

Wednesday, 30th September, 1931

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THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

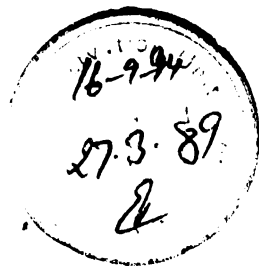
Volume VI, 1931

(23rd September to 3rd October, 1931)

SECOND SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY
1931



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1932

Legislative Assembly.

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THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

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Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

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CAPTAIN NUR AHMAD KHAN, M.C., I.O.M.

Committee on Public Petitions :

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MR. ARTHUR MOORE, M.L.A.

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RAJA BAHADUR G. KRISHNAMACHARIAR, M.L.A.

MIAN MUHAMMAD SHAH NAWAZ, C.I.E., M.L.A.

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LEGISLATIVE ASSEMBLY.

Wednesday, 30th September, 1931.

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

MEMBER SWORN.

Mr. Ramchandra, M.B.E., M.L.A. (Government of India : Nominated Official).

THE INDIAN PRESS BILL.

The Honourable Sir James Orerar (Home Member) : Sir, I move for leave to withdraw the Bill to provide for the better control of the Press. I think Honourable Members are sufficiently aware of the circumstances in which I make this motion. Owing to the unfortunate oversight on the part of the Assembly Department to which you, Sir, referred on Monday, the normal procedure on this Bill, I regret to say much to the inconvenience both of the Government and of the House, has been interrupted. A plan, however, has been devised which I understand commands the general acceptance of the House by which the normal procedure on this Bill can be resumed in substantially the same manner as if this unfortunate dislocation had not taken place. It is in pursuance and in order to give effect to that plan that I move this motion.....

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadian) : What is the procedure which the Honourable Member says commands the general acceptance of the House ?

The Honourable Sir James Orerar : The procedure indicated in this motion and in the subsequent motions on the List of Business.

Mr. B. Das (Orissa Division : Non-Muhammadian) : Sir, first of all I must say I support the Honourable the Home Member in his motion for withdrawal of this Bill which provides for the better control of the Press. It seems that nemesis has overtaken this Bill. There are higher powers which the Government of India, the British Government and the Honourable the Home Member cannot control. Here destiny points its finger at the Home Member and tells him that the Bill which he tried to introduce in the last session and which he introduced in a modified form in this session of the Assembly has not the approval even of the gods. Sir, if I support the Home Member in his withdrawal of the Bill, I support him only in that motion. I wish the subsequent motions that he will bring forward had not formed part of the Agenda of this day, because it seems that while we ordinary mortals bow to the gods, Government in their higher wisdom and in their strength of brute force do not think that they have to think of the higher power of gods that point out to Government that such a legislative measure as this should not be brought before this House and passed here. My friend the Home Member pointed out that there is general approval of Members of this

(1273)

[Mr. B. Das.]

side of the House about certain steps which he will take subsequently after withdrawal of this Bill. Sir, I have no knowledge of it. (*An Honourable Member* : "Nor have we any knowledge of it.") I do not know if my leader had a discussion with the Home Member, but we took no part in it, nor have I attempted to discuss this question with my leader or leaders. Sir, I reserve myself the right to oppose the new Bill in its new form as it has come, and I support the motion for the withdrawal of the Bill.

The Honourable Sir James Crerar : I do not think, Sir, that it is necessary for me to follow the Honourable Member opposite in the supernatural speculation on which he desires to base his principal objection to this motion. What I desire to pursue is the plain common sense view of the matter, and that is the convenience of the House and the requirements of the public business.

Mr. President : The question which I have to put is :

"That leave be granted to withdraw the Bill to provide for the better control of the Press."

The motion was adopted.

The Bill was, by leave of the Assembly, withdrawn.

THE INDIAN PRESS (EMERGENCY POWERS) BILL.

The Honourable Sir James Crerar (Home Member) : Sir, I move for leave to introduce a Bill to provide against the publication of matter inciting to or encouraging murder or violence. At this stage, I think it is premature for me to enter upon any discussion of the merits of the Bill. I shall simply say that some very important changes have been made in the new Bill, and I propose to explain a bit more fully the nature of those changes at a later stage.

Mr. President : Motion moved :

"That leave be granted to introduce a Bill to provide against the publication of matter inciting to or encouraging murder or violence."

The motion was adopted.

The Honourable Sir James Crerar : Sir, I introduce the Bill.

The Honourable Sir James Crerar : Sir, I move that the Bill to provide against the publication of matter inciting to or encouraging murder or violence be taken into consideration. I do not think that it is necessary for me to inflict a long speech.....

Mr. B. Das (Orissa Division : Non-Muhammadan) : On a point of order, Sir. I take objection under Standing Order 38, page 27 of the Legislative Manual, which says that no Bill can be taken into consideration without three days' notice, and so I take objection. Standing Order 38, page 112, says :

"Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for three days before the day on which the motion is made",

and so on.

Mr. President : I should like to invite the attention of the Honourable Member to the words which come later in the proviso and which run as follows :

“.....and such objection shall prevail, unless the President, in the exercise of his power to suspend this standing order, allows the motion to be made.”

In this case the Chair has no difficulty in exercising the power of suspension under this Standing Order in respect of the Bill which has now been placed before the House for consideration. This Bill is a copy of the Bill as reported by the Select Committee, and it has been in the hands of Honourable Members for more than a week. The object of this Standing Order is that the House should not be called upon to consider any legislative measure without having had an opportunity of studying it. It is clear that that has been complied with in this case. Honourable Members have had ample opportunity of studying the Bill in the form reported by the Select Committee and the Chair has therefore no hesitation in suspending the Standing Orders and allowing the motion to be made.

The Honourable Sir James Crerar : Well, Sir, I shall proceed to point out to the House the more important changes which have been made in the present Bill in so far as important points of principle are involved. I do not wish at this stage, indeed I should not be in order in anticipating a detailed consideration of the Bill.

The first, and I think, on the whole, the most important change is the change made in section 4, which defines the nature of the offending matter with regard to which the other provisions of the Bill are directed. This is a primary provision of the Bill, which operates upon all the other subsidiary provisions. The definition of “offending matter” was I think a point to which a very large part of the criticism of the House was directed at the stage of consideration of the last Bill. It was argued strenuously that the original definition was of too comprehensive and too vague a character. It was argued that, on the basis of a definition of that kind, application to the High Court would tend to a large extent to become illusory. I am not myself prepared to accept those arguments, but nevertheless, we felt that it would be desirable to give a better definition of the nature of the offending matter which we contemplated, so that there can be now no question whatever that applications to the High Court which the Bill provides will be appeals of a perfectly effective character.

Let me recall to the House that the principle of the Bill, on which I do not think there was very much dissent from any part of the House, is to deal with incitements or encouragements to murder or other offences of violence, and also the eulogy of persons guilty or supposed to be guilty of such offences and of the offences themselves. Offending matter of that kind might be in a fictitious disguise, might be disguised in various ways by implication or suggestion. The question was very carefully considered, and the definition, as it now stands, gives substantial effect to the greater part of the criticism directed to the original clause.

I should also point out at this stage that in order to meet the criticism that works of literature or history might conceivably come within the danger of the clause, steps have been taken to meet that criticism. Whether that criticism was really valid or not I am not concerned to say,

[Sir James Crerar.]

but I think that it is perfectly clear that the decision on matters of that kind would be within the discretion of the High Court, and I do not think that any Honourable Member present is prepared to argue that that discretion would not be wisely and properly exercised.

The second amendment of primary importance which the present Bill contains relates to the return of the deposit in the case of new presses and new newspapers after three months if within that period such press or newspaper has not published any offending matter. A good deal of difficulty was expressed with regard to the case of new presses and new newspapers. I think, Sir, that we have gone a very long way to meet that difficulty, because at the end of those three months the press or newspaper comes into the position of being an established press or an established newspaper and proceedings can only be taken against it at that stage in the event of the publication of offending matter, which then becomes open to an application to the High Court for adjudication of the issue involved.

Another amendment of considerable importance is that, while the original measure at that stage required the recording of special reasons for not taking security, the emphasis in the clause has been changed and the Magistrate now will be required to record reasons in writing for requiring deposit of security. At all stages preliminary to this, it is of course the case that there is no provision for an application to the High Court, and the reasons are fully explained in the report of the Select Committee and I need not I think pursue them any further.

Another amendment which has been made in order to minimise the risk of hardship or inconvenience is the grant of ten days for making a fresh deposit subject to certain conditions. Further, a provision in clause 6, which provided in certain circumstances for the forfeiture of a press, has been eliminated, and in its place there have been substituted provisions for taking a fresh security which the original Bill did not allow.

As regards the duration clause, the original clause placed it at three years, and I think myself in all the circumstances of the case that that was a reasonable provision. However, in response to strong representations which have been made on the subject, the potential duration of the Bill has been reduced to two years. Similarly, with regard to the Title and Preamble, regarding which a good deal of comment was made, the criticism which has been passed has I think been fully met. It is true that neither the title nor the preamble are operative clauses of the Bill, but as a certain amount of misapprehension was expressed on the ground that a wider title and a wider preamble might conceivably affect the operation of the Bill, though I do not think myself that there is any substance in that contention, nevertheless, in order to remove any possible misapprehension there might be on the point, the title and the preamble have been very greatly narrowed. A few subsidiary and consequential amendments have also been made which I think I might just briefly notice at this stage.

The deposit of cash or securities of the Government of India is in all cases to be left to the opinion of the depositor. The previous Bill provided for applications to the High Courts in cases of forfeitures. A provision has now been inserted that when the deposit of security has been required because of the publication of offending matter, an application to

the High Court will now be allowed, the ground of course being that in such cases there is definite judiciable matter to go before the High Court. The scope of applications under clause 23 has also been extended to cover cases under clause 12. Lastly, the amount of security originally fixed in clause 3 has been substantially reduced.

These are the most important features of the Bill. I think myself that the Bill as it emerges in its present form will be, as it must be, effective for its purposes. I must remind Honourable Members on that point, because some of the suggestions for amendments before me show some misconception. I must recall to Honourable Members once more that the primary purpose of the Bill is to enable an effective control to be maintained over incitements to and encouragement of murder and other crimes of violence and the like. Its purpose is not penal, and I think that some of the amendments which have been tabled, if I may merely glance at them at this stage, show that there is continued misconception on this point. At the same time, provision has been made to secure complete freedom to all legitimate comment and expression of opinion. Steps have been taken to minimise all risk of hardship or inconvenience to the normal and proper activities of the Press. Perhaps, Sir, I may remind the House of the assurance which I gave at the instance of the Honourable Sir Abdur Rahim that in the further consideration of this Bill Government would not endeavour to raise any technical or academic objections, but that their whole consideration of the matter should be based on a reference to the primary purposes and necessities of the Bill and the measures which were definitely necessary effectively to secure those objects. I trust the House will recognise that in the Bill now before us those assurances have been fully and effectively fulfilled. Sir, I move.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam : Non-Muhamadan Rural) : Sir, I would like to ask what is the procedure to be adopted now with regard to the amendments that were given notice of when the Select Committee's report was published. In view of the fact that this Bill has been introduced by the Honourable Member as a new Bill, and in view of your ruling that it will be taken as circulated to Honourable Members, may I request the Chair to give a ruling on the point whether the amendments which have already been given notice of shall be taken into consideration in the course of this discussion.

Mr. President : The Chair has decided that, having regard to the special circumstances of the case, all the amendments, of which notice had been previously given, will be allowed to be moved, with such modifications as may be called for.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhamadan Rural) : Sir, I move that the Bill be circulated for the purpose of eliciting opinions thereon by the end of December 1931. At the outset I must say that I am not using any obstructionist tactics to delay the passing of a Bill which the Government consider necessary in the interest of the people of this country. At the same time it is necessary to find out what the people at large in the country have to say on the provisions of the Bill. The reason for my motion is this. The Bill that has been introduced is nothing but the so-called majority report of the Select Committee of this House. I say, "so-called majority report", for barring the Mover of the Bill, who is interested, they were equally divided. That being so, I

[Mr. Amar Nath Dutt.]

think that this is a fit case for a re-trial, because there has been an equal division of opinion, and I trust that no conscientious and intelligent man who has the interest of India at heart will object to such circulation, to ascertain the views of those who will be affected by it. You will see from a perusal of the provisions of the Bill that it not only attempts to gag a certain kind of Press, which according to my friend on the other side is the worst inciter to violence and murder, but also those people who carry on their trade as keepers or owners of presses. In these days there are very few avenues left for our unemployed young men and the question of unemployment is engaging the serious attention both of the people and the Government, and at such a time to put a restraint upon a particular kind of profession which is the profession of the educated middle class, is to put an embargo, to say the least of it, upon the livelihood of the people of this country. In that view of the case I would appeal to the Honourable the Home Member that he should consider whether or not we should have the opinion of the people who are to be affected by it and have the Bill circulated. Now I am even willing to concede that this Bill may be considered along with the Finance Bill which is likely to be taken up within a month or so ; but, in the meantime we should have ample opportunity to get the opinion of the public at large. The Bill, Sir, *as introduced*, has not been before the public for a long time ; it was published only a few days ago, when they came to know that the original Bill was not going to be discussed or passed. That being so, I think it is but right and proper that the Honourable the Home Member should accede to the amendment which I am moving. But if he is not willing to accede to our prayers, I should say, and not demand—we are here not to make any demands because we know a beggar cannot demand anything, and we are virtually in the position of beggars, and we know the absolute helplessness of our position on this side of the House, and the Honourable the Home Member also knows his strength—that being so, would it be too much if I ask him to stay his hand for only a month or so ? Sir, I remember—he will excuse me if I remind him of a certain other incident in his career as Home Member of the Government of India when he introduced a certain other Bill, and when introducing it he gave us to understand that, unless we passed that Bill, immediately the heavens would fall. Sir, somehow or other that Bill was not allowed to be passed and that Bill does not yet disgrace the pages of the Statute-book. Not only months but years have elapsed since then, but the heavens have not fallen, and neither has the earth under our feet given way ! That being so, Sir, I hope he will not use that argument again that, by staying this Bill for a month, the heavens would fall. You know your own strength, you know how to put down disorders, you have an army of Magistrates behind you, who would even, as happened only the other day here, try to suppress our voice here, as one Honourable Member attempted to do by sternly crying out, “ Order, order ”. I see he is laughing. Sir, he may laugh, but we feel all these. So long as these things continue, we are helpless in the midst of the work in which we are engaged. Sir, I do not know whether it will be necessary for me to convince the Honourable the Home Member that, without this Bill, he need have no fears that the administration of the country will not go on quite smoothly, or that law and order cannot be maintained ; but, if it cannot be maintained as the Government seem to suggest, I would ask the Honourable the Home Member to consult his own

Magistrates, among whom there are some who are not unwilling to set men and *goondas* against the people. Sir Lancelot Graham comes from Bombay, and he does not know what a *goonda* is. Sir, we have instances of *goondaism* in several places in Bengal. I will not tire the patience of this House by reciting all those unfortunate happenings in my unfortunate province which led the Poet-laureate of Asia to leave his sick bed to pronounce his verdict upon the incident at Hijli, and I would ask the Honourable the Home Member to peruse his swan-song. Sir, you cannot complain that you have not sufficient powers to maintain law and order for a month or so. If you complain of that, I would say that you are not sincere in your admission. There is the Indian Penal Code, the provisions of which my Honourable friend and those behind him have administered. It is the most all-embracing code of law, which human intellect has ever devised. That being so, being armed with the all-comprehensive Penal Code which is sufficient to maintain peace and tranquillity, do you mean to say that you are unable to maintain law and order? You speak of incitements to murders and incitements to violence. I do not know whether your vision is clouded by all these happenings, or whether you still retain that serenity of intellect which is necessary for a legislator so that you may be able to view things in their proper perspective. Sir, no doubt there have been some violent writings, and in a paper, the editor of which I miss very much at the present moment in the House, which wanted to set the European community and some of our brother Muslims against the entire Hindu population of Chittagong. But in these three tricolour pamphlets—not mind you, tricolour flags which may be a red rag to a Bull—yellow, white and blue, one does not find a single specimen of those nice specimens of writing of a particular member of a particular community who calls himself “Friend of India”. (Here Mr. K. Ahmed made an interruption which was inaudible.) Sir, for the edification of my Honourable friend, the Home Member, I shall only give him one or two lines of those beautiful writings. On the 2nd of August in its editorial, the “Friend of India”, had openly advocated the mobilization of Anglo-Indians and Mussalmans against the Hindus. If you disbelieve this generalization, I can give you a small paragraph :

“ So long as loyal Indians and the British are content to pass Resolutions and send deputations, it is clear that they are not likely to produce much effect on His Majesty's Government.”

Sir, has harsher, has harder language ever been used on the platform of the Congress or on the platform of any public meeting than this? I will quote it again :

“ So long as loyal Indians and the British are content to pass Resolutions and send deputations, it is clear that they are not likely to produce much effect on His Majesty's Government.”

We remember when the extremist politicians got the upper hand in the politics of our country, they used to ridicule us by saying, “ Oh, your Congress is a congress of petitions and prayers. We are not on our knees asking for boons and concessions ; we are on our legs demanding our just rights ”. Are not the utterances of the Anglo-Indian Press not more an incitement to violence than the language of the extremists with which they used to ridicule and condemn us in those days of the Congress ?

[Mr. Amar Nath Dutt.]

“ If the King’s advisers in London do not know how to deal with the sworn enemies of His Majesty’s peace, others will have to get busy. They have got to consider what they can do for the King’s India.”

The other day I heard here, when a reference was made to Berar, that it is leasehold property. Here it is said “ King’s India ”. What is the meaning of that ? It is certainly not a zamindari property ; and it is the Britishers and not the King who rule over us. Every one on this side will rather be willing to instal King George as the real King of India, who will win our hearts and thereby unite both England and India into those bonds of sincere friendship which is so necessary. But no, our Anglo-Indian friends will not have that for we read in the *Statesman* of the 2nd August :

“ They have got to consider what they can do for the King’s India if the British in India will not protect the country from anarchy. The army and police are loyal to a man and they certainly cannot be used against loyal Indians or loyal British.”

Again further we have in the same paper :

“ He believes in the right to kill in self-defence or in defence of others and he believes in the right to use his bodily strength in the same cause.”

I am sure my patriotic Muslim friends do not approve of this. I am not aware of a single Muslim in this country who would approve of writings like this. They are patriotic enough not to be tempted by the seductions of an enemy in the guise of a friend. These writings were the worst incitements to violence. I could quote passages and passages, but I do not wish to waste your time ; but this is the spirit in which some of our Anglo-Indian friends are writing. Is not this an incitement to violence and have you taken any steps against them ? You are silent. Question after question has been asked in this House, but you do not say anything. You say the law is there. We know the law is there but I believe that according to the fundamental principles of British jurisprudence, it makes no distinction of race, creed or colour. But I am sorry to say that the Britishers who are out to rule us make a good deal of distinction between race, creed and colour and try to set up one class against another. This is also incitement. Sir, you want to put a stop to a few stray murders here and there. Nobody deplores more than myself the unhappy incidents that we hear nowadays. Our sympathies certainly go to the bereaved families and I feel as deeply as any one on the other side. After all we are human beings, and the loss of a single life, the shedding of a single drop of blood, even of an enemy, is quite foreign to our culture and moral ideas. That being so, I assure you that we are with you in helping you in all possible ways that we can to save the lives of these people who at the present moment happen to rule over us. For I am not one of those who believe that British rule has been an evil for this country. I am one of those who believe that it was a divine dispensation which brought you over here, and I am grateful to you for opening to us the pages of your literature and history. But you cannot blame us if we have imbibed the sense of freedom from your literature and from your history. I would not imitate the ways of those barons who at Bunnymede with unsheathed swords wrung from an unwilling king the Magna Charta, but I would like to come over to you in friendly conference, as we are doing at the present moment at the Round Table Confer-

ence, discuss matters and come to a settlement if there be any difference of opinion. After all.....

Mr. President : May I draw the Honourable Member's attention to the fact that he is moving an amendment for the circulation of this Bill ?

Mr. Amar Nath Dutt : Sir, I hope I have been able to make my position clear why this Bill should be circulated. As I have already submitted before the House, we shall not lose much in one month's time, and you will thereby give us time to consider its provisions and the country also will be able to express its views. After all you are the final arbiter in these things. If you think it so very necessary or imperative, you have other weapons with which to grapple with the situation, which have been so often used within the last few months. With these words I once more appeal to my Honourable friends on the other side to give us an opportunity of having the opinion of the public about this Bill.

The Honourable Sir James Orerar : Sir, the Honourable Member who has moved this amendment presented himself at the outset in the guise of a mendicant. I confess I had a great deal of difficulty in recognising the Honourable Member.....

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : Sir, I rise to a point of order. There are other Members also who have given notice of the same amendment. Will they be allowed to move this motion or to speak on it ?

Mr. President : There cannot be more than one amendment for circulation but a full discussion will be allowed.

The Honourable Sir James Orerar : Sir, I was saying that I had some difficulty, and I am sure the House had some difficulty, in recognising the Honourable Member in the guise of a *sadhu* or a mendicant. But I recall that the Honourable Member is a great admirer and a close student of the legends and mythology of India. It is not an uncommon thing for a very important person or a hero to appear in that disguise ; and therefore when the Honourable Member presented himself in that capacity, I felt that, persuasive and insinuating as his accents were, I had to deal with them with a very great degree of caution. Perhaps, Sir, his motion for circulation was a very appropriate motion for him to make in that capacity, but, throughout the greater part of his speech I failed to discover the precise grounds on which he made this motion. He contended, in the first instance, that the Select Committee, so far as the report is concerned, was equally divided. I think if he will examine that document a little more closely, he will find that that is not the case. Therefore so far as any necessity for a re-examination of the Bill is concerned, his contention falls to the ground. Indeed his arguments were addressed more to the principle of the Bill than to the necessity for its being circulated for opinion. I do not propose to follow those arguments because they are not, in my humble opinion, really material to the issue which is immediately before the House. He then passed on to refer to certain cases of what he regarded himself as serious incitements to violence. Now, without myself being concerned to express any opinion whether the passages he quoted were of that kind, I take it from him that he considered that writings of that kind were a serious public danger. If that is so, then surely some provision against it is necessary, and that is precisely my position. The

[Sir James Creer.]

real ground on which I find it necessary to oppose this motion is precisely that there is a very grave and increasing danger in the country for which it is necessary to find a remedy. The Honourable Member referred, I regret to say somewhat casually, to "a few stray murders here and there". I do not think, Sir, that the incidents which have been the immediate cause for bringing this Bill before the House can properly be so discussed. It is true that he went on to say that he was anxious to help, more particularly in any measure of protection of the lives of British officers. The Bill, Sir, is not brought before the House with the sole purpose of protecting the lives of British officers. Indian officers are also concerned in this matter and when the Honourable Member expressed in moving terms—and I am sure in all sincerity—the deepest sympathy for the families of those bereaved officers, I trust that he will be prepared to show that sympathy in a prompt and practical form. His last contention was that there was on the Statute-book of India an easy means of dealing with this matter, and he referred also to the ordinances. He said that if an ordinance is to give effect to the principles of the Bill we might prefer that course. If the Honourable Member is prepared to agree that the provisions and principles of the Bill should be so placed on the Statute-book of India, if he tells us that we should be well advised to take that course, if he tells us that that would be a proper course, then I cannot conceive why he should take any objection to the principles and provisions of the Bill being forthwith taken into consideration.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : I also gave notice of a motion for circulation and now I want to speak on the motion and support my Honourable friend, Mr. Amar Nath Dutt. But I do not know why the Honourable the Home Member rose to reply so early, because he will not have the chance to reply later to the points which may now be raised. However, I am opposed to the principles of this Bill and also to the procedure. So I am for circulation. As regards the principle, I think every Honourable Member will concede that it is a fundamental principle of law that no person should be condemned without being given a chance to defend his own conduct in an open court of law. In clause (3) of this new Bill, it is proposed that any owner of a press or any publisher of any newspaper may be required to deposit sums of money before he has had any chance to prove that he is not guilty of anything, not only before any court of law, which I insist should always be the case, but even before a Magistrate. That is the main ground that I will subsequently take up. That is the main principle of law which this Bill goes against.

As regards the procedure, I think I should deal more fully with the procedure which the Honourable the Home Member wishes to adopt. In fact, mine is not a dilatory motion in any way. I want the circulation to be complete by the 31st of October. It is known to the House that the public at large had no occasion really to record their opinion about this Bill. We know that the whole of the Indian Press—except the Anglo-Indian Press—is against it. I will try to explain that these two stand on a different footing. Everyone will admit that this Bill, as its name shows, is a Bill for the better control of the Press and not for anything against incitement to murder or violence. It will be our business to show how the Bill will restrict the liberty of the Indian Press. At

this stage I wish to know—unfortunately the Home Member has already stood up and replied—anyhow I wish to know what the Government will lose if the Bill is circulated before the 31st of October. The House is also meeting early in November and it can then record its opinion on this Bill. It has also been said that the House is now in a depleted condition. Most of the Members have already gone away. In the original notice which the Member had it was stated that the House would last till the 24th of this month. A week more has already passed. So what is the hurry now? I think it is incumbent on the Home Member to explain why he cannot wait till the 31st October. Further it is known that at this time when the Round Table Conference is sitting in England, these controversial matters dealing with drastic steps against the liberty of the Press and action of individuals should not be taken up. It is also known that some Members of this House have been asked to attend that Conference and some of them have gone there very recently. I should like to know from the Government Benches what is the hurry now that they cannot wait for these four weeks and send the Bill for circulation. As regards the principle, it can be argued that it is not a penal measure and it is only preventive. But in our Penal Code even for preventive measures there is a procedure laid down. It is, I think, unknown in any civilised jurisprudence that people are condemned before having a chance of establishing their innocence in an open court of law. This Bill involves very big principles and certainly there is no hurry now. Even the Honourable the Home Member could not cite any case during these recent days. Fortunately from a pamphlet I read, I find that most of the editors have been punished during this period. I remember particularly the passages that were read by my Honourable friend, Mr. Arthur Moore. That is a Bengali paper and the editor was convicted once; he was prosecuted again and convicted a second time. The latest paper is the *Desh-Banee* from Noakhali. I read that that paper's editor also has been punished; and I get information from a friend that the editor of a paper in Bihar, from which quotations were made, also has been punished. So it is clear that the Government are not without means of proceeding against these papers. They have ample scope now, if there is any recrudescence of this crime, to deal with these editors. It is not that they are entirely helpless.

Therefore, Sir, as this Bill involves very large principles, I think the Government will do well to consider the matter and postpone the Bill till the next session in November.

Sir Zulfiqar Ali Khan (Nominated Non-Official) : Sir, I thank you for giving me this opportunity to speak for the first time on this Bill; and I hope that Honourable Members will show me some indulgence if I describe some of the vicissitudes through which this Press legislation has passed. The motion now before the House deals with the problem whether the Bill should be immediately passed or whether it should be allowed to go the round of the provinces and then come back again to be dealt with according to those opinions. Before I deal with these problems, I may be allowed, as I have said just now, to describe some of the phases which I myself have seen.

It was in the year of grace 1910, when on account of the policy of Lord Curzon, the province of Bengal exploded in a frenzy of emotion, and the thunders of anarchy reverberated in the land. The Government

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awoke to the danger of allowing this agitation to develop any further ; and in the Imperial Council, of which I was a Member, a Bill was introduced to control the activities of the Press. Lord Sinha, who was then Mr. Sinha, piloted the Bill very successfully through the Council and exhibited skill and ability of such an order as I have yet to witness in the various Legislative Councils. In opposition to the Government there were stalwart politicians such as Mr. Gokhale, Mr. Bhupendra Nath Basu and Pandit Malaviyaji and others, and in spite of their strenuous opposition, Lord Sinha carried it through most successfully.....

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Were not the non-officials in a minority in that Council ?

Sir Zulfqar Ali Khan : Yes ; but it evoked a good deal of opposition ; and there were people who were very able and later on shone in the other Councils. Ten years later, when the new constitution came into being, that is to say, in 1920, whether by a conscious or unconscious irony, the Government called to office some of those very people who were looked upon as offenders by the Government and who were fugitives from justice. This change of direction was masked with a smoke screen of political futilities. In any case it offered an interesting example of how an autocratic impulse can change abruptly the whole tone and tendency of Government policy. History repeats itself, and we have come back again to the same situation. Government see in the present situation very great peril on account of the activities of the Press, and they have again introduced a measure to deal with such activities. It is very difficult to dissect the motives of the people, the pressmen and the assassins whose activities the Government wish to curb. But analysing the psychology of such people and seeing into the motives of such people as far as I can see, there can be only two motives of the assassin : either to enlarge the liberties of his country or to create chaos and anarchy in the land. With regard to the first, that is to say, making sacrifice for the greater liberty of the country, I may say that both Indians and British are doing everything they possibly can to add to the liberties of the people and to frame anew constitution for India, which I hope and everybody hopes will satisfy the people. Even Mahatma Gandhi has come out of his entrenchments to parley with the British, and he has gone to London as we all know and is engaged in the serious and momentous work of the Round Table Conference ; and we hope that substantial and satisfactory results will ensue from those deliberations ; and in the interests of the country and in the interests of the future of this great land, we all desire that peace and tranquillity may be allowed to those representatives of ours who are there in order to do the things we desire. If they are disturbed in their deliberations, I think it will be unfair not only to them but to ourselves also. It seems to me that, in spite of these considerations, the anarchist in India wishes to follow his devious and dark ways, and therefore it is necessary to consider what is best in the interests of the country. Mahatma Gandhi has issued earnest appeals to these people and so has Dr. Tagore and others, but these misguided youths do not listen to any reason.....

Mr. Gaya Prasad Singh : But what are the opinions of Mahatma Gandhi and others on this Bill ?

Sir Zulfiqar Ali Khan : If these people do not listen to any reason, then it is the duty of all patriotic people, who desire that there shall be peace and order in the country, to support a measure of this character. Sir, I am one of those who desire that India may occupy the same place in the rank of nations as any Dominion in the British Empire, and therefore if I offer any opinion here, I am perfectly sure that it will be listened to with attention, and if there is any criticism to be offered, I should be the first to benefit by it. Sir, the activities of these people are inspired by the mistaken idea that they are the only saviours of the country and that others including men like Mahatma Gandhi are traitors. (*An Honourable Member :* "Who said so?") Yes, they do say like that, because they have not listened to Mahatma Gandhi's advice, they defy him, they even attack him.....

Mr. Gaya Prasad Singh : Why don't you quote Mahatma Gandhi's opinion on this Bill? Quote his opinion on this Bill if you have so much respect for him.

Sir Zulfiqar Ali Khan : These young men labour under the delusion that by their methods they can create.....

Mr. Amar Nath Dutt : May I know what is your objection to circulating the Bill?

Sir Zulfiqar Ali Khan : They think they can create a nation in India. Well, Sir, if they have an atom of common sense they will at once see that their activities, instead of creating a nation, have divided the nation. What has happened in Chittagong? What has happened in Cawnpore and other places? If their activities are allowed to run riot, I am afraid that they would soon inaugurate a civil war in India, the consequences of which would be most appalling. If Honourable Members think that what has happened in Chittagong, Cawnpore and other places has no bearing on the attitude of these people, then they can kill this Bill, destroy it or do anything they like with it, but if there is any danger lurking in these proceedings, if instead of getting on to the formation of a nation, these misguided youths are destroying that chance, then I do think that Honourable Members should take into consideration the difficulties of the administration and the well being of our own people. Sir, in order to save India from great perils, the only thing to do is to cut off the fuel from the fire, I mean the fuel of the incendiary writings which offer direct incitement to murder and assassination; and to curtail the activities of students, assassins, schoolboy anarchists.....

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Why did you oppose the measure last time? Why did you vote on the other side?

Sir Zulfiqar Ali Khan : I think, Sir, if anybody requires muzzling, it is this gentleman here. (Loud Laughter.)

Mr. Amar Nath Dutt : For his extraordinary intelligence?

Mr. K. Ahmed : Exactly like my friend who is vacillating and changing.

Mr. President : The Honourable Member cannot be allowed to interrupt like this.

Sir Zulfiqar Ali Khan : With these remarks, Sir,—(*Several Honourable Members :* "Go on, go on.") I strongly support the Bill which

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is now before the House and oppose the motion for circulation. The Bill has been very much changed by the Select Committee, and if you mutilate it entirely, there is no object in passing this measure which will not be effective and which will not remove the dangers that exist in the country.

Rao Bahadur Chaudhury Lalchand (Nominated Non-Official) : Sir, liberty of the Press is a great asset in all civilized countries, and any limitations on such liberty and on honest and straightforward journalism, which is very essential for the healthy growth of all national institutions, are to be deplored. But we are passing through the most critical period in the history of India. We have political agitation on the one hand and economic trouble on the other. A life and death struggle has been going on during the last two years between the most organized section of our political parties and the Government. A huge propaganda has been going on, and thousands of our young men have been to jails and great heat has been imported in this blood. Just at the present moment, when our representatives are discussing the future constitution of the country in England, there is a section of the population here who honestly feel—I do not attribute motives to all of them—but there are some who really and honestly feel that if they can do something here while important deliberations are going on which may show that India hates foreign rule, that will strengthen the hands of our representatives. Well, Sir, extracts were produced from papers by several Members when they spoke last to show how pernicious propaganda has been carried on for some time in the country, and a case has been made out to put a stop to that pernicious propaganda. There is, to add to this trouble, tension between landlords and tenants, and advantage is being taken to turn economic unrest into political agitation, and therefore an emergency has arisen. If I may be allowed to add to this long list of troubles, the unemployment problem to which my friend Mr. Amar Nath Dutt referred, that is another cause, and any number of highly educated young men are out of employment and they offer very good material for exploitation. So all these causes taken together have caused an emergency in the country which did not exist before, and for which special legislation is necessary. There is great deal of inflammable material in the country and a small spark will be enough to set fire to this stuff. The present measure, as has been very clearly pointed out and is apparent on the face of it, is only an emergency measure with limited scope and for a limited period. As such, if it is to be effective, if we are to give due consideration to the extracts that were read out to us by so many Honourable Members, if we are to check this propaganda effectively, an effective and emergent measure is very necessary.

Sir, it has been said, and some of my Honourable friends hold, that a measure is not emergent unless the heavens would fall if it is not passed. To them my reply is that the heavens will not fall if this measure is thrown out to-day. What would happen is this. The pernicious propaganda, the vicious propaganda that has been going on will continue. More young men will be misled. There will be investigations by the police, and more finds of illicit arms. There will be prolonged trials, more misguided young men will be convicted. After that, there will be processions through the streets followed by huge demonstrations. There will be mass meetings, and in some cases they will have to be dispersed.

Mr. Amar Nath Dutt : On a point of order, Sir. This Bill does not refer to processions, or mass meetings, and such other things. It is confined only to the keeping of presses and newspapers, and therefore, my Honourable friend is not relevant in his remarks.

Mr. President : The Honourable Member is quite in order.

Rao Bahadur Chaudhury Lalchand : I was submitting, Sir, that there will be all these unpleasant things. There will be firing by the police in extreme cases and innocent people will also suffer. The police and the military will patrol our streets to keep the law and order, and many other unpleasant things like the punitive police, etc., which none of us would like to see will happen. I think these will prove as bad as the falling of the heavens. Therefore, if the measure is to be passed at all, it should be passed at once.

Then, Sir, it has been said that besides these Honourable Members there are 350 millions outside ; they must have their say and they must know. May I ask how many of those 350 millions know that a Press Bill at all existed in the past ? How many of them know that it was repealed some years ago ? Not more than 15 per cent. know the past history, and not even that much will know if this Bill is circulated for a month as has been suggested by the Honourable the Mover opposite.

My Honourable friend Mr. Mitra has said that the Anglo-Indian Press is the only Press that favours this Bill. I had no mind to mention the vernacular Press at all, but I have got an extract from a paper, and if you will allow me, I will read from it. It is in the vernacular, but I have got the relative portion translated into English. In its issue, dated the 9th September, it says... (*An Honourable Member* : "What is the name of the paper ?") I will let you know presently. It says :

"On principle we are against any law which restricts the liberty of the Press. Ordinarily and under normal conditions every one will oppose a measure which tampers with the liberty of the press. But the principle underlying the liberty of the press is also subject to other wider and more important principles. If this liberty is used in a manner so as to endanger the lives of others, if it makes it difficult for others to discharge their duties and which curtails their liberty of moving about freely, then, it is not only proper for the Government to put limitations on this so-called liberty of the press, but it is their duty to do so. For, who does not know that the attempt to bomb the Viceroy's train, the dastardly attack upon the Governor of the Punjab, the murders of Mr. Saunders, of the Inspector General of Bengal and of the Inspector General of Jails, of Mr. Garlick and similar other incidents have been undertaken by such misguided youths whose balance of mind had been upset by either exciting articles in the press or by irresponsible and inflammatory speeches from the platform ? It is indeed to be regretted that editors of newspapers, who are instrumental in spoiling the lives of young men by their inflammatory writings and their criminal gestures and nods, should themselves remain safe, and inexperienced and short-sighted people, who fall victims to their writings, should undergo punishment.

Editors are generally clever and experienced people and they manage to write in a manner as to be safe from the clutches of law, while young men who read those articles take to bombs and pistols in the heat of the moment. The poisonous propaganda against the Government, its officials, against England and Englishmen, that is carried on in the press, is simply amazing, and there is no doubt that all anarchical crimes are the result of poisonous writings and similar other literature and of the speeches of unbridled speakers. Bhagat Singh was praised beyond measure, Sukhdev and Rajguru were equally extolled while Dinesh Gupta was deified. Great sympathy is shown with the accused in conspiracy cases. All this is not because they were regarded innocent, but because they committed these horrible crimes for the sake of the country. We all know how money is collected for the perpetrators of these crimes and how defence committees are formed. In court when they are guilty of impertinence and contempt of court, or when they resort to obstructive measures, then instead of writing a word against their conduct, the Government, the court, or the

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complainants are subjected to attacks. All these things deeply affect the minds of young inexperienced school and college boys and prepare them to risk their lives and liberty. They begin to regard this praise, this reputation and this honour as sufficient reward for their lives and resort to bomb and pistols. We believe that no one who has any regard for truth will deny the fact that press is to a large extent responsible for all those causes which derange the minds of young men. Under these circumstances if Government proposes to pass some law, which may give them better hold on the press, they are fully justified. They not only safeguard themselves but save many a young, promising youth from this most dangerous behaviour. If a rider uses any effective method to control his wicked horse or puts strong bits in its mouth, he cannot be accused of tampering with the liberty of the horse. We hold that the proposed Bill is of this nature and it would have been better if it could have been extended and applied to writings which create communal tension and bitterness."

Sir, this is an extract from a vernacular paper, and for the information of Honourable Members I may tell them that this is not a rival with Calcutta papers. The name of the paper is *Jat Gazette*.

An Honourable Member : Edited by you ?

Rao Bahadur Chaudhury Lalchand : No.

(At this stage several Honourable Members tried to interrupt the speaker.)

Mr. President : Order, order.

Rao Bahadur Chaudhury Lalchand : Sir, comments are superfluous. I would only add that the Bill that is before us is meant for the gutter Press of India and not for honest and straightforward journalism. The difficulty is that the case of the two cannot be separated and one seems to suffer for the other. The choice, therefore, is clear. Hand over the culprit and remain safe. If you harbour the offender, then of course you suffer the consequences of the ordinary law. With these words I strongly oppose this motion.

Sirdar Harbans Singh Brar (East Punjab : Sikh) : I rise to support the motion made for circulation of the Bill for the purpose of eliciting public opinion thereon. I support the motion because I disagree with the principles as well as the procedure suggested for the evil which the Government want to remedy, namely, the terrorist movement. I have listened with the utmost patience to the Honourable the Home Member during his speeches on this Bill during the present session. I have not been able to agree either with the causes which he has suggested for the terrorist movement or with the remedies which he desires this House to enact to combat that movement. The terrorist movement, they say, has got its inspiration from the Press. I submit and hold that not 10 per cent. of those people who commit these crimes read the newspapers from which the Home Member was pleased to quote from the pamphlets supplied to us. He admits that some of those papers from which he quoted have got editors unknown or fictitious. He could not give us even a supposed figure of their circulation ; the names of many of these papers were unknown to the Honourable Members of this House till he mentioned them. Papers with such a circulation could hardly be expected to incite the intelligent and educated young men who are misled to commit those crimes. The fact that these papers existed in the presence of such a strong bureaucratic machinery of the Government of India, the fact that not one of them suffered under the penal laws of the land, the fact that not one of them was taken to task in any way is at least a fact which causes suspicion in the minds of many of

us that those papers are edited and owned by agents provocateurs. They have not been able to cite from any of the well recognised organs of public opinion edited by respectable editors and they have failed to make a case against the Press which exists, and which can be called the organs of public opinion read by the population as a whole. Of course, as my friend Mr. Lalchand was pleased to remark, it does not apply to the *Jat Gazette*. He says that it is meant only for the gutter Press and not for the paper which is possessed and patronised by a society of which he happens to be the head or one of the most prominent organisers.

Sir, I may with your indulgence place before you my reasons for the existence of the terrorist movement and thereafter refer to the remedies which I consider would meet the case. The terrorist movement is a necessary accompaniment of a foreign bureaucracy oppressing an old civilisation. It always comes with it and it goes with it. It is bound to exist as long as the terror of a foreign rule exists for the oppression of a race; and neither one Act nor two Acts, nor even ordinances are able to meet the circumstances. This movement exists when young men who study in schools spend all their parent's money for education with a view that they will get an opportunity to serve their motherland. They spend sometimes 15, 20 or 25 years for equipping themselves for that service. When they come out of the colleges, what do they find? Places of honour are not meant for them, because they belong to a slave country. They belong to a subject race. All places of profit and honour must first be given to the white bureaucracy 7,000 miles away. They must be paid many times more than they could fairly demand or command in their own land. They must be provided with jobs when the country cannot stand even the barest taxation, at exorbitant salaries, which even the Finance Member was pleased to call the highest scales which exist in any country and with the continuing of which the Government of India can never prosper. They find that the best and noblest blood in the land with higher aspirations, demanding a national government in their own country, are terrorised and oppressed. They are kept in jails for periods undefined and even there, as we saw the other day, their liberty is being violated. They find that, whenever any measure of reform is given, it is never meant to be honest and effective. They find that the Legislatures are there, but that they can be easily over-ridden and laws made and passed, whether they are in session or out of session. They find, above all, that as long as the foreign bureaucracy rules, they cannot fulfil any honourable ambition. With such things before them, with so slender prospects for the fulfilment of their life's desire, with the ambition of public service, to be of utility to their community and their country all dashed to the ground by the ways and means adopted by the Government, they feel that the only way by which they can make India fit for the Indians, governed by the Indians and for the Indians, is, perhaps, to adopt measures which all countries, in such moments of national helplessness, have been forced to adopt. I do not approve of those measures, far from it; I do hold that they are misled, that violence should not be adopted by human beings, because it implies a brutal nature of which our civilization is incapable, but I may just explain what, I imagine, they feel and what leads them to do like that. They say that Great Britain did not give power, did not agree to self-government even in the case of their own kith and kin, even to people of their own blood and to their own children in the United States of America till they were actually beaten to the ground. They find that, in spite of those wonderful promises in

[Sirdar Harbans Singh Brar.]*

Parliament of Mr. Pitt regarding the United States and of Mr. Gladstone regarding Home Rule to Ireland, Great Britain would never part with power unless and until you force them to retire. As a result of those experiences, those histories which you teach them in the Universities in India, and much more in Cambridge and Oxford, where they read the books of Mazzini and other stalwart nationalists of their own motherlands, they are forced to adopt measures which they themselves consider to be genuinely in the interests of their country,—not as the Press advises them, or as the leaders ask them to follow. Sir, some people, after studying in the Indian Universities, afterwards proceed to the British Universities for higher education there. But on coming back, they find no jobs, and further they find that the European must be paid double the salary, must have special allowances, in short must be fed fat at the expense of the Indian labourer who gets barely one meal a day, and who must provide the European with all the luxuries of Simla, Naini Tal, Ootacamund and Darjeeling, and who must be bled white to the maximum limit that the modern machinery can extract from him. Sir, these are, I believe, the true causes of the terrorist movement,—not the Press, not even I think the gutter Press, because only a few of them could read the gutter Press, they are educated young men, and if they were to read the *Statesman* or the *Englishman* or the *Times of India*, and if those papers gave them the inspiration to such deeds, well they may be able to follow them. We only the other day read in that distinguished journal the “Friend of India” on page 9 of its issue—because that is the most important page—that it wrote to the effect, “Oh, well, if a Hindu kills a Muhammadan, the Muhammadan must retaliate, if Anglo-Indians are killed, and if they retaliate that is the only way to stop all this terrorism”. Sir, this is the sort of inspiration to be derived from these newspapers. I may say, Sir, that a British statesman who has twice filled the highest office under the Crown has condemned that Press as being irresponsible, as being a menace to the peaceful British rule in India and that gentleman has now recently been, with the common consent of all the different political parties in England, called upon to undertake the same onerous duties of holding the highest office under the Crown. Now, Sir, that statesman has put it in black and white on paper. Of course the customs authorities would not have permitted me in 1927 to bring that book to India, so I cannot give the exact wording of it, but I have got it in my head, almost verbatim, what he put down in that book. Speaking about the Government of India’s attitude towards sedition, he said :

“Above all, it has sought to widen the scope of sedition until it shall include everything that was not flattery.”

At that time he was talking of the Press Bill of 1910, which in a different form is being revived here :

“It condemns as sedition the most innocent phraseology of nationalism, and treats as dangerous political characters those who criticize its actions.”

It allows the Anglo-Indian Press day by day to write highly atrocious articles against the children of the soil. While all that is allowed to be done with impunity, the reply to it given by the Indian Press is treated as sedition, as stirring up racial enmity, as bringing Government into contempt ; and he says that Indian nationalism shall have to fight yet a hard battle to win its freedom against the Anglo-Indian community and the

services. He means the British services, which cannot be expected to welcome the national spirit. Sir, even though we find writings in the Anglo-Indian Press being condemned by such a distinguished statesman of His Majesty's Government, we do not find, during the whole period of British rule in India, one singular example of an Anglo-Indian paper having been brought to book or its editor having been prosecuted. Every day it incites and writes articles which make our blood boil and make us feel that it cannot do this without the Government permitting it to do so, because the Indian Press, even the most moderate like the *Hindustan Times* can be called to book and asked to give security which afterwards the High Court declares as being unjustified.

Sir, we are now, they say, on the way to get reforms. The Press creates opinions and leads the opinion in the country. At this time Government cannot welcome the emancipation of this country from centuries of slavery. They cannot allow the national movement to go on. They know in their heart of hearts that they are not prepared to give anything at the Round Table Conference and they know that that will lead again to a nation-wide struggle. So they are preparing to combat that struggle at the very beginning. It is not the terrorist movement that they want to stop. They want to check the national movement, which is coming to a head if the Indian demands are not met at the Round Table Conference. With that view they want to check the nationalist Press of India ; and I dare to prophesy that as soon as the Act is passed, the *Advance* and the *Liberty* will come under the guillotine perhaps on the first morning, the *Hindustan Times* in a week, the *Hindu Herald* and other papers like the *Tribune* and *Leader* will also follow, unless of course they themselves voluntarily adopt silence in matters of national importance. Sir, this Bill will not stop the terrorist movement. Let the Government follow the example of other countries which in such crises meet their emergencies. Let them send all the European troops back. I do not mean the officers. If we are not fit at present to officer the Army, at least our soldiers have proved themselves as well-fitted, and as good fighters on the battle-fields of France and Gallipoli as the soldiers of any other European country. Let that expenditure of five times that of the Indian soldier be stopped. Let Indians be given positions of honour and profit for which they are equally fitted, because when we get qualified Indians there is no justification for keeping foreigners here. Reduce the scales of salaries which are as much as four times those of Japan, of Germany and of France and I think about 2½ times as much as the United States of America which is the creditor of all nations of Europe. With that curtailment of expenditure, with the encouragement of Indian industries and agriculture, with the man in the street being satisfied with his lot and having a decent living in the land of his birth, with the young educated Indians being given an opportunity to prove their worth and with the power of the Indian people over their own exchequer, all this movement will naturally come to an end. Without these remedies, no Act, no ordinance, no repression by the police or the military will be able to stop it.

My Honourable friend, Chaudhury Lalchand, said, how many people know that a Press Act existed, that it was repealed and that it is again being introduced ? Is it because the people do not know anything about the introduction of the Bill that it must be passed ? How many people know that Chaudhury Lalchand has taken the place of that distinguished journalist Mr. K. C. Roy in this Assembly ? Not ten men in a thousand

[Sirdar Harbans Singh Brar.]

will know that. All the intelligentsia of India, which leads the masses, knows that there was such an oppressive measure as the Press Act of 1910. It knows that when the representatives of the people got a majority in the Indian Legislature, they took away that black spot from the Statute-book. And now all the intelligentsia has come to know from the columns of the "Friend of India" that another far more oppressive measure is now on the threshold of being enacted into law, and that Chaudhury Lalchand will contribute his quota to the making of it. Sir, when I was in England studying at the Bar, I used to hear from distinguished professors from Oxford and Cambridge, who used to lecture to us, that the only penal law of any country, which is complete in everything and which comprises remedies for all unforeseen circumstances, is the Indian Penal Code. That was the opinion of the most distinguished jurists of the well-known University of Oxford, and it was repeated on the floor of this House by the most eminent criminal lawyer of the Lahore High Court. Sir, the British jurisprudence laid it down that no person should be condemned unheard and that we must presume every one to be innocent until the contrary was proved.

Mr. K. Ahmed : Did you not deposit the caution money at the time of admission into the Inns of Court before you were called to the Bar ? And did you not furnish security or deposit Rs. 500 at the time of submitting your nomination for election to the Legislative Assembly ?

Sirdar Harbans Singh Brar : I think you are the only man from whom security should be demanded.

Sir, this Bill provides that without being called upon to show cause why security should not be demanded, the Magistrate who is the agent of the bureaucracy and of the executive, which is a party in the case, should declare him to be guilty. Security should be demanded, and what is worse, when a new person starts a press and has not printed a word on a paper and has not perhaps put a paper in the machine, he must also be declared *ipso facto* to be guilty and must deposit security because the Magistrate asks him to do so.

The Honourable Sir James Orerar : It is not "must". The Magistrate *may* demand security.

Sirdar Harbans Singh Brar : Sir, from our experience of 150 years of British rule we have come to understand that "may" is always "must" and "will" is always "shall". That is our experience and experience is better than theory. Sir, is it fair that a newcomer should have to deposit security at the sweet will of the Magistrate ?

Mr. K. Ahmed : Why did you deposit the caution money before you were admitted in the Inns of Court and furnish security of Rs. 500 when you had submitted your nomination for election ?

Mr. President : I wish that Honourable Members in possession of the House should not be interrupted. The discussion has proceeded at considerable length and very long speeches have been made. These interruptions have the effect of prolonging these speeches. I would specially ask Honourable Members not to interrupt speakers who are in possession of the House.

Sirdar Harbans Singh Brar : Sir, when the Honourable the Home Member introduced the Bill on the 7th of this month, he said that the

heavens are falling and it must be passed immediately. Later he said the report of the Select Committee must be submitted by the 18th September, otherwise India will be ruined and the Government will cease to exist or to function. Three weeks have passed. Nothing—not even one incident has occurred. And where is the hurry? We are meeting again in November. Why cannot we in this one month, by executive order—if he agrees to do so—circulate the Bill for eliciting public opinion by 31st October and then along with the Finance Bill we can dispose of this measure within a short period? Why should not the country have its say in the matter? Why should not the Local Governments, the judiciary and other bodies in the provinces be consulted? As Honourable Members have submitted, no such emergency or unforeseen or extraordinary thing has happened during these three weeks, and we can safely wait for another four weeks, and meanwhile let us have the opinion of the whole country before us, and with that material to assist us, the Home Member and we can co-operate together and make it law if the country and the Local Governments support it. There will be nothing to prevent us at that time passing it into law and four weeks is not too long a period to wait from the experience before us. With these few words, I support the motion made for circulation.

Mr. G. I. Griffiths (Bombay : European) : I rise to oppose the amendment that we should circulate the Bill.

Having carefully followed the debate preceeding the sending of the original Bill to the Select Committee, as also the report of that body, I feel I am now in a better position to urge the necessity of immediate acceptance of the new Bill upon my Honourable friends, the former Opposition. "Former Opposition", I rightly say in this case because I am sure that the majority of those who formerly opposed the Bill will now support it, as they must be convinced of the Honourable the Home Member's genuine efforts to meet their desires which the toning down by the Select Committee proves.

In considering those points raised by the Opposition, I would commend to their notice, the remarks of Mr. Ranga Iyer, wherein he stated that the platform was a worse offender than the Press, and I find that they have omitted to raise their voice against those platform orators who deliberately incite and eulogise murder by their scurrilous out-pourings. They have omitted to ask for the control of those who do equally as much damage by speech as by the pen. I feel sure they will support my contention that those, who eulogise murder and broadcast praise of anarchists, whether by Press or platform, should be appropriately dealt with. My Honourable friends of the Opposition have definitely shown their abhorrence of murder and anarchy, and I now appeal to them to assist in the unanimous passing of the new Press Bill, as redrafted by the Select Committee, and thereby to frustrate those who would bring chaos to the country by their writings. I would like to read an extract from Sir Cowasji Jehangir's speech as Chairman of the Reception Committee of the National Liberal Federation—just a small extract :

"No constitution which may give us a stable Self-Government will ever satisfy those who believe in the destruction of the existing order as a condition precedent to its reconstruction."

It is just an extract which bears out my contention. Further, I should like Honourable Members to add their voice to mine in urging Government to make an addition to the Penal Code, whereby those

[Mr. G. I. Griffiths.]

making utterances eulogising murder may also be brought to book, as the removal of these two forms of destruction will be the means of creating that peaceful atmosphere so necessary to those leaders at the Round Table Conference who are at present working to ensure to India a happy future.

Sir, as a new Member of this Honourable House, I want to feel that I am part of a body solely composed of sane, right-thinking men whose one aim is the welfare of India, and it is only by supporting Government's efforts, such as this Press Bill, that the desired welfare can be assured. Sir, I again appeal to my Honourable friends to avoid the road to destruction and concentrate on building up a sound future constitution for India. From the great number of amendments, it would appear that the whole structure of the Bill would fall, as it is suggested that the very foundation be removed, and this means that the emaciated skeleton which remains would be worse than useless. While I share the anxiety of Honourable Members opposite to clarify the Bill to the utmost extent so that no innocent paper can possibly come under its scope, I view with some concern one or two of the concessions which have been made and fear they may make it easier for an offender to escape. In particular, there is the clause permitting a new paper to go on publishing for ten days before producing the requisite deposit. It seems to me that in the case of mushroom newspapers which do spring up definitely for the purpose of inciting to violence and do not expect to have a long life, the clause as it now stands will permit a suspected person—who is in fact acting in bad faith—to start his newspaper, commit an offence, and disappear with a view to repeating the performance elsewhere. Further I should like to feel sure the Government are satisfied that the abolition of a minimum fine in the first instance is justified and whether it would not be more satisfactory to keep the previous minimum of Rs. 5,000. It is obvious that the Bill as it now stands will not interfere with the liberty of the sane Press in India, but will only be operated against those writers who are a menace to public safety. My Honourable friends opposite are quite convinced that what I have said is correct but, constituting the Opposition as they do, consider it their duty to oppose every move of Government whether it be right or wrong. Owing to so many days having been spent on this Bill, it has been found necessary to extend the period of the session, and if the *pros* and *cons* of all the amendments are launched, we shall be here until 1932.

Therefore, Sir, in conclusion, I would earnestly request all my Honourable friends to put nothing further in the way of bringing this session to a close, withdraw all wrecking amendments and pass this Press Bill so very necessary for the country's good.

Sir Abdullah Suhrawardy (Burdwan and Presidency Divisions : Muhammadan Rural) : Sir, I rise to intervene in the debate because I find myself in the unfortunate position of differing from my Honourable friend Mr. S. C. Mitra, who has moved an amendment for circulation of the Bill. I am anxious to clear my position because I cannot but oppose this amendment. My task has been considerably lightened by Sir Zulfiqar Ali Khan and the speakers who followed him, and who have expressed their opposition to the amendment ; and I would not be aiding

and abetting in furthering the object of this dilatory motion by delivering a long speech opposing this dilatory motion any further.

I wish to confine myself to the points raised by my Honourable friend, Mr. Mitra, and I shall briefly give my reasons for not supporting his motion, although I should like very much to be always on the same side as himself, if for nothing else, for the sake of old associations of bygone days. I am thinking of the days when I had the honour of being a lecturer in law in the University of Calcutta and Mr. Mitra was a student of law attending my Tagore law lectures...

Mr. K. Ahmed : And I suppose you were working together when both of you were Swarajists.

Sir Abdullah Suhrawardy : That was before the birth of my Honourable friend either as a lawyer or as a politician.

Mr. K. Ahmed : I did not start my political life as a Swarajist.

Sir Abdullah Suhrawardy : My first reason is this. Referring to the previous debates, I find in the proceedings of the 16th September a motion to the effect, "That the Bill be circulated for the purpose of eliciting opinion thereon by the 2nd January 1932". I find that the motion on the Agenda Paper to-day moved by my Honourable friend Mr. Amar Nath Dutt and supported by Mr. Mitra runs as follows : "That the Bill be circulated for the purpose of eliciting opinion thereon by the end of December, 1931". The only difference I find is that, instead of the 2nd of January, the date has been changed to the end of December. (*An Honourable Member* : "Not December.") I gather from the speech of Mr. Mitra that he now suggests the end of October. But I was confining my attention to what appears in print, and I think that the dawn of wisdom is due to the fact that the first of January is perhaps a public holiday, and instead of "the 2nd January" they put down, "the end of December 1931". Perhaps as a result of the dawn of greater wisdom, the period is shortened to "the 31st October" and I hope that at the end of the debate there will be a dawn of even much greater wisdom and that my friend Mr. Mitra will realise that it is in the interests of the country and in the interests of those for whom he has laboured and suffered so much, and in the interests of the freedom of the Press that this dilatory motion should not be allowed to stand in the way of the consideration of the Bill. I find not only that there was a similar motion in similar terms debated on the 16th September, but that when the House divided on that motion and the motion was carried by a large majority—73 against 31—in the list of those who defeated that dilatory motion prominent amongst the names of Honourable Members, the honoured names of Sir Abdur Rahim, Sir Cowasji Jehangir and Mr. Shah Nawaz—the Leader and Deputy Leaders of the non-communal party to which my friend Mr. Mitra belongs and of which he is the moving spirit.

My second reason for opposing his motion is that by a curious coincidence I chanced upon a paper—the list of questions for Wednesday the 23rd September 1931 ; and there is a question, No. 918, put by Mr. Mitra which runs as follows :

"Has the attention of Government been drawn to a series of articles in the *Muslim Outlook* of Lahore regarding the Indian State of Kashmir ?

Have Government taken legal opinion or do they propose to take such opinion as to whether these articles contravene the provisions of the Princes Protection Act ?

[Sir Abdullah Suhrawardy.]

Has the attention of Government been drawn to a series of articles and communications from special correspondents in the *Statesman* on the subject of the internal administration of Kashmir State and have they taken legal opinion on those articles as to how far they are calculated to bring the administration of Kashmir into contempt and offend against the provisions of the Princes Protection Act ? ”

When I notice the zeal and enthusiasm of my Honourable friend, Mr. Mitra, who cannot be accused of communalism of any kind, belonging as he does to the Independent Party, which is noted for its non-communalism, I do not clearly understand the reason why he is so anxious about the protection of the Princes and so unmindful of the interests of British India. The reason put forward for the mobilisation of the forces of bureaucracy by putting into action the machinery of the Princes Protection Act is the reason for my supporting the consideration of this Bill which is an emergent measure, the emergent character of which I do not think anybody in this House seriously questions.

My Honourable friend, Mr. Mitra, gave four reasons for his motion : he said he was opposed to the Bill on principle and on procedure. As regards the question of principle, I do not wish to detain the House by dwelling at any length on it. The principle of the Bill has been discussed threadbare and the result of the debate on the original Bill went to show that the principle of the Bill was accepted by a large majority when the motion for referring it to Select Committee was accepted by the House. As regards the procedure, I do not know what he means by it. The fates conspired with the Opposition, if not with the Assembly Department, to delay the passage of this Bill as much as possible, and I do not see what further defect in the procedure of the Bill my Honourable friend has discovered, so that he expects us to support his dilatory motion.

He next says it is not a dilatory motion. I do not know what it is if it is not a dilatory motion. Then he asks, what would happen to the *Statesman* ? There have been constant references to the Anglo-Indian Press in the speeches both of Mr. Amar Nath Dutt—whom I could not clearly hear and who did not appear to be in good form this morning—and from Mr. Mitra. If they are anxious to muzzle the Anglo-Indian Press, why do they then stand in the way of this Press Bill ? Once this Bill is passed into law, it will be a case of “ What is sauce for the goose is sauce for the gander ”. If the *Muslim Outlook* offends against that Act, if the *Statesman* offends against the Act, then there will be good reasons for us to say, “ Why do you make invidious distinctions ? Why do you let this ‘ Friend of India ’ escape ? Why do you allow these enemies of India to go scot free ? ”.

Then he also mentioned the Round Table Conference as one of the reasons for postponing consideration of this Bill. But I should have thought that the fact that the Round Table Conference is now being held in England and the destinies of India are trembling in the balance should be a reason for every right-thinking Indian to appeal to the Indian Press as well as to speakers on the platform to say nothing and do nothing which will be considered as an incitement to murder or violence. That is no reason why, because the Round Table Conference is sitting in London, the Press Bill should be postponed.

Then reference was made to the oft-repeated argument about the Penal Code. Mr. Ranga Iyer referred to the provisions of the criminal law on a previous occasion. My friend Mr. Amar Nath Dutt also referred to the Indian Penal Code as the most perfect code which human ingenuity or human genius could devise and my friend Mr. Mitra also made frequent references to the provisions of the Penal Code as being adequate for the purpose. Sir Zulfiqar Ali Khan, in the course of his speech, took us back to 1910 and he reminded the House that that great and distinguished lawyer, Lord Sinha (then Mr. Sinha), the then Law Member, had piloted the Press Bill of 1910, and that amongst the speakers in opposition were stalwarts like the lamented Mr. Gokhale and Mr. Bhupendra Nath Basu and the redoubtable Pandit Malaviya who, I am glad to say, is still with us. In spite of such able and distinguished gentlemen to oppose the measure then, the Bill was passed in less than a week. If I am not mistaken.....

Sirdar Harbans Singh Brar : By the official majority.

Sir Abdullah Suhrawardy : I could not hear the interruption. If the Honourable gentleman will kindly repeat the interruption, I would be able to make him understand the exact position.

Sirdar Harbans Singh Brar : I said it was passed by an official majority.

Sir Abdullah Suhrawardy : I would refer the Honourable gentleman to the proceedings on that occasion and also to the division list, and before he interrupts speakers who are more familiar with the subject than himself, I think he should make sure of the facts and refresh his memory. At any rate, whether that Bill was passed by an official majority or an official minority, the fact remains that that great and distinguished lawyer, that eminent patriot, who was also President of the Indian National Congress, whose memory is held in great esteem and respect by all Indians, especially by the people of Bengal, in his masterly speech gave cogent and unanswerable reasons for the passage of that Bill on that occasion. Sir, if the situation was grave in 1910, it is much graver to-day. If there was need for a Press Act in 1910, the need is much greater to-day. His legal genius did not fail to meet this old argument of the Indian Penal Code. He had given there in his speech facts and figures and also the sections under which Government could have proceeded against the offenders against the law, section 108 and the sedition section, and he further gave the reasons as to why Government should not have resort to those sections. He also stated that as legal adviser to the Government, as a Standing Counsel and as Advocate General of Bengal he had to go through hundreds of thousands of papers of cases before prosecution was launched, and on many an occasion he had to advise Government not to prosecute the offenders for the simple reason that for some technical flaw or other the prosecution might fail and the object of the prosecution would be defeated. Do we not know that often times after long drawn out proceedings, the cases end in acquittal ? That was the view of Lord Sinha in 1910, when the methods of hunger strike and hartals and processions in honour of murderers and anarchists were not known to the Indian public. Do you want that, instead of having recourse to a preventive measure like the Press Bill for muzzling the offending Press, we should have recourse to criminal proceedings, and

[Sir Abdullah Suhrawardy.]

defeat the very object which the Press Bill seeks to achieve ? There was a reference made to the Goonda Act by my friend Mr. Amar Nath Dutt.....

Mr. Amar Nath Dutt : I did not refer to the Goonda Act at all. I mentioned the word goondas.

Sir Abdullah Suhrawardy : All right, that has reminded me of a Persian proverb :

*“ An ra bi hisab pak ast,
As muhasaba chi bak.”*

“ One whose account is clear, need not be afraid of any audit.” The Goonda Act, I know,—perhaps my friend Mr. Mitra was also a member of the Bengal Legislative Council at the time, but I am not quite sure,—had many opponents. In any case many Honourable gentlemen championed the cause of the goondas when the Goonda Bill was being debated in the Bengal Legislative Council, though no gentleman need have been afraid of the Goonda Act. It is only the gutter Press which need be afraid of the Press Bill even as the goondas alone need be afraid of the Goonda Act. With these words, Sir, I oppose the motion for circulation.

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

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

Dr. B. D. Dalal (Nominated Non-Official) : Sir, I rise to oppose the amendment moved by my Honourable friend Mr. Amar Nath Dutt that the Press Bill be circulated for eliciting opinion thereon by the end of December 1931 ; and I propose to occupy the attention of the House for only a few minutes.

I associate myself whole-heartedly with the remarks that have fallen from the Honourable the Home Member. Sir, I consider that the Press Bill which is now before the House has been overdue, and I trust that nothing will be done to delay the measure any further. The questions that occur to my mind are these : Is there any urgent necessity for this Bill—the Bill to provide against the publication of material inciting to or encouraging murder or violence ? Is this measure required by the circumstances ?

Sir, if we study the statement of terrorist crime, and I may state in passing that personally I have made a close study of terrorist crimes since the 1st July 1909, when a foolish, ill-balanced, impressionable, ungrateful youth by name Madanlal Dhingra shot dead that great gentleman, Colonel Sir William Curzon Wyllie, Political A. D. C. to the Right Honourable the Secretary of State for India, and Dr. Kavas Kharshedji Lalkaka, a distinguished Parsi Doctor practising at Shanghai, at the soires of the National Indian Association at the Imperial Institute in London,—I used the word *ungrateful* because Sir William Curzon Wyllie had many a time given a helping hand to Dhingra—I again say that if we study the list of terrorist crimes, we find and I for one consider that

it is a disgraceful record. This record has disfigured the page of Indian history, and has tarnished the fair fame of India. Mr. President, the record is one which can reflect nothing but shame upon our country and her people. Sir, I repeat that if we study the list of terrorist crimes, if we further study the leaflets and extracts from newspaper articles relating to incitement to terrorist crime or to the adulation and laudation of those concerned in such crime, further if we take into consideration three important points—(a) the emergency character of the legislation—in the Bill that is now before the House the duration of the Act has been limited to two years. Personally I think the Act should be in force for three years, or I fear it will impair the effectiveness of the measure. In this connection I cannot help expressing my high appreciation of the accommodating spirit displayed by the Honourable the Home Member, (b) the restricted nature of the legislation—this Bill deals only with incitement to and praise of murder ; it does not restrict just and fair constitutional political discussions in any way ; it does not militate in any way against the principles of the freedom and liberty of the Press, (c) the principle of the Bill has received support from leaders of public opinion such as Mr. Gandhi, furthermore if we take into consideration the important fact that the cult of murder has been on the increase most intensively since the Press Ordinance was withdrawn, and there can be no doubt that extolling a murder—the elevation of cowardly murder to the plane of heroism, and the description of the execution of the murderer as martyrdom has had and is still having an enormous effect in inciting immature minds to follow the example of the so-called patriots—then, Sir, I respectfully submit that every sensible, reasonable, and right-thinking person will agree with me that these weighty considerations prove the urgent necessity for the Bill and establish its justification.

Now, Mr. President, with your permission, I shall refer to one case only, and that is the bomb explosion in the Legislative Assembly Building at New Delhi. This dastardly outrage was perpetrated on the 8th April 1929, and several Honourable Members present here were compelled to witness it. In this connection may I be allowed to strike a personal chord ? My cousin, Sardar Sir Bomanji Dalal was seriously injured as a result of that bomb explosion. Sir, I shall be the last man to indulge in hyperboles, but I can truthfully state that as a result of that injury and shock his nervous system has been shattered and he has become a martyr to insomnia—in short he has been keeping very indifferent health indeed. Holding strongly as I do the view that this measure will have a powerful deterrent influence, and in view of what has happened to my family, I welcome this measure with much gratification ; and I am sure the Honourable House will readily appreciate and realise my anxiety for the passing of this Bill, for I am convinced that the idea of that Delhi bomb explosion was nurtured as a result of seditious writings.

Now, Sir, with your permission I shall state how seditious writings become disseminated in Rural Areas. I was a Member of the Public Health Department in the Bombay Presidency, and one of my duties was to carry on rat-destruction as a measure against plague : so after dinner from 9 to 11 o'clock in the night I had to supervise the laying of rat-poison baits in the houses of villagers. During those rounds many

[Dr. R. D. Dalal.]

a time I saw large numbers of villagers assembled in the open air, or at the village school, or even at the village *chavadi*, and to those crowds newspaper articles were read by some one of the audience, and they were criticised. I need hardly point out that at those meetings disaffection against the British Raj was fostered, and I need hardly add that seditious writings are the poisonous seed, which must sometimes fall upon the soil of immature or discontented minds, and that from such root in due course springs the impulse which drives human beings to ruthless and shameless crime, and invests it with the false halo of self-sacrifice.

Now, Sir, I wish to urge one important point and I have done. On the 11th April 1929 the Legislative Assembly unanimously, with one mind, with one voice, adopted a motion condemning unreservedly dastardly outrages and murders, and assuring Government of its full support in such stringent and drastic steps as might be necessary to prevent a recurrence of diabolical and dastardly crime. Now the time has come, the opportunity has arisen, and I sincerely hope that the House will rise to the occasion as one man. In conclusion I earnestly and with all the force and conviction of which I am capable appeal to all Honourable Members to lay aside opposition for opposition sake in a matter that is so close to the heart of every one, and to give unanimous support to Government in the passing of this measure, which in my opinion is urgently needed and is absolutely necessary for the safety of the public and for the betterment of the youth in India.

Mr. Muhammad Muzram Sahib Bahadur (North Madras : Muhamadan) : I am afraid I cannot support the amendment which my Honourable friend Mr. Amar Nath Dutt has moved this morning. No doubt he related a number of instances in support of the view that the Bill before us ought to be circulated and that it can be circulated in the Delhi session early in November. I ask has not the Bill been referred to a Select Committee already and are we not traversing the very same ground again ? This point about circulation for public opinion was raised in this very House and it was decided by a majority of votes that it should be referred to a Select Committee. The delay in taking up this Bill is due to an oversight on the part of a clerk in the Assembly Department, and I would be as liable to make this mistake, if I were in his position, as any one else. It was an oversight after all. The Bill withdrawn and the Bill which has been introduced are exactly the same, with the exception of one section at the end. The title, the docket and the first page are the same, with the exception of that one section. That is a digression anyhow. But for the oversight of the clerk, this Bill would not have come up for discussion in the way it has done just now. If advantage is taken of that oversight for traversing the very same ground and asking the House to refer the Bill for eliciting public opinion, I think it will be wasting the time of the House. After reading the report of the Select Committee, I find that the amendments made there are all that one could desire. Being of that opinion, I think I may be permitted to say that much of the time of the House is wasted by carrying on this discussion on a question which has been already dealt with in the House. I would say that this Bill be not circulated for public opinion and that it may be referred to a Select Committee. If there are any difficulties in forming a committee, that is the look out of my Honourable

friend Sir James Crerar, but to offer opposition at this stage and to suggest that it should be circulated for opinion, is, if you will permit me to say so, wasting the time of the House.

Mr. President : Will the Honourable Member contribute towards that end by curtailing his observations ?

Mr. Muhammad Muazzam Sahib Bahadur : I shall be very brief, Sir. With regard to the propaganda of the nature that is still being carried on and that has been carried on in the Press, which is responsible for a great majority of the terrorist crimes with which no one has the least sympathy, those who incite to these crimes ought to be put down with a high hand. My friend, Mr. Amar Nath Dutt, has moved that this Bill be circulated. Does he really feel that there is no urgent necessity for placing a measure like this on the Statute-book ? I think there is every necessity and the speedier the desired action is taken the better. My friend, Mr. Amar Nath Dutt, gave expression to his feelings that he would prefer the Bill being circulated for eliciting public opinion. When my Honourable friend said that, did his head and his heart go the same way ? Does he not feel that there is a real necessity for a statute of this kind ? Does he not feel that the earlier action is taken the better for the interests of India ? I ask that question of my Honourable friend, Mr. Amar Nath Dutt, as I feel that this Bill should be placed on the Statute-book as early as possible.

Mr. Lalchand Navalrai : (Sind : Non-Muhammadan Rural) : I am conscious that the issue now is whether the Bill should be circulated or not. I shall restrict myself to that issue alone and explain myself in a few words. I shall also make a few observations by way of reply to some of the points raised by some of the Members to-day. The main objection has been taken by the Honourable Member who spoke just now. He said that this Bill has passed through the Select Committee and that therefore there is no necessity for circulation.

Mr. Muhammad Muazzam Sahib Bahadur : My point was that the motion for circulation was defeated in this House.

Mr. Lalchand Navalrai : That is all the more reason for sending it to the public. You all know that this Bill was introduced at the last Delhi session, and it was done without asking for public opinion. It was a Bill about which the journalists in India, Indian and also some Europeans, wanted that it should be proceeded with cautiously. I submit it was not done. The Bill had its own fate. In this session the Home Member withdrew it and introduced a new Bill. When introducing a new Bill, public opinion ought to have been invited. Is this not flouting public opinion ? Is this not neglecting the principle of law that no legislation should be passed without inviting public opinion ? I was sorry to hear the Honourable Sirdar Harbans Singh making a reference to " Mr. Lalchand " having said that there are no persons outside this house to make a useful comment on the Press Bill. I was really astounded to hear of such a statement having been made by me but the Honourable Member should have named *Rai Bahadur Chaudhury Lalchand* as the author of such a statement. (Laughter.) He said, " Who are the persons who are in a position to understand this Bill or rather to give their opinions thereon ? ". I really wonder, Sir, at such a statement. Is the country devoid of able journalists and men of culture able to give

[Mr. Lalchand Navalrai.]

sound opinions. The Rai Bahadur condemns them, but, Sir, you must hear them ; you are not hearing them ; and yet you say that they would be unable to consider it ! It is not only the journalists but those who read, those who contribute to the papers, are all being affected, and therefore they should be consulted. So I say that the mere fact of having referred this Bill to a Select Committee would not do away with the necessity of consulting public opinion at large which the country requires ; and it is no use saying that the public should not be consulted. Now the main issue reduces itself to this, whether there is going to happen anything so dangerous that you cannot wait for a month or two before this Bill is passed. I ask, why not wait for a month ? A Bill like the Finance Bill has waited till November ; why not this legislation also till then ? My Honourable friend, Rai Bahadur Chaudhury Lalchand, said, " Oh, it must be passed immediately, otherwise there is danger ". Sir, I was wondering what was happening outside. Perhaps the Honourable Member was in danger himself personally and therefore he wanted the Bill to pass immediately without public opinion being elicited. My humble submission is this, that in connection with this Bill you have to consider both the Indian as well as the English Press. Now we know that the Indian Press is very anxious to see that this Bill is not passed. Sir, it was said the other day by the Honourable Sir C. P. Ramaswami Aiyar, that if this Bill is passed, then the English Press, if it offends against the Bill, will also be proceeded against. My reply to the Honourable Member is that he is only one in the Executive Government, and his voice, on the question of the prosecution of a member of the English Press, would be very feeble among his other colleagues who would be all against him. Therefore, Sir, I would submit that his assurance to us is really no assurance at all. We know the past history in this matter, *vis.*, that the English Press has never been touched. Now many Honourable Members have to-day pointed out the tone and spirit of the English papers as to how they are inflaming class animosities and passions, but not a single finger is raised against them. I would submit therefore that the Indian Press is very rightly nervous over this, and they should be consulted. What will be lost, Sir, if they are consulted ? Nothing. Pass this Bill, Sir, if you will, but not only with the opinion of some Members here, but with the opinion of the country at large and I am not asking anything more. I submit that by waiting till the November session nothing will really be lost.

Mr. Muhammad Ashar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, I had thought that this hydra-headed Bill, which has now emerged again from Select Committee, would come out with at any rate most of its heads cut off, but what do I find to-day ? I find several defects, which existed in the first Bill, not only not taken away but many of them reincorporated. The greatest defect which in this Bill appears to me is as regards the High Court's powers. These have been taken away with one stroke of the pen by the Honourable the Home Member. Sir, it can be easily said that this Bill was revised by the Select Committee and I am not at all sorry ; rather to a certain extent I am glad, that some of those patriotic members of the Select Committee who had the honour to sit on that Committee have appended a note of dissent to the report on the Bill, and the country will now judge who are the patriots and who the non-patriots (Hear, hear).

Sir, so far, Acts or Regulations or Ordinances have not been able to allow any Government to stop terrorist movements. Nor, would it be right to label all crimes from the beginning of British rule as due to the Press, or to attribute all those crimes to the Press, as some of my Honourable friends on the other side have to a certain extent done. As well as it would not be right to justify the present measure simply because from the times of the East Indian Company, some misguided youths did something towards some of the British people or towards the organized form of government. Sir, it is said very light-heartedly that they have in this Bill some principle and as I find that the common law of England has generally been quoted in this House ; so I will now quote the great *Magna Charta* of the English people themselves, and I refer to clause 29 of that Charter, which runs thus :

“ No free man shall be taken or imprisoned or diseized of his property, outlawed or exiled, nor in any way hurt, nor shall the King forcibly enter or pass upon him, unless by the judgment of his peers or by the law of the land.”

Now, if the principle underlying that *Magna Charta* is to be observed for the British it ought to be observed for Indians as well, since as one of my Honourable friends to-day said, what is good for the gander should be good for the goose also. So my submission is that the principle underlying that *Magna Charta* should be followed by our rulers who have the fortune of India in their hands (Hear, hear) ; and if they do not follow that principle, it is very likely that the state of affairs will go from bad to worse in this country. Sir, there is another principle underlying my opposition and it is this, that the power of the High Courts has been altogether taken away. I would refer, Sir, to section 491 of the Criminal Procedure Code, also to section 439 and section 350-B ; and I would submit that all the powers that were vested in the High Court under those sections have been done away with by this unjustifiable Bill of the Government. The High Courts have powers of revision, of appeal and of writs of *Habeas Corpus*, and these have all been taken away by one stroke of the pen ! Therefore my submission is that we are justified in asking this House to allow the circulation of this Bill so that we may know what the opinions of the High Courts would be on the Bill when their powers are proposed to be so much curtailed and taken away.

Sir, again, you are going to judge and prejudge the Press which, without committing any sin, without committing any offence, will be in the clutches of a Magistrate. One of my friends on the other side, referring to Mr. Ranga Iyer's speech, said that a speaker should also come under the clutches of the Press Act, and he referred to some particular speech. If that is the interpretation of the word “ violence ” according to the Honourable friend on the other side, and if that same view is taken by the Magistrates in India, then no body will be safe and no Press will remain out of the clutches of this Press Bill. Some remarks were also made about the leaders of parties. It is all very good for those people who have no leaders or who assume the role of leaders without any party behind them, to blame the leaders of parties. But that is no argument. Also, it is said that the young people in India are misguided by Press writings. My submission is that these young people imbibe their ideas of freedom from the books that they read in the college and university libraries where they read Rousseau's writings and other revolutionary books. Perhaps the next step which this Government is going to take will be to stop the reading of that literature even in the colleges and universities. Without stopping that, it will not be possible to stop this present

[Mr. Muhammad Azhar Ali.]

movement in India. I therefore submit that the Bill ought to go for circulation.

Pandit Satyendra Nath Sen (Presidency Division : Non-Muhammadian Rural) : Sir, I rise to support the motion moved by my Honourable friend, Mr. Amar Nath Dutt, and in doing so I should like, with your permission, to make a few observations on this much-debated and much-debatable Bill from the Hindu point of view, so far as the genesis of the present trouble is concerned. Sir, the Government of India and the Local Governments are never tired of telling us, in season and out of season, that our young men have gone wrong. I do admit that there is some truth in it, but may I ask who is to blame for this ? We on our side would like to level a charge against Government with equal force that it is they who have spoilt our young men. Sir, the Hindu instinct is naturally against murder or violence. The Hindu conception of the King is that he is a great divinity in human form. Manu, the great law-giver of the Hindus, says :

“ *Mahati devata hyesha nara-rupena tishthati.* ”

Who is it that has been instrumental in the abandonment of that principle ? I should say that it is the Government who have been so. It is the unsympathetic rule of the present system of Government that has brought about a change in the mentality of our young men. It is the inhuman rule of the present system that has exasperated the feelings of the young boys. Sir, we Hindus are advocates of the law of *karma* :

“ *Abashyameba bhoktavyam krita-karma shubha-shubham.* ”

“ Man is bound to reap the consequences of his own actions (and of his past deeds). ”

I am afraid Government are now reaping the consequences of their past deeds. Let them take stock of their past actions. Let them remember the atrocities committed at Jallianwalla Bagh ; let them remember the policy adopted during the riots at Dacca, at Chittagong, at Cawnpore. Let them judge their conduct at Hijli and similar other camps ; let them remember how the regulation *lathis* of the police broke the heads of our men, of our women and of our children. The present political unrest is the outcome of such unsympathetic and inhuman rule on the part of Government. Sir, I am afraid that, Press Bill or no Press Bill, the political unrest must be there in some shape or other. If the Bill is not passed, the misguided young men—I am glad their number is very few—will go their way openly, and if it is passed, they will go on secretly—if I am permitted to speak out my mind. I would advise the Government to try their best to undo the effects of their past actions as much as possible. I would advise them to pursue a sympathetic policy now,—it is not yet too late. The whole system must be overhauled. How can you gag the mouths of the young men in this way ? You have already filled them with explosives and now you wish to gag their mouths. The result will be disastrous. They are bound to burst and not only burst, but burst into a flame which may consume the entire fabric. So, my submission is that the Government should not pass this Bill just now, at least not before the deliberations of the Round Table Conference are over. Sir, the existing sections of the Indian Penal Code are wide enough to cover all extreme cases. What is the good of creating further discontent in the country ? Sir, theirs is not the true diagnosis. They are troubling themselves with the outward symptoms only without an eye to the root-cause of the disease. The

proper treatment is being attempted in London and if the proper medicine is administered, I am sure the situation will be improved, otherwise not. With these few words I beg to support the amendment.

Mr. President : The question is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the end of December, 1931.”

The motion was negatived.

Mr. Amar Nath Dutt : Sir, I beg to move :

“ That the Bill which has been introduced this morning be referred to a Select Committee consisting of the following members:—Sir Hari Singh Gour, Sir Abdur Rahim, Mr. B. R. Puri, Mr. Ranga Iyer, Mr. Muhammad Azhar Ali, Mr. S. C. Mitra, Mr. Lalchand Navarai, Mr. G. Morgan, Mr. Muhammad Yamin Khan and the Honourable Sir James Crerar.”

Honourable Members : The Mover.

Mr. Amar Nath Dutt : And the Mover if you like. I did not name myself because I am told that, when my name was suggested for the Select Committee, Sir James Crerar thought that I would be very troublesome. And five Members to form a quorum.

In moving my amendment, I will not imitate the manner of the Saint of Ava Lodge. I shall not imitate his ways. The Bill which has been introduced this morning contains provisions for the demand of security by Magistrates before giving notice, which is pronouncing a verdict before hearing the accused. That being so, it places the Press under the mercy of an executive officer, and we know of what material these executive officers are made. Sir, this morning I had to say many things about this Bill and in the discussion that followed I heard several things which did not convince me and many of my friends on this side of the House. No sensible argument, far less any reasonable argument has been adduced by any one of those speakers who opposed my motion. I wish to take one by one the arguments of Members who want to have this Bill expedited within the course of two or three days. Sir, the first argument came from one of the veteran legislators who was not only in this House since the very beginning of this Assembly, but also in the counter-part of this House which existed in this country before the Montagu-Chelmsford Reforms. He went so far back as the year 1910. I presume that that year has been taken as the standard of all Press Acts. What those veteran legislators, who were at that time in the Imperial Legislative Council—and my friend has brought in certain names—did, whether they supported the Press Act or opposed it, my friend with good grace does not state. Then again he has introduced the name of an eminent jurist of my province who happened to be the first Indian Law Member, and thereby he wanted to silence all opposition. In all his arguments he forgot one thing, that is, that that eminent jurist was no other than a servant of the bureaucracy and he had no option whatsoever but to act according to the dictates of that body. I may also tell my Honourable friend that the ways in which the bureaucracy wanted that its members should act compelled that eminent jurist to leave his office, a coveted office to many. Not only that, the same thing compelled him to leave the Governor's *gaddi* of a province.

Mr. K. Ahmed : But how do you know that that was the reason, Mr. Amar Nath Dutt ?

Mr. Amar Nath Dutt : When I say that, I think Honourable Members who have any grain of common sense will accept my statement as

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correct and true. All that I can say is that either they do not care to understand or they do not know the truth. Of course, I know all these things will not be liked by my Honourable friend, Sir James Crerar. Then again there was one gentleman from the Punjab who happens to occupy one seat for which I at least amongst many on this side had great reverence. He has quoted from a particular newspaper showing a model on which journalism is to be conducted. I am not aware of any country where journalism has to be conducted under the guidance of the Government. It will be a nice arrangement, in fact a paradise, for the Governments to live in, where there is no criticism. More than once reference has been made to the statements of a particular newspaper and every one knows that that kind of paper is the one that Government wants and cherishes.

Now, in all these arguments you have missed one point : you want to suppress the Press because it incites to murder. I am yet to learn that. Not one individual on the side of the Government or their supporters or their henchmen have attempted to prove that the writings in the Press gave rise to all these murders or rather owing to the writings of the Press all these murders were committed. It has not been proved as cause and effect. So long as that is not proved, I think I can dismiss in one word all the arguments about this Press Act, namely, that so long as you do not prove that the writings or so-called incitements to violence in the Press have provoked one young man to murder, your case fails. Look to the recent murders, look to the murders to which reference was made long before. I am not aware of any evidence which has ever been produced by any Public Prosecutor, or for the matter of that by any one responsible for the conduct of the prosecution, in which evidence was given that this young man read this newspaper and by reading that paper he at once took a pistol and went to shoot and murder so and so. If that happens, I warn Sir James Crerar, however, great a *sadhu* he may be and not a bogus *sadhu* like myself, that he and a thousand and one like himself will not be able to prevent murders like that. This is not the way. Go to the root cause of sedition in the country. What is that ? That is your attitude. That is your way of doing things ; that is your administration and your rule. You cannot deny that it is an alien rule, and one cannot be so hypocritical as to say, " We want alien rule and we love alien rule ". It will be sheer hypocrisy to say that. You also know that and that these henchmen of yours who support you with their votes and speeches do so for their own purposes. That is not the class of men upon whom, if you want to remain here, you should depend. I can warn you.....

Mr. President : Order, order : the Honourable Member must address the Chair.

Mr. Amar Nath Dutt : I am addressing the Government through you, Sir, so that what I say may be conveyed to those who are responsible for all the misdeeds of the present Government : and because it is an unpleasant task at times I do not address you, Sir, direct : but the duty I owe to myself and to my constituency compels me to say these things. Sir, look to the ways of the bureaucracy. The more people are getting disturbed, annoyed and even displeased, the further you go and displease them all the more and get them convicted on the evidence of men with perjured evidence and bring about dissatisfaction in the land. There has been a reference to 1910. I can go back to the year 1899.

From the platform of the Lucknow Congress a member of that heaven-born service—not the Lucknow Congress which the Honourable the Law Member attended, but the one which I attended for the first time as a delegate a member of that heaven-born service, Mr. Romesh Chunder Dutt, gave you the warning, “Do not drive sedition underground”. I give you that warning again 32 years after. Do not drive sedition underground. If you take to these methods, I tell you the whole country will be ablaze and no one will be able to protect you. You want to deprive a few press proprietors of their living; are they really guilty? Do you believe in your heart of hearts that these writings here are the cause?—and I have gone through the entire book and I do not find any such thing in it which can prompt any one to commit murder. I tell you honestly I do not find any incitement to violence in the pamphlets given to us.

An Honourable Member : Do you know how to shoot?

Mr. Amar Nath Dutt : I know, but I do not. I perused every line of these pages, but the specimens which I read have had no effect on me at all.

Then again it has been said that murderers and martyrdom should not be praised. There I join issue with the Honourable the Home Member and say, “We may not approve of the deed, but should we not approve of the courage?” We do not approve of Lord Clive for forging, but should we not say that Lord Clive was a great benefactor of your race? We do not thereby applaud forgery or the methods by which you won India.

We have heard arguments in this matter on the side of the Government, which really begged the whole question. They have assumed that by these writings there are murders. But up till now not even the great *Sadhu* of Ava Lodge has placed before us that these writings have led to a single murder. Probably he wants that we should respect his religious views more than my friend, Pandit Satyendra Nath Sen. But he has not shown a single instance from this book—and I take it that this book contains the worst type of writings to which he refers—and I shall be very much obliged if he can show from these writings that they are the cause of any murder. I find a whole drama has been translated. Remember that from 1857 up till 1931, it is no less than 74 years, in those days I remember one of our greatest poets when he sang of India's freedom—Hem Chander Bannerjee—he feared a prosecution because he composed a patriotic poem.

Sir Abdullah Suhrawardy : Did he not get a C. I. E. for his poetry?

Mr. Amar Nath Dutt : I cannot hear you, you say I am not audible, but you are not audible at all here.

Sir Abdullah Suhrawardy : Did he not get a Companionship of the Indian Empire?

Mr. Amar Nath Dutt : No, certainly not. Hem Chander Bannerjee was not a Companion of the Indian Empire. Sir, he never cared for a ribbon to stick to his coat or a title. My friend who graduated in the same year as I did,—I have looked in to the calendar and verified the year—cannot claim more years than myself, I mean in the year 1899 (*An Honourable Member :* “That memorable year”),—yes, that

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memorable year,—probably he has been misinformed by some gentleman that the Late Babu Hem Chander Bannerjea was a C.I.E. Certainly Poet Hem Chander Bannerjea was not a C.I.E., but that is not to our present purpose. He wrote these lines.....

Mr. President : May I again draw the attention of the Honourable Member to the fact that he is moving an amendment that the Bill be referred to a Select Committee. As far as I have been able to follow his speech, it has been against the motion for consideration. The Honourable Member has not yet said a word in support of his amendment to refer the Bill to a Select Committee.

Mr. Amar Nath Dutt : I am trying to show that the Bill has been badly drafted, and that it requires thorough overhauling, and that can be done by the appointment of a Select Committee. I certainly feel that I should be as brief as possible, but I can only express what comes to my mind, and you will kindly excuse me for it.

Sir, it has been said that this praise of murderers and anarchists can be stopped by the passing of the present measure. Certainly you can stop writings in the Press, but do not kill the spirit of patriotism and the love of the motherland. That is my principal objection. In fact the Bill requires to be overhauled in such a way that such writings may not be stopped or handicapped.

Then again my objection to the provisions of the Bill is that it places more faith upon executive fiat than upon judicial order. As I have already explained, we have no faith in the executive of the land, and that being so, no power should be given to the executive, but it should be given to the judiciary.

Then my friend Mr. Griffiths was pleased to ask us to withdraw all amendments. I would have gladly responded to his invitation only if this Bill had been properly drafted so as not to require any overhauling. That being so, I submit that Mr. Griffiths will excuse us if we cannot accede to his request.

Then a reference was made to a Bill having been passed in less than three days. If Bills are passed in less than three days, is that a criterion for one to exercise his vote? Are we to accept such an incident as our guide? I submit we can not.

I shall not endeavour to traverse the unhappy incident to which my friend Dr. Dalal made a reference in his speech; we are all aware of the facts, but I may be permitted to point out that a reference to that incident was wholly irrelevant to the present case, because the motion at that time was for consideration, and now the motion is for referring the Bill to a Select Committee.

I regret very much that my friend Mr. Muazzam Sahib Bahadur was also not with me before, but I am sure that he will be with me, head and heart on this motion. He has of course attributed to me some diplomacy which I do not deserve, still I accept what he has said.

Then I entirely sympathise with my friend Pandit Satyendra Nath Sen who quoted from Manu and told the House what the virtues of a King should be. Some friend of mine also referred to the virtues of

Britishers. Both those references are out of place on the present occasion. The Britishers you see here are not the Britishers of whom we read in history, and the King to whom my friend referred, is not available so long as these Britishers are between us and the Chair. (Laughter.) Therefore, I ask why attempt to take away the bread of the press proprietors? Have the provisions in the Bill, but have it recast in such a way that your real purpose is served. What is your real purpose? Some gentleman has given us the clue, and that is, that as soon as Mahatma Gandhi comes back to this country and there is a renewal of the civil disobedience movement, you want to arrest the spread of the movement by the use of the powers which you wish to take by means of the measure which is now before the House. All right, you had better have it, because we know that for the next few years that are left to many of us on this side, we will not have peace. We will not curse you, but we only pity you. (*An Honourable Member* : "Address the Chair".) As I was saying, Sir, I submit if you want to control presses, you may do so by properly drafting the Bill. I shall just read a few lines, and ask the opposite Benches whether they will or they will not prosecute under the provisions of the Bill as it is, a press in which one of the most sacred books of the Hindus is printed, and that book is no less than the Bhagwat Gita. These are the lines.....

"Hato ba prapsasi Swargam,
Jitwa ba bhokshyase mahim,
Tasmāt uttiṣṭha Kaunteya,
Juddhaya kritanishaya,
O! Son of Kunti."

"If you are killed in the battle you go to Heaven. If you are victorious you enjoy the earth. So, rise up and prepare for battle."

Mr. K. Ahmed : That is a religious warfare of ancient times.

Mr. Amar Nath Dutt : If you demand security from presses in which our religious books and religious texts are printed, then there will be no end to prosecutions. But beware of this, if you do so, you do it on your own responsibility and I give you this warning. As for the abuse you have heaped upon us, I know as a lawyer that when he has got a very bad case he abuses his opponent. That has been the case here. I never heard such insulting language from the other side, I do not know what purpose was served when the Honourable the Home Member abused us on this side of the House instead of adducing arguments, and I claim this that there is no justification for using such language as he has used. With these words I move my motion.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I rise to support this motion, but before I give my reasons, I want to clear up one point, and that is the charge levied against this party by one of the Members of this House. When the motion for circulation originally came up for discussion, the Leader of the Independent Party clearly asked the Home Member whether he was willing to discuss in the Select Committee all the points that were raised by the Members of the Assembly, and on the assurance given by the Honourable Member that each and every one of those criticisms would be considered by the Select Committee and would not be ruled out as

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falling outside the scope of the principle of the Bill—some Members of our Party supported the Government on the question of circulation. The second point that I wish to clear up is this. The same Honourable Member said that when the Press Bill of 1910 was under discussion, Mr. Gokhale and some other patriots of the country supported the Bill. I have got before me the proceedings of those days, and I find that, even on that occasion, the Bill was carried by the votes of the officials and the English Members, and there was no Indian elected Member who supported that Bill on that occasion.

Another point that I should like to make clear is that we on this side of the House are as much in favour of law and order as any Member on the Treasury Benches. We do not belong to the anarchical movement, and we would very much like to suppress the terrorist outrages, and we are as keen on this side as those on the other side of this House. But where we do disagree from the Members on the other side is this, that while they seek it as a sort of excuse for suppressing the legitimate freedom of the Press, we do not want to do so. We really want that you have measures which are commensurate to the occasion, to the crimes and troubles in the country, and not to go an inch further. But here I find that the Bill which is now before us goes really much further than the circumstances demand. Under the cloak of the suppression of the terrorist movement, they really want to shut up the Press, they really want to stifle the freedom of the Press which is as dear to us, as in the words of Mr. Elliot, it is dear to the European Group.

Sir, there are four points which I consider essential, and we on this side of the House will not agree to any measure which militates against any of them. The first is that the innocent should not be punished. This is a point on which we will fight tooth and nail to the last minute. The Government may have their own way by their own votes, but those of us who represent the people will make every effort to secure that the innocent people are not punished. The second thing on which we will fight to the very last is that the suppression of the terrorist activities should not be made an excuse for suppressing the legitimate freedom of the Press. The third point, as pointed out by my Honourable friend, Mr. Azhar Ali, is that justice is not denied by the omission of a proper appeal to the High Court in the manner prescribed in the law of the country. The Bill should not curtail the power of the High Court. The fourth point is that no person shall be punished twice over for the same offence. These are the four points to which we on this side of the House will request Government to give their fullest consideration. If under the excuse of suppressing terrorist crime, they want to overlook any of those four principles, then we on this side will have no sympathy with them.

Sir, if we analyse very carefully the note of dissent written by five Members of the Select Committee, we will find that these are the four principles to which they would like to adhere at any cost, and these are the points on which there is a difference of opinion between the two reports as they have come from the Select Committee. The Members of the Select Committee who differed from the majority never said that they were in favour of terrorist crime. My Honourable friend Mr. B. Das, when he first moved the motion, clearly said that if the Government

wanted to keep peace and order, if they wanted to stop terrorist crimes, he was behind the Government. In spite of the assurance given on a vital question of principle, it is unfair on the part of the Government to go further and ask us to compromise those four principles under the excuse of suppressing terrorist crime.

There are 114 amendments before us and it will take a very long time to discuss each and every one of these amendments. Therefore, the request of my Honourable friend, Mr. Amar Nath Dutt, is very reasonable. Instead of wasting the time of the House in discussing each and every one of the amendments on the paper, let a Select Committee be appointed and let them consider all these amendments and give their opinion, and therefore the motion of my Honourable friend, Mr. Amar Nath Dutt, is very rational and it will save the time of the House.

Now, I will show how the four principles I just enunciated, have been violated in this Bill. Coming to the first point, that the innocent should not be punished, I see that in clause 3, especially in the first two sub-clauses, you demand of every printing press, before any crime is committed by them to deposit security, that is to say, you assume that every printing press which will come into existence will certainly be criminal and will print undesirable matter, and therefore this security should be demanded of them. (*Mr. K. Ahmed* : " If they begin with that sort of attitude, what will you do ? ") My Honourable friend is a lawyer, I am not. Probably he has in mind those cases where people begin with the supposition that crime will be committed, but I on my part consider every person to be innocent unless a crime is committed by him and he is not guilty until he has actually committed a crime. We should not assume that a person, whoever he may be, will always commit crime. If any crime is committed by the press, I can quite understand its punishment ; you may demand security or anything else. But you have no right whatever to assume that every press which will come into existence will commit an offence. Some persons attempt to make some persons believe that this Bill affect only one community and not another. There are no doubt certain questions which have got a communal bearing, but every problem in India is not a communal problem. The freedom of the Press is as dear to one community as it is to another. It is not a communal issue ; it is an issue which involves the whole country. But assuming for the time being that it is a communal problem, though I believe it is not, I maintain that the Muslim presses will suffer more than the Hindu presses, and for this reason. Most of the Muslim presses have got very small capital. I know a number of these presses in my constituency which have not got a capital of more than Rs. 300 or 400, and how will it be possible for them to deposit a security of Rs. 500 ? (*An Honourable Member* : " Rs. 1,000 ") The result will be that all these presses will come to an end. If any one goes round and examines the Muslim presses in his own constituency, he will soon find that there are very few Muslim presses that will be able to give security, and the effect of the first two sub-clauses of clause 3 will fall more heavily on Muslim than it will fall on non-Muslim presses. (*Mr. K. Ahmed* : " Let them suffer for one year or so.") This is not a communal question at all and every small press in the country will suffer. One of my friends from the European Group said that we do not want mushroom presses. He was in favour of stopping them all. We on this side are entirely opposed to the capitalistic movement and

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legislation for the suppression of all the small presses and the keeping of only big presses in big towns.

Mr. E. Studd (Bengal : European) : I think the statement was that we did not want these mushroom presses which eulogize murder.

Dr. Ziauddin Ahmad : That is not a matter of personal explanation. I was referring to some other speeches from the European Group. Then, Sir, we have got unemployment in these days. If we enact another measure which will throw out of employment a large number of persons, it will be a great injustice to the country, not to Hindus alone or to Mussalmans alone, but to everybody in the country. I am supported in this statement by one of the Resolutions passed by the All-India Journalists and Press Owners' Conference, which states that, "To shut down a number of long established newspapers, would throw out of employment hundreds of middle class intelligentsia and thousands of wage earners employed in the printing trade". Then clauses (1) and (2) will have a very prejudicial effect on small presses. Most of these presses will not be able to deposit their security, and it will be impossible for them to be in existence. Therefore, I appeal to the Honourable the Home Member not to press clauses (1) and (2) of section 3, which will affect a very large number of persons in the printing trade.

One argument has been advanced, and I should like to meet it. That is it is quite possible that a press may commit an offence and as soon as security is demanded, it may shut up and go to some other street and start the press there and commit the same. The same press may continue to commit the offence several times and evade the law.

Mr. President : I would ask the Honourable Member to consider whether it is really necessary to go into such minute details in regard to the clauses on an occasion like this. He will have other opportunities of discussing these points later.

Dr. Ziauddin Ahmad : I leave it here and come to my third point. It is in regard to clause 4. This clause goes much further than the intention of the Bill, and I think any article that may be published which may be of a religious nature, which may give expression to legitimate belief, is punishable under this clause. Again the printing of a report of any case of terrorist activities which may have been committed will also be punishable. These reports may be the true reports of enquiries held by a Magistrate. The scope of clause 4 is too wide, and not limited to terrorists activities. My third point is about the curtailment of the power of a High Court. I do not like to explain this point in details at this stage. It has been very carefully described by other speakers. My fourth point is that the same person should not be punished twice in two different capacities. It is not desirable to punish the same man once as a printer and a second time as a publisher. These are the four points on which we take very strong objection. It is very desirable that all these points should be carefully considered, and therefore, it is very important that the Bill should be referred to the Select Committee. There are some other points such as question of fine but it is not desirable at this stage to deal with them. With these words, I support the motion.

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : I rise to support this motion for the Select Committee.

My reasons for this is that the Bill as it has emanated from the Select Committee is not one which we can support. In the first place I do not find that the Select Committee has given the measure that amount of care and attention as it should have done. If it had done it, we would not have been faced to-day with a new Bill by the Government. Under the Standing Orders it was their duty to see whether the old Bill had been properly published or not. They did not do so and therefore, the new Bill has been introduced. It was the duty of the Select Committee to consider the provisions of the Bill in the light of the decisions which had been made since the Act of 1910 was passed and to come to a conclusion and find out as to how much of the defects mentioned in those decisions could be remedied. I find, Sir, they have not done so. One of the principal points on which I want to speak is this. In 1910 when the old Press Bill of 1910 was on the anvil of the Legislature here, Mr. S. P. Sinha (as he then was) stated this :

“ I have put in all kinds of safeguards. When the Local Government makes the order of forfeiture the Bill provides that it must state or describe the offending words or articles or pictures or engravings or whatever it is upon which it bases its order. No making an order which is vague, which is indefinite ; no order without allowing a man to know what he is being punished for, but a definite order stating the very words of the article or describing the offending words for which the man is being prosecuted.....”

So that, Sir, that the giving of notice describing the words, etc., complained of was considered by Lord Sinha as of vital importance to the accused. How has that been provided for ? In the well-known *Comrade* case, Sir Lawrence Jenkins decided that the notice there was vague, indefinite and was bad. But he could not do anything, because of what ? Because of the corresponding section in that Act to clause 30 as it is now here, which says :

“ Every declaration of forfeiture purporting to be made under this Act shall as against all persons be conclusive evidence that the forfeiture therein referred to has taken place.”

That means that you cannot go behind the order of forfeiture and attack the notice upon which that forfeiture took place. Then, with regard to the reference to the High Court, there is only a very limited reference. The High Court can only decide on the question whether the articles complained of contained those words, etc. : it cannot go into the question whether proper notice (as provided for by the Act, and which Mr. Sinha said is a safeguard he had provided for) was given or not. Now, I find in the Bill which has emanated from the Select Committee exactly the same blemishes, the same faults and the same defects. If the Government really and sincerely intends that these words should have some meaning that the provision made in the Act should have some effect, they ought to have amended the Bill in the light of those decisions, but that has not been done. (*Mr. K. Ahmed* : “ Read section 23.”) (*Mr. President* : “ Order, order.”) Sir, I therefore, say that the Select Committee has not done its duty properly, and therefore, I support the motion that another Select Committee should be appointed : and, Sir, having regard to the fact that the Member in charge of the Bill fears that there will be delay, I ask what has happened between the time that the Bill has been introduced and now ? Can he complain of any article in any newspaper

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in India which has transgressed what he is now seeking to provide against? There are two cases now, one in Calcutta and one at Sylhet. In the Calcutta case the man, who made the speech, has been hauled up before the court for incitement to murder. No bill has been given to him, and the case has been sent to the Sessions for trial. Why does not the Home Member wait for the decision on that case by the High Court? He will then find whether the provisions of the law are really sufficient for his purpose or not. I say, Sir, there is no need for him to be panicky. The Press now is much better according to the Honourable the Home Member than when he proposed this Bill. Under these circumstances, Sir, I do not see any reason why a Select Committee should not be appointed, with a time-limit so that they may make their report on the Bill at least three or four days or a week before the Assembly re-assembles at Delhi. Then, Sir, everybody seems to think that the provisions of the Bill are very simple, that it is only intended to provide against incitements to violence and to murder, etc. My friend, the Honourable the Home Member, does not know how the law is being administered. Being in Simla, in charge of the portfolio in the Secretariat, it is not possible for him to see what the Local Governments are doing. What is done there? A young Civilian officer is appointed to look after these matters, and I know from my personal knowledge what he does. Even during the time that the Viceroy's Ordinance was in force, I know during that time he would not allow even the proceedings of a meeting, held at Chandannagar to condemn the action of the British officers who went there and killed some persons, to be published in the newspapers. He would not allow any news from Midnapore, where the officers were committing as much atrocity as possible, to be published in any paper! Sir, I know that from my own personal knowledge. Sir, these matters ought to be considered by a new Select Committee, and I therefore, support the motion that a Select Committee be re-appointed.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, as one who has been in the Select Committee, who has worked in the Select Committee with the approval and consent of the party to which I have the honour to belong, I have been compelled by the previous speech to break what would otherwise have been a vow of silence in this debate. Sir, the arguments that my learned friend from Bengal put forward before this House in regard to certain alterations of the Bill are unexceptionable, and I am very much in agreement with him; but I can only say from my experience on the Select Committee that his wholesale condemnation of the Select Committee.... (*Mr. Amar Nath Dutt* : "Not of the minority but of the majority.")—had my Honourable friend made that distinction, perhaps I might not have risen from my seat—but when as I understood him he launched a wholesale attack on the Select Committee, I am obliged to say this that on that Committee the Honourable Sir James Crerar and his advisers, the Honourable the Law Member and Mr. Emerson, who were present there, and also Mr. Mitchell, who worked very hard.....

Mr. Amar Nath Dutt : Outsiders were present at the Select Committee.

Mr. C. S. Ranga Iyer : My Honourable friend again interrupts me and says, " Outsiders were present at the Select Committee ". As an old Member of this House who has been on many a Select Committee—and I never had any attraction for a Select Committee and, left to myself, I would not have served even on this Select Committee, and this is the first Select Committee on which I agreed to serve during my long career in this Assembly—as an old Member he ought to know that in the Select Committee Secretaries, the Law Member if necessary and others have to be present to assist the Member in charge, and they were all present and they were all anxious to meet us so far as they could : and the Bill, as it appears before us to-day, is not the Bill that was presented to us a few days ago, and many of the criticisms that were launched from this side of the House on the Bill have, I am glad to say, been accepted by the Government. Even though we are not in agreement with them and we have shown our disagreement in our dissenting note. Sub-clause (1) of clause 4 has been considerably altered. I believe it is re-shaped beyond recognition. Again, the security has been very much reduced. It has come down very low. Then, an appeal to the High Court has been granted in the case of the old presses. We urged in the Select Committee that they should also put the new presses on the same footing as the old presses. Every word that Mr. Sen uttered in this House, every point that Mr. Amar Nath Dutt had in mind including the deletion of the " violence " clause, was urged by us with patience and with perseverance on an equally patient and almost willing Government. (*A voice* " Oh ! ") I say " almost willing " for this reason and if my Honourable friend, Mr. Gaya Prasad Singh, who interjects had been on the Select Committee and if he had made a comparative study of the old Bill and the new, he would find that the Government have been almost willing to meet us so far as they might. They met us in absolutely abolishing the forfeiture of the press unless there was defiance. They met us again, as I have already said, the appeal to the High Court before the deposit of security and not after the forfeiture of the security ; and the Government were prepared to go only as far as that. And I would unhesitatingly say that I am thankful to the Government for the tender mercies that they have been pleased to show in the Select Committee. I am prepared to say unhesitatingly that I am grateful to the Honourable the Home Member for the sympathy that he showed in the Select Committee. But,—and here comes my opposition to the Bill and here comes my opposition to the consideration of the Bill—we could not make the Government go beyond that. If we had our own way this Bill would not have been introduced in this House. I stand by every word that I uttered on the floor of this House when the Bill was introduced or the Bill as it stood, but we are not the Government. We are opposing the Government, but I am likewise opposing this motion for reference to the Select Committee, and I am sorry that my name has been put on it without consulting me. I consider this is a waste of time : I consider the amendment as futile : I consider that if it were to be pressed to a division and passed, it would be the triumph of futility, because Government, so far as I know, are not prepared to go beyond what they have done. Therefore, the proper thing for us to do, if we are business men, is to fight

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Government on the floor of this House by pressing every reasonable amendment that you think should be passed, by trying to shape the Bill beyond recognition on the floor of the House, if it is in our power to do so, by judicialising the procedure if we can really do it. I certainly endorse many of the observations that have been made on this side of the House on the original motion of the Honourable the Home Member, but I do not endorse a single word for reference to Select Committee, because, I believe the Government will not alter a comma or a syllable of this Bill. That being their position, as we understood in the Select Committee, my friend and Leader, Sir Hari Singh Gour, protested in the Select Committee that Government could not go further than that. If I am not betraying a secret of the Select Committee, he took up the attitude of an extremist of extremists. If I am not again betraying a secret of the Select Committee, my friend, Mr. B. R. Puri, who is not here, took up an extremely radical attitude. If my friend, Mr. Amar Nath Dutt, had read it carefully,—as I believe he has no doubt read it,—the dissenting note, he would find in it Mr. Puri's view when he even went so far as to say that we had every right to praise the merits of an assassin unconnected with the assassination without detracting from the heinousness of the crime. That is going further than the Opposition has gone to-day in this House. Why then, especially when Honourable Members sitting by my side do object to the principle of the Bill, should they be so keen and so enthusiastic about reference to the Select Committee? In a clever, well-reasoned, moderately worded and impressive speech that my Honourable friend, Mr. Mitra, the former Whip and organiser in chief of the Swaraj Party, made and upon which I congratulate him, he pointed out that he was opposed to the principle of the Bill. Such being the case, how can there be a reference to the Select Committee? If the House had given an indication of that before, there might have been no reference to the Select Committee, and we might be faced to-day with a much worse Bill than the one which faces us to-day. I am sorry that unnecessarily we are indulging in tactics which will lead us nowhere. For, the Select Committee will not improve matters; it is for the House to amend the Bill.

Turning now to the observation of the Honourable the Home Member when he introduced this Bill,—observations which I wish had commanded more attention and more reasoned criticism—I must say that we cannot accept the position that the Government have given to the new newspapers as different from the old ones. Why should there be this difference? A man is entitled, after all, to be given one chance. Let the new newspaper commit an offence and then proceed against it. But the moment the new newspaper is brought into existence it has to deposit a security. Why should it be asked to deposit a security, as has been pointed out by Mr. Mitra? It has been said by Sir Abdulla Suhrawardy,—on whose Knighthood I take the earliest opportunity of publicly congratulating him,—that Mr. Mitra was an old disciple of his when he was a Law Professor. But either he taught him wrongly, or his disciple understands the law better than the original Professor; for it is an elementary principle of English jurisprudence that any man who has not been proved to be guilty must be treated as innocent. Such being the case, why should Sir Abdulla Suhrawardy stand up in this House and, I was almost going

to say, prostitute—I would say perversely postulate—the principle of English jurisprudence ? That is what I ask. If a man is innocent until he is proved to be guilty, why is not a newspaper innocent until its publishers are proved to be guilty ? That is the entire crux of the Opposition case, and that is the entire reason why we propose to oppose this measure right from beginning to end, whatever the consequences, whether we win or lose.

Sir, at one time in my political career, I was definitely dangerous to public peace in the opinion of the Government, for they proceeded against me under section 108. I did not take part—very foolishly perhaps—in the Court proceedings at that time, or perhaps very wisely, it is not for me to say at present. I was then hauled up before a Magistrate ; there was the Government's prosecuting Counsel there ; witnesses were produced and the court having satisfied itself that I was dangerous to the public peace, I was naturally sent in a special train to a prison where I was treated almost like a prince. Then, Sir, if a newspaper is dangerous to the public peace, let it be hauled up before a Magistrate—its publisher can be hauled up, the keeper of the press can be hauled up before a Magistrate. And then they can have the opportunity of appealing to the Sessions Judge. They can have the greater opportunity of going to the High Court. If really the Government want to attack the Press and want a Press measure, the proper thing for them is to judicialise the whole procedure and not to treat a newspaper publisher—because the editor is out of the question in this Bill—or a keeper of the press differently from an ordinary citizen of the land. That is the position that we want the Government to adopt and when the Honourable the Home Member replies to this debate, he will say that such a procedure would not be permitted, would not be accepted by the Government in the Select Committee, even if you were to appoint another Select Committee. That will be his attitude. That has been his position. A much milder suggestion was made in the Select Committee by my friend and Leader, Sir Hari Singh Gour. He reminded us of a procedure which was urged in the days of Lord Lytton regarding the vernacular Press, and some Press Committee, he suggested might be appointed, the members of which could be from among the Honourable Members of Provincial Councils, who could sit in judgment as to whether a security should be demanded from a particular newspaper or not. The Government were not prepared to go anywhere near the suggestion. What they want is executive action and as they have put it—if I remember aright—in their note in the Select Committee's report, they clearly state that certain information comes before the executive and that information cannot be placed before a court of law and as that information cannot be placed before a court of law, they cannot agree to a legal or judicial procedure. That is their position and that being their position, Sir, without going further into the subject, without discussing many of the points that were mentioned in the Honourable the Home Member's speech, or without criticising some of the observations that came from various Members, I can say that the proper thing for us to do will be to fight the Bill inch by inch on the floor of this House instead of trying to indulge in the luxury of a Select Committee.

Lastly, Sir, I must end my speech with a reference, rather personal, which I hope the Honourable the Home Member would not mind. It was during the last session when we were in Delhi that a Press Bill was introduced and then it was withdrawn. Again a Press Bill was introduced in

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this session and by an accident—a regrettable accident for which I blame nobody—because even in well-regulated families accidents occur—the old Bill had to be withdrawn and a new Bill had to be introduced. This reminds me of the fact that the Honourable the Home Member is a Scotsman of intense faith in the heroes of his own country. We all remember the history of Robert Bruce who tried and tried again. Sir,

“Tis is lesson you should heed,
Try, try, try again.
If at first you don't succeed,
Try, try, try again.”

I shall conclude with a parody on the *Chevy Chase* (15th Century) :

“For Jimmy Crerar my heart is wo,
As one in doleful dumps ;
For when his legs were smitten off,
He fought upon his stumps.”

The Honourable Sir James Crerar : Mr. President, I propose to address myself in the first instance to the amendment of my original motion before the House for a reference to the Select Committee, and in rising to deal with that particular amendment, I should like, in the first instance, to express my appreciation of the words which fell from my Honourable friend opposite, Mr. Ranga Iyer. He is perfectly right in assuming that I take some interest in the history of my native country. I have heard of the incident to which he referred and I am glad to hear from his lips a very excellent precedent, an admonition to persevere. Sir, I do intend to persevere.

Now, as regards the motion to refer the Bill to a Select Committee and as regards what fell from the Honourable the Mover of that amendment, I can afford to be very brief. My task in replying to him in some sense would have been easier if he had given reasons for his amendment. But on the other hand, in view of the fact that he gave no reasons at all, my task becomes naturally unnecessary. As regards the other speakers on the motion, the singular fact which occurs to me is this. As was pointed out, again I think by my Honourable friend, Mr. Ranga Iyer, the essence of a motion for reference to a Select Committee implies an approval and an acceptance of the principle of the Bill. It was a somewhat remarkable circumstance, I think, that, with the exception of the last speaker, all Honourable Members who supported that motion spoke, as far as I can judge in opposition to the general principles of the Bill. Now, Sir, what I have to say with regard to the particular motion, the particular amendment before the House has been dealt with in so complete a manner by my friend, Mr. Ranga Iyer, that really very little is left for me to say. The original Bill which I introduced in the beginning of this Session was referred by the House to a Select Committee. That Select Committee considered most anxiously, most minutely, I must almost say, meticulously, not only every clause of the Bill but almost every word and every comma of the Bill. Not one single word on the broader issues, not one single word on the minor issues, escaped their attention or escaped their very close and very elaborate scrutiny. Consequently, I am in entire agreement with the Honourable Member opposite when he says that to refer the present Bill back to a Select Committee would be a sheer waste of the time of the

House. He indicated to the House that a very plain and a simple alternative may be followed, because I must myself call attention to the fact that the Honourable Members who supported this amendment did speak almost entirely in relation to the provision of some particular clause of the Bill. Now, Sir, I submit that the proper time to consider the provisions of a particular clause of the Bill is when the Bill comes forward for detailed consideration, and I take no exception whatsoever to the admonition given to me by the Honourable Member opposite that at that stage he intends to contest every amendment that may be considered reasonable—I am glad he made that qualification. But as regards the alternative before the House, I have no hesitation in saying that the Honourable Member's advice is sound.

So far, Sir, as regards the motion for reference to Select Committee. As regards the general questions which have been raised in this House, I venture to say....

Mr. President : I hope the Honourable Member is not going to reply to the whole debate.

The Honourable Sir James Crerar : I accept the suggestion. I do not propose to reply in full. A great deal has been said in dealing with this particular amendment or in support of it, which I suggest will properly be regarded as arguments for or against the principal motion. I restrict my remarks at this stage to my opposition to the amendment that the Bill be referred to Select Committee.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, as Honourable Members will find, there were three principal motions on the Agenda Paper. One has been disposed of to-day. One was for circulation ; and the one which we are now considering is for reference to Select Committee, and if this fails we have a very large number of specific amendments dealing with each clause of the Bill. If Honourable Members will turn to the amendments and the report of the Select Committee, they will find that the bulk of the amendments centre round four principal points ; and those points are first, that when a new press applies for registration, it should not be called upon to give security. It should be called upon to give security only if and when it offends against the principle of the Bill. The second point, which is covered by a large body of amendments, and which is emphasised by the five members of the Select Committee, is to the effect that the security demanded is in every case excessive and out of all proportion to the reasonable demand that might be made from the keeper of the press. Honourable Members will remember that the offending presses, according to the Government, are all petty presses, and if Honourable Members will turn to the definition of printing press, they will find that it includes such contrivances as lithographic stones, etc., which cost about a couple of hundred rupees ; and to demand from them a security which may amount to a sum of Rs. 10,000 is in all conscience excessive. The third and very important point upon which the five members could not see eye to eye with the other five members of the Select Committee is the important question about the right of appeal to the High Court. The last point was that the reference to the protection of *bonâ fide* claims upon the Press that is forfeited. Now, I ask the Honourable the Home Member to remember with what a degree of passion and force the dissenting minute of the five members of the Select Committee has been supported by the Opposition Benches. There has

[Sir Hari Singh Gour.]

been a singular unanimity of opinion, if I may be permitted to say so, as regards these four points, which are emphasised in the dissenting minute of the Members of the Select Committee ; and I think the Members of the Select Committee who have penned that dissenting minute may be regarded as representing the voice of the elected Members of this House (Hear, hear) in requesting Government to consider and reconsider the points they have made. Between now and to-morrow the Government will have time to reflect, and I would ask the Honourable the Home Member to shorten the proceedings of this House, because we are as anxious as he is to see the end of this highly controversial measure which might bring us into sight of the end of the Session. Therefore, I hope that the Honourable the Home Member will now take count of the force of feeling on this side of the House upon these four points which every Member who has spoken on the subject has emphasised ; and if he can meet us upon these four points, I am quite sure that the further passage of this Bill will not take the time that the protentious length of the amendments indicate and threaten.

The Honourable Sir James Orerar : What are the Honourable Member's four points ?

Sir Hari Singh Gour : I will repeat once more the four points upon which I would ask the Honourable the Home Member to seriously consider whether he cannot meet the Members of the Opposition.

The first point we wish to make is this : in the case of a new press you cannot and must not demand security. Every man is presumed to be innocent and, as I said on the last occasion in this connection, even every dog is entitled to one bite. Consequently, under section 3, you must allow a new printer or keeper of a press to make a declaration without security. If after that he offends, by all means take security ; and I go further and say that if the Magistrate has a suspicion that the new so-called declarant, printer or publisher is not the *bonâ fide* printer or publisher but masquerades as a new printer or publisher, and is found keeping the old press that had offended against the Press Act, you may call upon him to give security ; but do not arm the Magistrate with plenary jurisdiction to demand security without assigning good and sufficient reasons. That, I submit, is a reasonable request.

The second point that we wish to make is this : you know from your own Department that the principal, if not the sole offenders in this connection are the small vernacular prints, issued from petty presses which surely cannot cost more than two or three or four hundred rupees. Now, to demand of them security to the tune of Rs. 10,000 is as much as to close them down. I, therefore, ask you to examine the question about the quantum of security.

Thirdly, I wish emphatically to press upon you two facts. You remember that in the dissenting note of the five members, reference has been made to the Government of India Act, and to the powers of the High Courts given by the British Parliament. Let me draw your attention to section 107. It lays down this : each of the High Courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the things therein specified. Now, as the Secretary of State and the Government of India have power of superintendence,

direction and control over the Government of India and the Local Governments respectively, section 107 gives the High Court statutory right of superintendence, direction and control over all the courts subordinate to it. That being the case, we cannot abrogate or qualify that parliamentary provision. The power of superintendence carries with it the power or right of transfer : it is indeed mentioned there—transfer any case from one court to another. It carries with it the power of general direction and correction. That power which the High Courts exercise under the Act of Parliament it is not competent for this Legislature to qualify or abrogate. That is the constitutional position ; and I ask you seriously to consider that when you are enacting a measure curtailing the power of the High Court, derogating it from the power which the British Parliament have given to them, you are doing something which will bring you into conflict with the judicial authorities of this country, and with the ultimate court of appeal.

Further in this connection, I wish to draw the attention of the Honourable occupants of the Treasury Benches to the Letters Patent of the various High Courts. All the Letters Patent give the High Courts the jurisdiction to hear appeals from all courts subordinate thereto, unless of course their power is taken away by the Legislature. Now, if you examine clauses 15 and 38 of the Letters Patent of the Calcutta High Court,—and the Letters Patent of the other High Courts are on this point exactly similar,—you will find these two facts, that under the Letters Patent all High Courts are generally given the power and right of appeal, though that right of appeal of course may be taken away by the Legislature. I do not wish to say that that right of appeal is inherent in them, but there is a right of appeal. The second thing is that the procedure to be followed in all cases of a criminal character is the procedure laid down by the Code of Criminal Procedure unless the Legislature here prescribes some other procedure. You have got the power to vary that, but the point I am making, is that unless this Legislature prescribes a different procedure, the Letters Patent of the High Courts enjoin upon the High Courts to follow the procedure of the Code of Criminal Procedure. Now, Sir, taking the Government of India Act and the Letters Patent conjointly, what is the result ? The result, is that so far as the Government of India Act is concerned, the High Courts have got the statutory right of superintendence, direction and control over all the courts subordinate thereto. That power is given by the authority paramount to this Legislature, paramount to the executive Government in India, and you cannot qualify or abrogate that power.

The second point is that while this Legislature has undoubtedly the right of varying the Letters Patent, under the Letters Patent as they exist, the High Courts have got the power of superintendence, to hear appeal and to exercise the power of revision. In this Act what you are trying to do now is indirectly to curtail the power which the High Courts possess under the Letters Patent. In a very recent case reported in Indian Law Reports 40, Madras, page 651, Their Lordships of the Madras High Court have pointed out that the power conferred upon the High Courts under the Letters Patent cannot be qualified by implication, but if the Legislature wishes to curtail that power, it must be done by an express Act. Now, what we are trying here to do is to curtail that power by implication by saying that the High Court shall hear appeals in certain cases, but there may be a number of cases, and when I come to the detailed examination

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of that part of the Bill which curtails the power of the High Courts, I wish to point out to this House, and I am sure the Honourable the Home Member will agree with me, that the power that you have given the High Courts is almost illusory. Unless you give the High Courts the power of remand, the power of taking further evidence, the power of transfer, the power of calling evidence, all these powers being implicit in the power of appeal, then the High Court has no jurisdiction at all. It examines some dead papers and from them has to decide such points as you specifically place for the decision of the High Courts. The High Courts have been really complaining about this. They complain that the executive want them to go into these matters and to give them their *imprimatur* and say that this thing is rightly done, as when in the case of detenus and other people two Judges of the High Court are called upon to examine the records. The High Courts refused to go into the question. They say that if you wish to treat us as an independent tribunal for the purpose of upholding the rights of the people, then give us all the power which an appellate tribunal should have. I, therefore, think that for the protection of the innocent and the punishment of the guilty, it is necessary that the High Courts should be given the completest power of appeal which they possess and which they have been given under the British Act of Parliament. That, then Sir, is the grievance of the five Members who formed the so-called minority in the Select Committee.

The last point is so obvious that the majority of the Select Committee voted for it, but as the Honourable the Home Member was not agreeable to the proposal of the majority of the Select Committee, we allowed.....

The Honourable Sir James Crerar : I am afraid I cannot accept the Honourable Member's statement as quite correct.

Sir Hari Singh Gour : You will accept it when you hear it. The next point that I wish to deal with is this. It was decided by a majority of votes in the Select Committee that when a forfeiture is incurred *bonâ fide*, encumbrances should be protected. That was the view of the majority in the Select Committee. That is what I was referring to, but the Honourable the Home Member did not accept the view of the majority. The result was that we said, very well, if you don't accept the view of the majority, we are not going to press it here, but we will press it in the open House, and we are pressing it here. I do not care whether you call it the view of the majority or not.

Mr. President : The Honourable Member should not go into the details of what happened in the Select Committee.

Sir Hari Singh Gour : The point then on which I would ask the Honourable the Home Member to reconsider his decision is this. If you are going to forfeit a press, under the law forfeiture means obliteration of all other claims secured or unsecured and howsoever *bonâ fide*,—supposing a press is mortgaged or was mortgaged five years ago, or it was taken on hire purchase system, the owner agreeing to pay say Rs. 5 a month or Rs. 10 a month, as the case may be, the property vests in the vendor. The forfeiture of that press would entail no punishment upon the delinquent, but the punishment will be visited substantially, if not entirely, upon an innocent third person. We therefore wanted to protect the rights of a *bonâ fide* encumbrancer, and I submit this House cannot possibly punish

a third party for the offence of the delinquent. I know, Sir, that in China if a man commits murder and he is brought before the hangman, he can bring another man alongside of him and if he says, "here is a man as my substitute", and so long as a man is executed the law is satisfied. But I think the British Government in India, the Government of my friend the Home Member, have not yet attained that degree of refinement, and innocents are yet under some guise of law entitled to protection when they prove that they are actually innocent and unconnected with the perpetrator of the crime. That, I submit, is a plain fact, but your Bill as it is drafted makes a clean sweep of the innocent as well as the guilty. As soon as the press is forfeited, a man may come with a yard long of registered documents showing that 5 or 10 years before the forfeiture of the press he had advanced money upon the security of that press. It may be that your court of justice has passed a decree against the printer upon a prior encumbrance, and that decree is merely awaiting a final decree for foreclosure. If you forfeit the press, the decree of the court is nullified, the registered encumbrance is made nugatory, and this innocent bystander who had nothing whatever to do with the commission of the offence is punished for the offence of the offender who may escape scot free. That I submit is a situation into which no sensible man can bring himself, and I therefore ask the Honourable the Home Member to reconsider his position upon this point.

Sir, these are the main things which cover the bulk of the amendments numbering 100 and more. If the Honourable Member, with the help of the Leader of the House, is able to come to an understanding with the Opposition, there will be no difficulty in coming to a speedy conclusion regarding this Bill. I know the feeling that there is in the country against it. My Honourable friend introduced this Bill this morning, and Honourable Members say this is a new Bill and consequently it must be circulated. Sir, the Bill may be new, but the ideas are very old ones. As far back as 1878, the then Government of India wanted to muzzle the Press in this country, and I find from the proceedings of 1878 that such a statement as the following was regarded as a flagrant breach of a fair criticism of the Government justifying the enactment of a native press law. The Honourable gentleman in charge of that Bill said :

"Look at the flagrant attack upon the Government in this passage. Can anything be worse than this to justify the enactment of the measure?"

What is the statement? This is the statement which gave birth to the Act of 1878. The statement is :

"This English Government in India is a beautiful but unprincipled woman, whose charms and attractions are irresistible but who is cunning, deceitful and cruel at heart." (Laughter.)

That you will find at page 149 of the proceedings of the Legislative Council of the year 1878. This, to the tin-gods of 1878, was intolerable; it amounted to sedition; it amounted to *lese majeste*; and all the members of the Executive Government were shaken to their feet against the perpetrators of this heinous crime! We live and learn. How much more strong language would not be tolerated by the Government of to-day? In 1878 when that Press Bill was placed on the Statute-book the whole country rose up in revolt against the Press law. Then, within about two years, that odious measure had to be repealed. In 1910 the Government re-enacted a similar measure which we pressed upon the Executive Govern-

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ment when we took office in 1921 to purge from the Statute-book, and it was repealed.

Sir, this is a measure which is unprecedented. I have been reading the history of the Irish Coercion Acts of 1882, but they are nothing compared to the Press Bill which my Honourable friend the Home Member wants this House to support. As Honourable Members will remember, the English law on the subject is clear and unequivocal. Dicey in his Law of Constitution, at page 244, sums up the English press law in the following words :

“ It is also opposed in spirit to any regulation requiring from the publisher of an intending newspaper a preliminary deposit of a certain sum of money, for the sake either of ensuring that newspapers should be published only by solvent persons, or that if a newspaper should contain libels there shall be a certainty of obtaining damages from the proprietor.”

That is exactly what you are doing, and I have no doubt that the Honourable the Home Member will admit that the principle of his Bill is antagonistic to the letter and spirit of the English law. But he says we are living in hard times. So were your predecessors of 1878. They were also living in hard times. You have always been living in hard times ; an irresponsible and bureaucratic Government will always live in hard times. Whatever you may do, whatever you may say, so far as the Press and the people are concerned, they will never support an irresponsible and bureaucratic Government. That, Sir, is the crux of the whole situation. You may tinker with this piece of legislation or with that. You may pass paper decrees, you may issue mandates and Acts preventing people from asking for that draught of freedom for which the country has been yearning and for which their representatives have been crying for decades past. Your best remedy, your best solatium for the difficulties with which you are confronted is not this Press law or any other coercion measure. The history of Ireland is before you. You saw what that small country of six million people was able to do in the face of the successive coercion Acts enacted from time to time. Can you keep 352 millions of people in subjection by passing this and other coercion Acts ? Think of that first and think of the Press law next. I therefore ask the Honourable the Home Member to review the whole position in the light of what has fallen from so many speakers from this side of the House. The Honourable Member will remember that I was the last to speak to-day because, having penned a dissenting minute as a member of the Select Committee. I was anxious to see how far my views were supported by my colleagues occupying these Benches. I feel gratified to note that every one of the Members occupying the Opposition Benches is in accord with our dissenting note. Sir, if only you are in a compromising mood, this matter can be settled either to-morrow or early day after to-morrow, but what we want is that you must be in a reasonable frame of mind. Consider this that, while we are prepared to help you, we are going against the established English law. While we are prepared to help you, we are placing in your hands a coercion Act. While we are prepared to help you, we propose to give you as much power as will keep out the mischief and prevent you and your subordinates in the provinces from abusing it. That I submit is all that we want. The next thing we want is that if you want to use the executive for the purpose of enforcing your law, you are entitled to do so, but if you want a Magistrate, if you want a judicial officer to assist you—and you have provided it in the Bill that the orders shall be passed by the District Magistrate—he being a judicial officer, you are invoking a judicial machinery for

the purpose of your work. That judicial machinery could not be used freed from the judicial control which the Parliament Act prescribes; that judicial machinery must be subject, as the Letters Patent demand that, unless otherwise ordered by this House, the judicial machinery shall be subject to judicial control of the High Courts. Therefore, I say if you want the District Magistrate to act, the District Magistrate must of necessity be subject to the appellate and revisional jurisdiction of the High Court, and this House cannot consciously free the District Magistrate from the supervisory control of the High Court which is the salutary principle of the judicial machinery of this country. That, Sir, is the underlying principle for which we are struggling, and if you accede to that principle, the rest will be easy. (Applause.)

The Honourable Sir James Crerar : Mr. President, at this late hour of the day and in consideration of the fact that the general principle of the Bill has been debated—this is the fourth day on which it has been debated—I do not intend to detain the House at any length. The main considerations which have moved Government to bring this Bill forward I have already stated at great length. The nature and the character of the remedy which we propose to meet this great and growing evil I have already explained. The position has been examined and commented upon by a number of speakers, which I think constitutes almost a committee of the whole House, and when the Honourable and learned gentleman who has just sat down asked me to consider and examine the views that fell from Honourable Members on that side of the House, I am perfectly willing to accept his invitation. Indeed I have already given those remarks close attention. I have also given attention to the remarks which have fallen in equal number and with equal impressiveness, and to my mind with much greater reason, from Honourable gentlemen who sit in other parts of the House than that of the Honourable and learned gentleman opposite (Sir Hari Singh Gour). Now, Sir, the Honourable and learned gentleman from Nagpur in his impressive peroration made an appeal to me regarding the virtues of compromise. Mr. President, I am reminded of an anecdote told of that great man, President Lincoln of the United States. On one occasion he related the story of a man who came to him in great distress. He said he was having domestic trouble of a most agitating kind. President Lincoln asked him what it was. The man explained, “The fact is that my wife and myself are quarrelling as to whether the parlour should be whitewashed or should be papered. I want it to be whitewashed and she wants it to be papered”. Shortly afterwards, the distressed citizen came back perfectly peaceful and happy. President Lincoln asked him what had happened to that little dispute of his. The man replied, “Well, Mr. President, we have compromised it”. The President asked, “How was that done?” and the man replied, “Well, the parlour has been papered”. (Laughter.) That, Sir, is precisely the kind of compromise which the Honourable and learned gentleman is inviting me to enter into. Since he himself has been so assiduous in his efforts to make large parts of the statute law of India either nugatory or incomprehensible, I am not surprised that he should have attempted to direct his talents in that direction on this Bill. But, Sir, I must strenuously refuse his insinuating invitations. He said there are only four points that would arise if we are to make the measure effective at all. I will not be seduced into an argument on those particular four points at this stage. As Mr. Ranga

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Iyer pointed out, they are points which the House will have an opportunity to debate and contest if necessary at the proper stage and at the proper time, and I do not propose to follow the example of my Honourable friend opposite in introducing them at this stage. I need not say anything further in opposition to his general position. I ask the House to take this Bill into consideration.

Mr. President : The question is :

“ That the Bill be referred to a Select Committee consisting of Sir Hari Singh Gour, Sir Abdur Rahim, Mr. B. E. Puri, Mr. Ranga Iyer, Mr. Muhammad Azhar Ali, Mr. S. C. Mitra, Mr. Lalchand Navalrai, Mr. G. Morgan, Mr. Muhammad Yamin Khan, the Honourable Sir James Crerar and the Mover with instructions to report by the 31st October, 1931, and that the number of members necessary to constitute a meeting of the Committee shall be five.”

The motion was negatived.

Mr. President : The question is :

“ That the Bill to provide against the publication of matter inciting to or encouraging murder or violence be taken into consideration.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday the 1st October, 1931.