnecessary ill-treatment for nothing. You do not mete out such ill-treatment even to persons who have been tried and convicted. Why, then, should you treat these men in a different way? Sir, I will refer to some of these difficulties once again even at the risk of repetition, and I should be prepared even to suggest for the consideration of the Government that if this measure is placed on the statute-book, it should be there with adequate safeguards to ensure that these prisoners, who will be dealt with thereunder, will not be subjected to more harsh treatment than is absolutely necessary. Take, first, the question of interviews. It has been pointed out how difficult it is for the friends and relatives of these men to obtain interviews which, according to the regulations, they are accorded. As one of the speakers reminded Honourable Members yesterday, there were about twenty people who had been deported to Burma under the enactment of 1925. I think, I can speak without fear of contradiction when I say that, out of these twenty, there was only one in whose case it was possible for his brother to go to Burma and interview the detenu. I refer to Mr. Subhas Chandra Bose. The others had no interviews with their friends and relations during all the period of three years that they were kept in Mandalay. My humble suggestion is that if you have this Bill, then you must provide either in the Bill or by rules under the Bill or by executive instructions, if necessary, that in such cases, travelling allowance should be paid to friends and relations of these persons who may be permitted to go and interview them. Then, Sir, about the difficulties regarding food and the manner of cooking and so forth, a Bengal prisoner taken to another province often finds it difficult to adjust himself to the new variety of food or the new method of cooking he finds there. Therefore, my suggestion is that if you should find it necessary to take away a man from Bengal, you must make it a rule that in every such case, you must send along with him, or along with that batch of Bengali detenus, a Bengali cook, and you must arrange for Bengali food to be provided for them. (Laughter.) I notice some of my Honourable friends seem to take this lightly. It is, however, a matter which vitally affects those prisoners, vitally affects their health, and if there is any other suggestion which can be made by any other Member, I am quite sure the House will be prepared to consider that. But I am placing before you, Sir, some definite and concrete suggestions as they occur to me. Then, Sir, there is the question of the climatic conditions of the place to which it may be considered desirable to remove the man. The whole point, I take it, from the Government point of view is that the man must be removed from Bengal. Removal from Bengal need not imply that the transfer must be to the North-West Frontier or to Mandalay. India is large enough, and there might be other places to which, having regard to the health of the detenu, the transfer would be more suitable. In such cases I suggest that the Government should undertake to have a medical report regarding the prisoner and get medical advice as to the best place where it may be desirable to remove him. At any rate he should have a choice of places to which it may be possible to transfer him without injury to his health. I lay great stress upon that point, because it has been the experience of many of these unfortunate people that as

a result of detention in a climate which did not suit them at all, their health had been permanently impaired.

Then, there is the question of delay in correspondence. I am told that the result of the transfer of these men from Bengal to another province means a double censoring, censoring once in Bengal and once in the other province. If that be so, then, of course, it means unnecessary delay in the transmission of their messages. I think matters should be so arranged that at any rate important and urgent communications may reach these people at the earliest opportunity.

These are questions no doubt of detail. I think the best course would be to thresh them out in Select Committee; and that is why I suggest that if this motion is lost, my Honourable friends opposite should not oppose the motion for reference to a Select Committee, which I find next on the agenda. These are some of the difficulties which I think ought to be adequately provided for, and if even these are not so provided for, you have absolutely no justification for pressing this Bill before the House. But as I said, the fundamental objection remains. The Bill itself is a piece of odious legislation; I mean, the main Act is a piece of odious legislation, and if we can help it, we ought not to do anything on the floor of this House which might make it more odious still.

Mr. B. Das: Sir, I move that the question be now put.

The motion was adopted.

The Honourable Sir James Orerar: Mr. President, I propose at this stage to make some observations in the first instance on some of the more general questions relating to the Bill which have emerged in the course of the debate, and in the second, to address myself briefly and more particularly to the motion for circulation. In my opening remarks I explained to the House that I did not consider it necessary to embark upon any elaborate justification of the general grounds which underlie the local Act and, in so far as the supplementary Bill is relevant, affect the supplementary Bill. I explained that I did not consider it necessary to do so because I thought that there would be universal recognition in the House of the grave state of affairs in Bengal and elsewhere which renders it imperative to arm the Government with special powers. Nor should I have considered it necessary to revert to that question if the remarks of one or two of the speakers who immediately preceded me today had not raised doubts in my mind as to whether after all there were not one or two Honourable Members—I hope not more—who were disposed to challenge the general basis on which the local Act has been enacted. I can hardly imagine myself, Sir, that Honourable Members who have spoken in that sense do seriously intend to raise that question or expect the House to concur with them in their doubts. And for that reason I do not now propose to embark upon a long recital of the melancholy series of outrages which have necessitated this legislation. I must, however, take exception to the remarks made by Sir Hari Singh Gour, in which he imputed to me and to Government some intention of taking advantage of the ignorance of Honourable Members of this Assembly in promoting this legislation at this stage in a new Assembly. I think, Sir, that was a somewhat misconceived remark, partly because I imagine, Sir Hari Singh Gour may conceivably overrate his own appreciation of the issues in question and may underrate the knowledge of other Honourable Members who have taken their seats for the first time in this Assembly. I

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cannot also help intimating some surprise and some amount of regret that my Honourable friend Maulvi Muhammad Yakub should have suggested that I was guilty of a somewhat unconscionable course of conduct because, in addressing this House on the grave issues which it has been my duty to bring before it, I spoke in tones of solemnity and for no less a period than 25 minutes. With all due deference to my Honourable and learned friend, I must add that, though I may perhaps not exceed the exiguous limits which the Honourable Maulvi regards as proper to a debate of this kind, I shall nevertheless address the House very definitely in tones of solemnity. For the issues are very grave indeed. I will not pursue at any great length the broad grounds of justification of this measure. I will mention only this single fact, that during the course of the last two years, no less than 42 terrorist outrages of an exceptionally grave character have occurred in Bengal. I omit many others which might have been brought within the ambit of the Act then in force, and I refer only to 42 exceptional cases. Since the local Act was enacted, there have been no less than 22 grave crimes in that category, apart, as I say again, from minor offences. They include, Sir, the attempt on the life of Sir Charles Tegart; they include the assassination of Colonel Simpson; they include other cases of which the House is so well aware that I do not think it is necessary for me to repeat them.

Maulvi Muhammad Yakub: We strongly condemn them.

The Honourable Sir James Crerar: I will take this point further that this terrorist movement is not now confined to Bengal. It is a matter of all-India consequence, not only to other provinces, which have received perhaps their first infection from Bengal, but to every single province in India at the present time. Therefore, if I do not elaborate this part of my case further, my reason for not doing so is that I am perfectly well aware that no Honourable Member of this House, who has given his mind seriously to the issues before the House, can deny the existence of that very grave state of affairs.

Now, Sir, I pass further on to the policy underlying the local Act and by consequence to the supplementary Bill. It has been denounced as entirely opposed to all recognised principles of jurisprudence. I will only remind the House of this, and I will ask them to bear it very carefully in mind, that this particular method of dealing with this particular form of crime was not a method hastily or without due consideration devised. It represents the results of the long experience of many years; it was originally framed and it has been supported by a long succession not only of administrators and executive officers but of judicial officers; and in point of practice it has been proved, I think, to the satisfaction of any one who is prepared to face the real facts of the position that this, or something very like this, is the only possible method, the only method which experience has shown to be effective in dealing with so serious a form of crime. The Honourable and learned gentleman opposite read in support of his destructive case some remarks made by a Lord Chief Justice of England. I think I also can adduce on my side of the question words which will carry, I think, great authority in this House. I propose to quote a very few words by that dead but very eminent statesman, Mr. John Morley, who could not be accused of being in any way insensible to the principles of jurisprudence, but who being in a responsible position,

was compelled to recognise the executive considerations which in some instances, to some extent and in some degree, must override pure considerations of jurisprudence. Dealing with the very analogous case of the application of Regulation III, Mr. Morley said as follows :

"Let us face that : there is no trial ; there is no charge, there is no fixed limit of time of detention ; and in short, it is equivalent no doubt to suspension of *habeas corpus*. The Government of India found in December a movement which was a grave menace to the very foundations of public peace and security. The list of crimes for twelve months was formidable, showing the determined and daring character of the supporters of this movement.

The crimes were not all. Terrorism prevented evidence. The ordinary process of law was no longer adequate and the impression in this community was that the Government could be defied with impunity. We found in the armoury of weapons of Government a law, and applied it. . . . We should have been perfectly unworthy of holding the position we do—I am speaking now of the Government of India and myself—if we had not taken that weapon out of the armoury and used it against the evil-doers."

Sir Hari Singh Gour: Will the Honourable Member read from page 215 of Vol. II? He says these things savour of the Czar and the Duma.

The Honourable Sir James Crerar: I have quoted a very deliberate and impressive pronouncement made by a statesman whose liberal convictions are very well-known, and it shows how, when a mind of that kind is definitely brought up against hard facts, it is compelled to shed some of its natural prepossessions, possibly prejudices, and if the responsibilities of his office are to be discharged, is compelled to face and to deal with the facts. And indeed, Sir, my main purpose here and now is to ask this Assembly to be willing to face the facts.

The complaint has been made against me that a sufficient case of urgency has not been established. With regard to that I will just say this; the Government of Bengal have represented to us, not once but many times, their grave apprehensions with regard to the situation. There is at present a serious condition of indiscipline in the jails in Bengal; there are serious apprehensions that that state of indiscipline might at any moment result in very serious consequences. The jail staff in Bengal has been very hardly and very sorely strained, and I should like to take this opportunity, with reference to what fell from Dr. Suhrawardy, to say that I cast no imputations whatsoever upon the general body of subordinate officers in the jails in Bengal—I merely intimated that in isolated exceptional cases there were risks of the consequences to which I had referred. Well, that has been very seriously represented to us by the Government of Bengal. They are very well aware of their own situation; they are the best judges of the necessities of the case. At any rate we ought to ponder long and deliberately before we are prepared to overrule the opinion expressed with all the weight of experience and responsibility that lies behind that opinion. I myself am not prepared to do it. The Government of India feel that they will be failing in their own responsibility if they were not prepared to recognise that fact, and I venture to appeal to the House that it is equally their duty to face the facts and to recognise their own responsibility and to support the Government of India and the Local Government in the discharge of their duty of coping with a situation which is dangerous not only to Bengal, but to the whole of India.

My Honourable and learned friend opposite, in the course of his last speech to the House, argued, in regard to these *habeas corpus* powers, that

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we had practically granted an indefinite and general suspension of *habeas corpus*. I thought I had dealt with that point sufficiently in my opening speech, but I should like to make it clear now that that really is a most incorrect view of the position. I attempted to explain, and I thought I had explained it with success, that, though I frankly admitted that there was a derogation from the full effect of *habeas corpus*, it was of very limited application—very limited indeed; and it would be entirely incorrect to describe it as an indefinite and general suspension.

Now, Sir, I propose to deal with one aspect of the question which has been referred to by several Honourable Members. That is the question of the hardships likely to be consequent upon the removal of detenus from Bengal. I must premise what I have to say upon that by the general reflection, the justice of which I think the House will in general be prepared to accept, that in the deplorable situation which we have to face, in the public necessity for which some solution has to be found, it is inevitable that some individual hardship must be inflicted; and it is also inherent in the case that those unfortunate persons who have got themselves within the net of this terrorist activity, or have themselves promoted it, are in a position from which we cannot protect them from the consequences of their acts. Nevertheless I do frankly recognise that the provisions of the Bill for removal to other provinces do involve hardships of a special character. I admit that. Our policy in regard to this matter when, under the Act of 1925 a certain number of such transfers had to take place, was to impress upon the Local Governments that so far as possible the conditions of detention in Bengal should be reproduced. Questions of climate, questions of food and other questions which have been raised by Honourable Members are always carefully considered, and every attempt is made to secure that, so far as conditions permit, there is uniformity; that there is, as I say, an endeavour to reproduce in the province of transfer as far as possible the conditions in Bengal, and if this Bill is passed and if occasion arises for the transfer of detenus to other provinces, I am prepared to give an engagement that that aspect of the question will be very carefully borne in mind and that the Local Government concerned will be informed of our views in the matter.

I fear I have already almost reached the somewhat narrow limits which the Honourable and learned Maulvi prescribed for me. But in conclusion I wish to renew to the House the very earnest appeal which I have already made. In the course of the debate yesterday, a question arose regarding the course taken by a provincial Legislature, and I venture to remind Honourable Members here in this Assembly today, that the greater part of the contentious matter which has been raised in debate today was before a local Legislative Council. There is a responsibility resting upon the local Legislative Council not less complete in itself, and in this instance hardly less extensive in its dimensions, than the responsibility which rests upon this House, and the local Legislative Council has dealt with this measure. It was there fully examined. The Members of that Legislative Council did discharge their duty to their constituents, to their province and to India by granting, by an overwhelming majority, to the Local Government the powers which the Local Government sought. I think that the responsibility of the local Legislative Council so discharged is a matter which we also ought to take into serious consideration. Is there or is there not a responsibility resting upon this House? (*Several Honourable*

Members: "Yes, certainly.") Are there not plain facts which no candid judge can deny, which render necessary the measure which was passed in the local Legislative Council and which I am asking this Assembly to supplement? I say again that these facts cannot be denied

Maulvi Muhammad Yakub: We are not reviewing that.

The Honourable Sir James Crerar: . . . and in discharging our duties we are compelled to face them. I ask this House in all seriousness and all earnestness to recognise that a very great public duty is placed upon us. The local Legislative Council and the Local Government have done their best to discharge their duty

Maulvi Muhammad Yakub: And the Act is on the Statute-book; we do not want to review it or to repeal it.

The Honourable Sir James Crerar: They, I say, have done their best I P. M. to discharge their duty, and I venture to appeal to the House to discharge their duty also in this matter.

Several Honourable Members from the Nationalist Benches: Yes, we will.

Mr. President: Motion moved:

"That the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, be taken into consideration".

To which the following amendment has been moved, namely:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th March 1931".

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

The Assembly divided:

AYES—64.

Abdoolah Haroon, Seth Haji.
 Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Aggarwal, Lala Jagan Nath.
 Azhar Ali, Mr. Muhammad.
 Badi-uz-Zaman, Maulvi.
 Bagla, Lala Rameshwar Prasad.
 Bhuput Singh, Mr.
 Biswas, Mr. C. C.
 Chandji Mal Gola, Bhagat.
 Chetty, Mr. R. K. Shanmukham.
 Das, Mr. A.
 Das, Mr. B.
 Dudhuria, Mr. Nabakumar Sing.
 Dutt, Mr. Amar Nath.
 Gour, Sir Hari Singh.
 Gunjal, Mr. N. R.
 Harbans Singh Brar, Sirdar.
 Hari Das, Rai Sahib Pandit.
 Hari Raj Swarup, Lala.
 Hoon, Mr. A.
 Ismail Ali Khan, Kunwar Hajee.
 Ismail Khan, Haji Chaudhury
 Muhammad,
 Isra, Chaudhri.
 Jha, Pandit Ram Krishna.
 Jog, Mr. S. G.
 Krishnamachariar, Raja Bahadur G.
 Lahiri Chaudhury, Mr. D. K.
 Liladhar Chaudhury, Seth.
 Maswood, Mr. M.
 Misra, Mr. B. N.
 Mitra, Mr. S. C.

Muazzam Sahib Bahadur, Mr.
 Muhammad.
 Mujumdar, Sardar G. N.
 Murtuza Saheb Bahadur, Maulvi
 Sayyid.
 Pandian, Mr. B. Rajaram.
 Pandit, Rao Bahadur S. R.
 Puri, Mr. B. R.
 Puri, Mr. Goswami M. R.
 Rajah, Raja Sir Vasudeva.
 Ranga Iyer, Mr. C. S.
 Rangachariar, Dewan Bahadur T.
 Rao, Mr. M. N.
 Rastogi, Mr. Badri Lal.
 Reddi, Mr. P. G.
 Reddi, Mr. T. N. Ramakrishna.
 Roy, Kumar G. R.
 Sadiq Hasan, Shaikh.
 Sardar, Rai Sahib Harbilas.
 Sen, Mr. S. C.
 Sen, Pandit S. N.
 Shah Nawaz, Mian Muhammad.
 Shahani, Mr. S. C.
 Singh, Kumar Gupteshwar Prasad.
 Singh, Mr. Gaya Prasad.
 Sitaramaraju, Mr. P.
 Sohan Singh, Sirdar.
 Suhrawardy, Dr. A.
 Sukhraj Rai, Raj Bahadur.
 Thampan, Mr. K. P.
 Uppi Saheb Bahadur, Mr.
 Wajihuddin, Khan Bahadur Haji.
 Yakub, Maulvi Muhammad.
 Ziauddin Ahmad, Dr.

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Alexander, Mr. W.
 Allah Baksh Khan Tiwana, Khan
 Bahadur Malik.
 Anklesaria, Mr. N. N.
 Anwar-ul-Azim, Mr. Muhammad.
 Ayyangar, Mr. V. B.
 Bajpai, Mr. R. S.
 Banarji, Mr. Rajnarayan.
 Baum, Mr. E. F.
 Boag, Mr. G. T.
 Chatterjee, The Revd. J. C.
 Creerar, The Honourable Sir James.
 Dalal, Dr. R. D.
 Fazal Haq Piracha, Shaikh.
 Fazl-i-Husain, The Honourable Khan
 Bahadur Mian Sir.
 French, Mr. J. C.
 Graham, Sir Lancelot.
 Gwynne, Mr. C. W.
 Hamilton, Mr. K. B. L.
 Heathcote, Mr. L. V.
 Hezlett, Mr. J.
 Howell, Mr. E. B.
 Ibrahim Ali Khan, Lt. Nawab
 Muhammad.
 Jawahar Singh, Sardar Bahadur
 Sardar.

Khurshed Ahmad Khan, Mr.
 Macmillan, Mr. A. M.
 Montgomery, Mr. H.
 Moore, Mr. Arthur.
 Morgan, Mr. G.
 Mukherjee, Rai Bahadur S. C.
 Parsons, Mr. A. A. L.
 Raghbir Singh, Kunwar.
 Raine, The Honourable Sir George.
 Rajah, Rao Bahadur M. C.
 Row, Mr. K. Sanjiva.
 Roy, Mr. K. C.
 Sahi, Mr. Ram Prashad Narayan.
 Sams, Mr. H. A.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Shillidy, Mr. J. A.
 Studd, Mr. E.
 Sykes, Mr. E. F.
 Talib Mehdi Khan, Nawab Major
 Malik.
 Tin Tüt, Mr.
 Walayatullah, Khan Bahadur H. M.
 Yamin Khan, Mr. Muhammad.
 Young, Mr. G. M.

The motion was adopted.

Mr. President: As the motion for circulation has been carried, the amendment for reference to Select Committee cannot now stand.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 21st January, 1931.

APPENDIX.*

*Translation of a speech made in Marathi by Mr. N. R. Gunjal, M.L.A.,
in the Legislative Assembly on the 17th January, 1931.*

Mr. N. R. Gunjal. (Bombay Central Division: Non-Muhammadan Rural): The Honourable President and Members, I congratulate very heartily, in my mother tongue, the Honourable Sir Ibrahim Rahimtoola upon his unanimous election to the Chair of the Assembly today. I come from the Maharashtra and he too hails from the same province. It is very gratifying to note that he takes a great pride in his mother tongue. We both worked together for four years in the Bombay Legislative Council, and there he had the honour of decorating the Chair of the President of a province like Bombay. Beside this honour, he held very high posts and did work of great responsibility in several institutions. His views were always fair and impartial and were never tainted with a communal spirit. He has not gone to the Round Table Conference, simply because the discussions at it were confined, mainly to communal questions. With his versatile genius and impartiality a man like him would have found it hard to work at the Round Table Conference. Though he had to decline this offer, yet he has shown willingness, even at this advanced age, to work as the President of this Assembly. For this I congratulate him again. It is quite possible that, in the present Assembly and under the present circumstances, some knotty Hindu-Muslim problems may come up for discussion, but the present President will give no room to nasty principles.

I am confident that he will carry on the duties of the President very ably and with equanimity of mind and with tact. He has grown old in age, ripe in knowledge and has got a lot of practical wisdom. It is my earnest desire that Sir Ibrahim Rahimtoola should get a full measure of success in his present undertaking and that this Assembly may reap the benefit of his experience and knowledge.

On behalf of myself and on behalf of the whole Maharashtra, I congratulate him warmly on this occasion. With these words, I take my seat.

*Vide p. 42 of these Debates.