

Monday, 23rd September, 1935

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1935

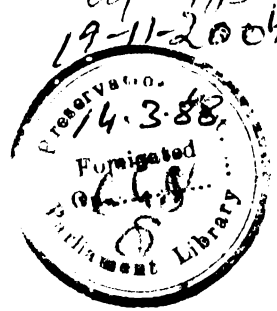
(16th to 28th September, 1935)

TENTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1935

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COUNCIL OF STATE.

Monday, 23rd September, 1935.

The Council met in the Council Chamber at Viceregal Lodge at Eleven of the Clock, the Honourable the President in the Chair.

QUESTIONS AND ANSWERS.

AMOUNT SANCTIONED FOR EACH PROVINCE FOR RURAL UPLIFT.

108. THE HONOURABLE MR. HOSSAIN IMAM : Will Government kindly lay on the table the following information :

(a) The amount sanctioned for each province out of the crore set aside for rural improvement ?

(b) The basis of distribution to the provinces ?

(c) The schemes submitted by each province ?

(d) Whether the schemes were accepted by the Government of India or any modifications were made ? If so, what modifications ?

(e) Whether the disbursement by the Provincial Government will be subject to detailed voting or lump sum grants ? and

(f) Whether a detailed report of the expenditure will be published by the Government of India next year ?

THE HONOURABLE MR. P. C. TALLENTS : (a) to (d). The Honourable Member is referred to the statement laid on the table of the House in reply to the Honourable Mr. V. V. Kalikar's question No. 42. The original proposals of the Local Governments have in some cases been modified in correspondence with the Government of India.

(e) The expenditure on the schemes will not be submitted to the vote of the Local Councils.

(f) A further report as to the actual progress of the schemes will be laid before the House in due course.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : What is the provincial quota, province by province ?

THE HONOURABLE MR. P. C. TALLENTS : Sir, that information is contained in the statement laid on the table in reply to the Honourable Mr. V. V. Kalikar's question, to which I have referred.

THE HONOURABLE MR. HOSSAIN IMAM : May I know if this has been subjected to detailed voting of the Imperial Council ?

(229)

THE HONOURABLE MR. P. C. TALLENTS : No, Sir.

THE HONOURABLE MR. HOSSAIN IMAM : Is it a non-votable grant ?

THE HONOURABLE MR. P. C. TALLENTS : The vote was granted as a whole.

THE HONOURABLE MR. HOSSAIN IMAM : But not in detail ?

THE HONOURABLE MR. P. C. TALLENTS : No details.

INCREASE IN FUNDED STERLING LOANS OF THE GOVERNMENT OF INDIA.

109. THE HONOURABLE MR. HOSSAIN IMAM : Is it a fact that funded sterling loans of the Government of India increased by more than £100 millions or Rs. 134 crores between 31st March, 1923 and 31st March, 1935 ?

THE HONOURABLE MR. P. C. TALLENTS : Yes.

OUTSTANDING STERLING LOANS OF THE GOVERNMENT OF INDIA.

110. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a full statement of outstanding funded sterling debts of the Government of India giving : (i) the rate of interest, (ii) date of issue, (iii) price of issue, (iv) date of repayment, (v) market quotation on or about 31st of July, 1935, and (vi) the dates on which interest is payable ?

THE HONOURABLE MR. P. C. TALLENTS : A statement is laid on the table.

Statement showing the Government of India sterling loans outstanding.

Name of loan.	Rate of interest.	Date of issue.	Price of issue.	Date of repayment.	Market quotation on 31st July, 1935.	Date on which interest payable.
Government of India 4½% Loan.	4½%	25th/31st October, 1922 ..	85%	15-5-1950 15-5-1955	113½	15th May. 15th November.
Government of India 4½% Stock.	4½%	13th/17th May, 1923 ..	90%	15-5-1950 15-5-1955			15th May. 15th November.
Government of India 4½% Stock.	4½%	January, 1928 ..	91½%	1-6-1958 1-6-1968	117	1st June. 1st December.
Government of India 4½% Loan.	4½%	4th/5th January, 1929 ..	91%	1-6-1958 1-6-1968			1st June. 1st December.
Government of India 6% Bonds.	6%	15th October, 1930 ..	100%	15-10-1935 15-10-1937	Not available ..	15th April. 15th October.
Government of India 5½% Conversion Loan.	5½%	9th/21st February, 1931 ..	£103-12s-6d. in exchange for each £100 of Government of India 5½% Stock, due on 15th January, 1932.	15-7-1936 16-7-1938			15th January. 15th July.
Government of India 5½% Stock.	5½%	9th/10th February, 1931 ..	97%	15-7-1936 16-7-1938	104½	15th January. 15th July.
Government of India 5% Stock.	5%	26th/27th April, 1932 ..	95%	15-6-1942 15-6-1947			15th June. 15th December.
Government of India 4% Stock	4%	10th/11th May, 1933 ..	97½%	15-12-1948 15-12-1953	108½ (26th July)	15th June. 15th December.

Statement showing the Government of India sterling loans outstanding—contd.

Name of Loan.	Rate of interest.	Date of issue.	Price of issue.	Date of repayment.	Market quotation on 31st July, 1935.	Date on which interest payable.
Government of India 3½% Stock.	3½%	9th November, 1933	97%	15-12-1954 15-12-1959	98	15th June. 15th December.
Government of India 3% Stock.	3%	11th July, 1935	98	1-8-1949 1-8-1952	Not available	1st February. 1st August.
Government of India 2½% Stock.*	2½%		..	At the option of the Secretary of State subject to one year's previous notice.	74½	..
Government of India 3% Stock.*	3%		..	At the option of the Secretary of State after 5th October, 1948.	86	..
Government of India 3½% Stock.*	3½%	..	..	At the option of the Secretary of State subject to one year's previous notice.	98	..

* Issued at various rates in various years on various terms.

DATE ON WHICH THE 6 PER CENT. LOAN OF 1935-37 AND 4½ PER CENT. EAST INDIAN RAILWAY DEBENTURE STOCK FALLS DUE.

111. THE HONOURABLE MR. HOSSAIN IMAM : Will Government please state the date on which the 6 per cent. 1935-37 loan and 4½ per cent. East Indian debenture fall due, and the portions of these loans held by the Secretary of State for India ?

THE HONOURABLE MR. P. C. TALLENTS : The 6 per cent. 1935-37 Bonds fall due on 15th October, 1935. The 4½ per cent. East Indian Railway Debenture Stock fell due and was discharged on 1st June, 1935. It would not be to the public interest to state what portions of these loans were held by the Secretary of State for India.

THE HONOURABLE MR. HOSSAIN IMAM : May I invite the Honourable Member's attention to the statement issued to us at the time of the budget in which the information was given that the Secretary of State was holding £7½ millions.

THE HONOURABLE MR. P. C. TALLENTS : Sir, such statement may have been made, but it is not desirable to publish information when the Secretary of State finds it in the interests of Government to purchase stock in the market.

THE HONOURABLE MR. HOSSAIN IMAM : Will it be published in the annual accounts ?

THE HONOURABLE MR. P. C. TALLENTS : I forget at the moment what the practice is ; I cannot answer the question.

AGREEMENTS ENTERED INTO BETWEEN PROVINCES AND THE RESERVE BANK OF INDIA.

112. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state with what Provincial Governments the Reserve Bank has entered into agreements and the terms thereof ?

THE HONOURABLE MR. P. C. TALLENTS : Agreements are being entered into between the Reserve Bank and the Governments of the Punjab and the United Provinces with regard to the management of their public debt. These agreements have not yet been executed. Under the provisions of section 21 (4) of the Reserve Bank of India Act, 1934, agreements between the Bank and Provincial Governments, when concluded, have to be laid before the Central Legislature.

THE HONOURABLE MR. HOSSAIN IMAM : Is not the Reserve Bank acting as the bankers of the Provincial Governments at the present moment ?

THE HONOURABLE MR. P. C. TALLENTS : No.

THE HONOURABLE MR. HOSSAIN IMAM : Who are their bankers then ?

THE HONOURABLE MR. P. C. TALLENTS : The position is the same as it always has been—the Central Government.

PERCENTAGE OF REPRESENTATION OF BRAHMINS, NON-BRAHMINS AND THE DEPRESSED CLASSES IN THE CIVIL AND POSTAL AUDIT OFFICES, MADRAS.

113. THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY : Will Government be pleased to state :

(i) The percentage of representation of the Brahmins, non-Brahmins and depressed classes in the Madras Civil Audit Offices and Postal Audit Offices in Madras as constituted in the years 1929 and 1934 ?

(ii) Whether it is a fact that the Auditor General had issued instructions in the year 1929 to the Civil and Postal Audit Offices in Madras that in the matter of recruitment the orders issued by the Madras Government should be followed ? and

(iii) Whether the ratios fixed by the Madras Government in respect of the non-Brahmin and depressed classes of the majority Hindu community are being followed by these two offices in all the cadres to which appointments are made by direct recruitment ? If so, from what date ? If not, why not ?

THE HONOURABLE MR. P. C. TALLENTS : The information is being collected and will be laid on the table of the House in due course.

AGRICULTURAL CREDIT DEPARTMENT, RESERVE BANK OF INDIA.

114. THE HONOURABLE MR. HOSSAIN IMAM : Will Government please state whether the Reserve Bank has taken any action under section 54 of the Reserve Bank Act ? If so, what ? What is the name of the head of the Agricultural Credit Department and what are the terms on which he has been engaged ?

THE HONOURABLE MR. P. C. TALLENTS : Mr. Darling was appointed on special duty to report on the co-operative and agricultural credit movement to the Reserve Bank. Mr. Darling's report is now under the consideration of the Bank and until the Bank has considered the report it is not possible to state what steps will be taken in the formation of the agricultural credit department. The services of Mr. K. G. Ambedgaonkar, I.C.S., have been placed at the disposal of the Bank for a period of three years on usual foreign service terms to assist the Bank in the formation of the department.

REPRESENTATION FROM THE CINEMATOGRAH INDUSTRY OR MOTION PICTURE SOCIETY OF INDIA.

115. THE HONOURABLE MR. HOSSAIN IMAM : Has Government received any representation from the Cinematograph Industry or Motion Picture Society of India ? If so, what action, if any, has Government taken or propose to take on them ?

THE HONOURABLE MR. D. G. MITCHELL : Government have, of late, received several representations from the Motion Picture Society of India, but unless the Honourable Member specifies the representations he has in mind it is not possible for me to reply to the latter part of his question.

INDUSTRIES REPORTED ON BY THE TARIFF BOARD AND ON WHICH ACTION IS OUTSTANDING.

116. **THE HONOURABLE MR. HOSSAIN IMAM:** Will Government lay on the table a statement giving the names of the industries on which the Tariff Board has reported and on which the Government of India have taken no action yet with the dates of the submission of the reports?

THE HONOURABLE MR. T. A. STEWART: I lay on the table a statement giving the information asked for.

Statement showing the industries reported on by the Tariff Board and on which action is outstanding.

No.	Name of industry.	Date of submission of the report of the Tariff Board.	Remarks.
1	Woollen textile industry ..	10th June, 1935 ..	The report is under consideration.
2	Classification of paper for tariff purposes.	10th September, 1935.	Do.

NUMBER OF LISTED POSTS IN THE INDIAN CIVIL SERVICE IN EACH PROVINCE.

117. **THE HONOURABLE MR. HOSSAIN IMAM:** Will Government kindly furnish a statement giving the number of Indian Civil Service posts set aside as listed in each province and the actual number of posts held permanently by non-Indian Civil Service men in each province?

THE HONOURABLE MR. T. SLOAN: I lay on the table a statement which gives the information required by the Honourable Member and shows that out of a total of 150 posts to be listed, 132 have already been listed and two more will be listed before the end of this year leaving a balance of 16 still to be listed.

THE HONOURABLE MR. HOSSAIN IMAM: What was the period originally intended? Was it a fact that it was formerly said that all the listed posts will be occupied by non-Indian Civil Service men by the end of this year?

THE HONOURABLE THE PRESIDENT: That is an argument and cannot be allowed.

THE HONOURABLE MR. HOSSAIN IMAM: I want to know if it was promised.

THE HONOURABLE THE PRESIDENT: You may put the question but not in an argumentative form.

Statements showing the progress made up to 31st December, 1934 in increasing the number of listed posts in the Indian Civil Service.

Province.	Number of posts to be listed ultimately.			Number of posts listed so far.			Number of posts remaining to be listed.			Remarks.	
	Execu- tive.	Judicial.		Execu- tive.	Judicial.		Execu- tive.	Judicial.			
		Pro- vincial Civil Service.	Bar.		Total.	Pro- vincial Civil Service.		Bar.	Total.		Pro- vincial Civil Service.	Bar.	Total.
Madras	10	6	5	21	8	6	5	19	2*	2*	* One of these was listed on 3rd January, 1935.
Bombay	8	5	4	17	5	5	4	14	3	3	
Bengal	9	9	4	22	9	9	4	22	..	..
U. P.	15	8	1	24	9	8	1	18	6	6†	† Two of these six posts will be listed before the end of this year.
Punjab	10	6	2	18	10	6	2	18	..	..
Burma	12	5	3	20	9	5	3	17	3	3	
B. and O.	7	4	2	13	5	4	2	11	2	2	
C. P.	6	4	..	10	4	4	..	8	2	2	
Assam	5	..	..	5	4	..	..	4	1	1	
Total	82	47	21	150	63	47	21	131	19	19	

PROGRAMME OF FILLING LISTED POSTS IN THE INDIAN CIVIL SERVICE.

118. THE HONOURABLE MR. HOSSAIN IMAM : Will Government please state when they propose to fill up all the listed posts ? Is it a fact that originally it was the intention to fill all the listed posts before the end of 1935 ?

THE HONOURABLE MR. T. SLOAN : I would refer the Honourable Member to the explanation given by the Honourable Mr. Hallett during the debate on the Resolution moved by the Honourable Member himself on the 11th September, 1933 in regard to the Indian Civil Service. The intention has been to list 20 per cent. of superior posts in the Indian Civil Service within a period of 15 years from 1st April, 1924 consistently with the avoidance of injustice to existing members of the Service. As I have just stated in reply to the preceding question, considerable progress has already been made in this process. It is hoped that it will be possible to complete the process within the period contemplated.

SHIPPING ARRANGEMENTS FOR PILGRIM TRAFFIC.

119. THE HONOURABLE KHAN LAHADUR NAWAB CHAUDRI MUHAMMAD DIN : (a) Has the attention of Government been drawn to the numerous complaints of pilgrims to the Hejaz regarding accommodation, sanitation, medical aid, etc., published in newspapers and pamphlets after this year's Haj ? What steps do Government propose to take to remove the grievances of the pilgrims ?

(b) Has the attention of Government been drawn to the dissatisfaction with the present arrangements for supply of food to the pilgrims ? What measures do Government propose to take to improve the present system ?

(c) Has the attention of Government been drawn to the general desire among the pilgrims that there should be a restaurant on board the ship, which should cater for all the pilgrims on cash payment, so that each pilgrim should have the option of purchasing food according to his taste and means ? If so, are Government considering the advisability of introducing the restaurant system on " pilgrim ships " ?

THE HONOURABLE MR. RAM CHANDRA : All these matters are engaging the consideration of Government in connection with the examination of the reports received on the working of the arrangements during the last pilgrim season. The advice of the Standing Haj Committee of the Central Legislature has been sought and further necessary action will soon be taken.

CRIMINAL LAW AMENDMENT BILL.

THE HONOURABLE MR. T. SLOAN (Home Secretary) : Sir, I move :

" That the Bill to amend the Criminal Law, in the form recommended by the Governor General, be taken into consideration ".

In making this Motion, Sir, I find myself in a position of some difficulty. Government attach great importance to this Bill. Indeed they consider its passage into law essential in the interests of the country. The Bill is admittedly a very controversial one and it is a matter of regret no less to Government than to the Honourable Members of this House that the

[Mr. T. Sloan.]

refusal of the other House even to take the Bill into consideration has resulted in the Bill coming before this House in a recommended form, to be accepted or to be rejected but not to be amended. That restriction on the powers of this Honourable House is an unfortunate feature of the present constitution and I can only express my confident hope that Honourable Members will not let that position influence their attitude to the Bill or prevent them from considering it on its merits without heat or rancour and with a due sense of responsibility.

My second difficulty is that the Bill has already been discussed at great length in another place and also in the Press during the past two weeks. All that can be said in support of it has already been said by much abler and much more experienced advocates than I. The arguments both for and against the measure must be well known to all Honourable Members of this House and it will be difficult for me in presenting my case for consideration to say anything new or to put the matter in such a way as not to try the patience of the House.

This Bill, Sir, is in a form which it is not altogether easy to understand without reference to the two Acts which it proposes to amend. Copies of these Acts have, I understand, been made available to all Honourable Members and will, I hope, enable them to understand without much difficulty the exact scope of the Bill. These two Acts are the Indian Press (Emergency Powers) Act, 1931, and the Criminal Law Amendment Act, 1932. They will both expire in December next and the purpose of this Bill is to continue in force certain of their provisions. It is not necessary for me to deal with all these provisions in detail. I propose to confine my explanation of the measure to its most important features. These are the provisions dealing with picketing, unlawful associations and the Press.

In regard to the picketing provision the first point I should like to mention is that it will only come into force when applied to a particular area by the Local Government. In this respect this provision is different from all the other provisions of the Bill. Picketing, as Honourable Members will remember, was extensively used by supporters of the civil disobedience movement. Government do not propose to continue the other provisions of the Act of 1932 which were aimed against different forms of intimidation which also formed particular features of that movement, and it may well be asked why they have singled out the picketing provision for special treatment. The reason for that differentiation is of course that picketing is no longer associated only with civil disobedience. It has in the words of one Local Government become

“ a more or less normal method of expressing opposition to Government and of causing annoyance to private persons who differ from the political, economic or religious views of the picketers ”.

It has in fact as a result of the civil disobedience mentality become a more or less normal feature of any organised resistance to constituted authority. In places as far apart as Burma at one end of India and the Punjab at the other, it has been used in pursuance of strikes in educational institutions and the section which we now propose to continue in force has in such strikes enabled Government to maintain order without resort to the use of force and to prevent the dispute from leading to violence. I should perhaps add here that there never was, and there is not now, any intention that this section should be

used to prevent what is known as peaceful picketing in connection with strikes of a purely industrial nature, and so far as Government are aware it has never been so used. On the other hand, it has been used with effect in strikes started with a political as distinct from an industrial object and inspired by communist agents in the furtherance of communist aims. The need for the section has been denied on the ground that the ordinary law is sufficient. That argument has been used also against other provisions of the Bill and I shall deal with it at a later stage but I should like just to say here that experience in a hundred places has shown that this assertion is entirely fallacious.

The next section of the Act of 1932 which we are proposing to continue in force is section 13 which contains provisions to strengthen the hands of Government in dealing with unlawful associations. The most important of these provisions give Government power to take possession of buildings used in connection with, and the funds of, unlawful associations. It was suggested by one Honourable Member in another place that this Bill gives Government the power to declare any association unlawful. That of course is quite untrue. The power to declare associations unlawful in certain specified conditions was conferred by the Criminal Law Amendment Act, 1908. Honourable Members will no doubt remember that the Repressive Laws Committee in 1921 recommended that the part of that Act conferring this power should not be repealed and in doing so gave among other reasons the existence of secret associations in one part of India and the arrival in India of Bolshevik emissaries who might promote illegal associations to terrorise the population. It is interesting, Sir, to find that the continuance of the Act of 1908 was justified in 1921 by the existence at that time of the two dangers by which Government today justify the continuance of those provisions introduced in 1932 to strengthen the Act of 1921, namely, terrorism and communism. Now, Sir, experience has proved that the Act of 1908 did not enable Government effectively to check the activities of an illegal association. If the principle of declaring associations unlawful is accepted, and that principle has now been embodied in the ordinary law of the land for the last 27 years, it is surely logical that Government should also have the power to cripple the activities of such associations. Under the Act of 1908 Government could proceed against individuals who were members of, or who managed or assisted in the management of, such unlawful associations, but such prosecutions were frequently found to be unsuccessful for certain technical reasons and were an ineffective check on the operations of the association. The nerve centre of any organisation is its headquarters and its blood stream is its funds. Take away the headquarters and the funds and you effectively put an effective check on the association's activity. Section 13 of the Act of 1932 gave Government the power to do this and it has been proved by experience to be a most effective way of dealing with such associations. It enables Government to render the association ineffective, without necessarily punishing the individual. The whole principle underlying this and other provisions of the Bill is prevention, not punishment. The provision in regard to funds has also served as a useful and effective deterrent to the supply of funds because people are reluctant to subscribe to an association whose funds are liable at any moment to be confiscated and we have also definite proof that the Communist Party have had to resort to a most expensive method of getting funds for their work because these funds for the most part

[Mr. T. Sloan.]

come from abroad and this provision closes to them the use of the ordinary methods of transmission.

The last set of provisions which we propose to continue and those which are perhaps the most controversial of all are those that deal with the Press. These are sections 14, 15 and 16 of the Act of 1932 which continued the Emergency Press Act of 1931 in a slightly extended form. The provisions of that Act are sufficiently well known to Honourable Members. It enables Government to exercise some control over the Press by the demand of security from keepers of printing presses and publishers of newspapers and by the power to forfeit such security. These, Sir, are admittedly drastic powers. Their justification is to be found in the history of Press legislation in India and in the use to which the Press has been put in the encouragement of terrorism and communal hatred. I do not propose to weary the House by reading out extracts from newspapers. All Honourable Members are perfectly well aware of the extreme lengths to which a section of the Press is ready to go.

THE HONOURABLE THE PRESIDENT: Are you reading from a newspaper? Is it an extract from a newspaper?

THE HONOURABLE MR. T. SLOAN: No, Sir. Even its own most ardent supporters admit that there is a section of the Indian Press which is wholly irresponsible and unscrupulous, and they deny the need for special measure on the ground that that section is a small one. It is against that section that the Press Act is aimed and it is neither a small nor an unimportant section as some people try to make out. Its influence is pernicious and experience has shown that it has taken full advantage of its opportunities immediately control has been relaxed. The Press Act of 1910 was repealed in 1922. From that year until the introduction of the Press Ordinance in 1930 there was no control. When he enacted that Ordinance Lord Irwin stated as follows:

“On various occasions since 1922 the evil effects of writings in the Indian Press in promoting a spirit of revolution and stirring up extreme hatred of the Government established by law in British India have been brought prominently to notice by certain Local Governments. It has been recognised that the anticipations formed in 1922 have not been fulfilled, but that on the contrary the tone of a certain section of the press has been growing almost steadily worse, with its immunity from effective control. The measure of the effectiveness of the Press Act has been shown very clearly by the remarkable accentuation since its repeal of those features which it was intended to check. Prosecutions are from time to time instituted in the worst cases, but it has always been recognised that these provide only a partial remedy, and looked at broadly are ineffective to control the ceaseless output of extreme seditious and revolutionary propaganda”.

And immediately after the Ordinance expired in October, 1930 a new flood of violent and seditious articles in which murderers were openly praised began to appear. A second Ordinance was promulgated in December, but it was withdrawn in March, 1931 when the Delhi pact was made. For seven months there was again no control and the same rapid deterioration in the tone of the Press took place and once again there was direct approval of terrorism and violence with the result that in October, 1931 the Press (Emergency Powers) Act had to be passed. We have thus on these occasions learnt by experience. If we relaxed the law again the same results would inevitably follow.

Now, Sir, I have said that the powers conferred by that Act are drastic. But Government contend that they are no more drastic than the situation demands and they have not stifled and do not stifle reasonable and legitimate criticism. Criticism of Government by a large section of the Press is direct, outspoken and continuous. If proof of that statement is wanted, a study of recent articles regarding the attitude of Government on the Bill before this House would supply it in ample measure. We do not object to criticism so long as it is honest, and not based on distortion of facts or deliberately worded so as to promote hatred. In another place figures were quoted to show that the increase in the number of newspapers and periodicals between 1911 and 1921 was only 120, *i.e.*, while the Press Act was in force and between 1922 and 1930 when there was no control the increase was 1,500. I do not know the source of these figures and, therefore, I am not going to question them. But I can give figures which tell a very different tale. In the three years prior to the introduction of the Press Ordinance in 1930 the number of newspapers and periodicals rose by 246. In the three years after the passage of the Press Act in 1931 the number increased by 419. That is to say, that the increase in the three years after the Act was 70 per cent. more than the increase in the three years before it. I do not of course suggest that those figures show the opposite of what the figures in another place were held to show, but I do hold that they show that the number of newspapers and periodicals is determined by other factors which are much more potent than the existence or the non-existence of the Press Act. I may perhaps add also that since the Press Act was passed, the increase in the number of newspapers has been well over 500 and the increase in the number of presses has been over 1,000. That, Sir, completes what I have to say about the provisions of the Bill. I turn now to its justification.

We have been repeatedly told that the Act of 1932 was passed to counteract the civil disobedience movement. One speaker in another place went the length of saying—I quote his own words—

“So far as published literature goes the Government had nothing in mind except the civil disobedience movement when this measure—”

THE HONOURABLE MR. HOSSAIN IMAM: On a point of order, Sir. Is the Honourable Member right in quoting from the proceedings of the Assembly?

THE HONOURABLE THE PRESIDENT: You may make those observations yourself without referring to the Assembly proceedings.

THE HONOURABLE MR. T. SLOAN: I apologize, Sir.

One speaker in another place held that the Government had nothing in mind except the civil disobedience movement when this measure was placed on the Statute-book in 1932. It is not difficult to show that in fact it is entirely untrue. No doubt the civil disobedience movement was the immediate origin of the Act, but there was no concealment of the fact that it was not its sole justification. May I quote what Sir Harry Haig said on that occasion in the other House?

THE HONOURABLE THE PRESIDENT: Certainly.

THE HONOURABLE MR. T. SLOAN : I am quoting what Sir Harry Haig, who was Home Member at that time, said in the Legislative Assembly in September, 1932 :

“ We are disposed to think, therefore, that these powers should be secured not only for the existing official Governments during the comparatively brief period that lies before them but that the new Governments should at any rate start in possession of those powers. It will then be open to them to discard them or to leave them unused if they feel that they can safely do so ”.

Then he went on :

“ We have in India a triple threat to peaceful progress, civil disobedience, communism and terrorism, and though the main provisions of this Bill are directed against the first of these, I hope the House will not forget that the provisions relating to the Press will exercise a strong controlling influence over the movements of communism and terrorism ”.

That quotation shows that the Government had at that time three dangers in mind, civil disobedience, terrorism and communism, and it shows also that they were at one with the present Government in thinking that the new Governments should start in possession of the powers which the Act gave. Civil disobedience was the most immediate and pressing danger in 1932. It has ceased to be that. In recognition of that fact Government are not asking for the continuance of the provisions which were mostly directly connected with certain features of that movement. But let us not forget that civil disobedience is still a potential danger. That has been made abundantly clear by recent statements by leaders of the Congress Party. It is perfectly clear that these leaders hold themselves free to revive civil disobedience whenever it suits them, and if any confirmation of these statements is required, it can be found in what Mr. Gandhi himself recently wrote to one of his followers to the effect that his *sadhana* at present is non-violent disobedience of laws. I would ask Honourable Members to note the words “ at present is ”. In view of this attitude on the part of the Congress Party and of Mr. Gandhi himself, surely Government are justified in holding that the danger to meet which the Act of 1932 was introduced has not altogether passed, but is only dormant, and still remains a threat to the peace of the country.

Next terrorism. We admit the position in Bengal has improved, but no unbiassed person with a knowledge of the actual position in that province would hold that terrorism is either dead or even dying. Unfortunately there is plenty of evidence that the terrorist virus is still active and that it is constantly infecting new victims. We are told however that Bengal does not need the Bill because it has plenty of other special Acts to deal with terrorism. It undoubtedly has such Acts but without this Bill the Government of Bengal would have no control whatever over the Press and there is little doubt that loss of that control would immediately result in a fresh flow of incitements to violence and of glorification of murderers, which is exactly the sort of literature which leads unbalanced youths to join the terrorist movement and which would in a very short time undo all the improvement which has been achieved in the last few years. But terrorism though mainly is not wholly a Bengal problem. As the Honourable Home Member pointed out in another place, in recent months unfortunately there has been considerable activity in other parts of India, particularly in Ajmer, the United Provinces, Bihar and Orissa and Assam, and of the 25 terrorist incidents reported during the last six months, more than half have taken place in these provinces.

In regard to communism I shall not say much. Its activities are little known to the public and its dangers are not fully appreciated because it does not work in the open but underground. Nor do we for obvious reasons publish all that we know about it. But the objects of the movement are no secret. Its published objects include the violent overthrow of British rule in India, the abolition of all Indian States, the establishment of a Soviet Government in India under the control of Moscow, and the confiscation of all lands, forests and other property of landholders, princes and money-lenders. Now, Sir, it is idle to assert that the danger of communism is a fiction of a fertile imagination. Communists are clever and determined men. They have an excellent organization and it will be the sheerest folly for Government not to arm themselves with some powers to check the movement, which was strong attractions for a certain type of modern youth, which is being pursued with all the vigour that our law permits and which has for its object the violent overthrow of Government in India and of the whole social and economic fabric of the country.

The fourth danger is communalism and I shall deal with it in a single sentence. Every Honourable Member knows what a serious menace that is at the present moment to the peace of the country and how the embers of communal feeling can be fanned into flame in a moment by violent articles in the Press.

These, Sir, are the dangers which we expect the Bill to hold in check and we are proposing to give permanency to the provisions of the Bill because we can at present foresee no time when the most serious of these dangers will not be a menace to the peace of the country, and because we believe, as the Government in 1932 believed, when they proposed that the Act of 1932 should be a permanent measure, that the new Government should have the powers which these provisions confer upon them when they take over the reins of government. We are constantly told that even if the existence of these dangers be admitted, the ordinary law is sufficient to meet them. Well, Sir, such statements find their best contradiction in experience. Picketing is certainly a form of intimidation which nearly always leads to violence and there are in the ordinary law sections for dealing with intimidation. But every District Magistrate who had to deal with picketing during the civil disobedience movement knows that the intimidation sections of the Penal Code were useless. It was not till section 7 of the Act of 1932 became law that they were in a position to check this particular evil. The Indian Penal Code and the Procedure Code admittedly provide certain powers for dealing with incitements to sedition and communal hatred, but here again these have been proved ineffective as a check on the outflow of such incitements. It is partly due to the fact that the penal sections can be defeated by such devices as that of a dummy editor, and partly to the fact that they can only be applied after the mischief is actually done. The value of the Press Act is that on the one hand it has a restraining influence on the irresponsible section of the press and on the other it enables Government to deal with that section in an effective manner when any paper does overstep the mark.

I have seen it stated, Sir, that Local Governments have not asked for this measure and that it has been forced upon the country by the Government of

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India alone. Let there be no misunderstanding on that point. All Local Governments were consulted on every provision of this Bill. The Government of India are constantly consulting Local Governments on different matters and they often get from them a wide variety of opinion, but speaking from a long experience I can say that it is seldom that the Government of India get from Local Governments so unanimous an opinion in favour of any measure as they have received in favour of all the provisions of this Bill.

Now, Sir, I am done. Before I sit down, there is just one last point, which I should like to mention. The Bill has been condemned because it infringes the liberty of the subject and the liberty of the press. There is, as Honourable Members are perfectly well aware, no such thing as absolute liberty. Liberty is a purely comparative term. None of us is or ever can be an entirely free agent. The liberty of the individual in every modern State must be restricted in the interests of the State and must be limited by the rights of his fellow-subjects. The criticism that this measure infringes the liberty of the subject is therefore no more than the statement of an obvious fact. The real issue is whether it does so unnecessarily or to an excessive extent. On that issue, there is room for honest difference of opinion. But, if I may say so, criticism on the ground of interference with liberty comes very inappropriately from the Party which was responsible for the civil disobedience movement, which depended very largely for any success which it had on intimidation of the most flagrant kind which interfered with the liberty of masses of peace-loving people. This Bill infringes the liberty, not of the great mass of the people, but of a comparatively few mischief-makers. I would, therefore, appeal to Honourable Members not to be led away by clichés about liberty but to face actual facts, to realise that this Bill is designed in the interests of the peace and the good government of this great country, and to acknowledge their responsibility for the welfare of the body politic by accepting my Motion.

Sir, I move. (Applause.)

THE HONOURABLE THE PRESIDENT: Motion made:

“ That the Bill to amend the Criminal Law, in the form recommended by the Governor General, be taken into consideration ”.

The debate will now proceed on this Bill, but I hope that the traditional dignity of this House shall be maintained on this occasion.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, it is a sad irony of fate that on the eve of the New Constitution Government have come forward with a measure which seeks to place permanently on the Statute-book a piece of legislation admittedly intended for exceptional circumstances. It is to my mind a case of history repeating itself for Government evidently propose to adopt the same policy which they have pursued since the introduction of the Morley-Minto Reforms in 1910. When those reforms were introduced Government enacted the Press Act, a highly repressive measure in the teeth of opposition of Indian public opinion. In 1919, when the Montagu-Chelmsford Reforms were on the anvil, the notorious Rowlatt Acts were passed with dire consequences which we all deplore. But for those Acts, we have reason to believe the non-co-operation movement started in

1920 and which did such great damage to the progress of the country and gave it such a serious set-back would not have launched into existence. And now in the year 1936, when provincial autonomy and responsibility will be established and when an all-India Federation with some measure of federal responsibility is within sight, Government have come forward with a Bill which seeks to perpetuate many of the stringent provisions of the Criminal Law Amendment Act. This will give cause to the world at large to believe that the British are unable to carry on the administration of this country without repressive legislation of one kind or another.

Five different kinds of offences are dealt with in the Bill which as the Criminal Law Amendment Act is proposed to be placed permanently on the Statute-book. These are, the existence of terrorism, communism, civil disobedience, communalism and extreme license of the press. Government evidently think that unless the Criminal Law Amendment Act is perpetuated, these serious evils are not likely to be eradicated. I am glad, however, to find that some of the provisions of the Criminal Law Amendment Act are not re-embodied in this Bill. These relate to civil disobedience. To this extent I wish to express my satisfaction and to congratulate Government upon their realisation that at all events some of the provisions of the Criminal Law Amendment Act are no longer necessary but there may be a reason for their deletion to which I will refer later on in my speech.

Having said so much I shall try to explain my precise position with regard to this Bill. And first as regards terrorism. I do not think there is any Member of this House who does not realise that terrorism should be put down with a heavy hand. That every proper measure ought to be taken to stamp out terrorism, we are all agreed and so far as those provisions of the Bill deal with terrorism are concerned, I have nothing to say against them. I support those provisions fully and without any reservation. I must make it plain in connection with this part of the Bill, that it is the duty of Government in dealing with terrorism not only to adopt repressive measures but also to adopt all such measures as may lead to the removal of the root causes thereof. It was said in the other House that terrorism is still alive and that in fact during the last two months there has been a definite revival in North India and Bengal. On the whole it would appear that there is a decline judging from the remarks contained in a Resolution on the Police Administration of the Bengal Presidency during the year 1934 which we read in the daily papers three days ago. It says :

“ That a series of terrorist outrages were committed and a large number of pistols and revolvers were recovered during the year are evidence of the fact, though the police have been able to get a measure of terrorism as they have never done before, that it is still an insidious and dangerous movement against which unremitting vigilance must be maintained. Excluding Calcutta fourteen terrorist crimes were committed in Bengal during the year against forty-one in the previous year and seventy-four a year before ”.

Terrorism first manifested itself in this country in 1908 and ever since then Government have been taking measures to stamp it out. Twenty-seven years have passed since then, and yet we are told by Government that terrorism is still thriving. Is not this phenomenon full of significance and should it not make the Government seriously think why terrorism should still thrive? Surely the root causes of terrorism have not yet been touched? If

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terrorism is a mere outcome of an intensified and perverted nationalistic spirit, it is obviously the duty of Government to offer adequate satisfaction to the national aspirations of India. If it is the outcome of unemployment on a large scale, particularly among the middle classes, measures must be adopted to remove that unemployment, at least to reduce it, as much as possible. What is wanted is not just a policy of repression but also a policy of reconstruction which will wean away the youth of India from those influences and keep them away from those bitter experiences, which predispose them to throw away their precious lives in a career of criminal conspiracy and of violence. This is a point of view which I wish to press once more upon the attention of Government and I feel no doubt that they will not misunderstand the spirit in which it is urged. I also wish to make it plain that I am not at all unconscious of the responsibility which devolves upon Indian public leaders in this matter. I am glad to know that prominent leaders of Bengal are doing their best to impress upon the youth of that province that they should never allow themselves to be influenced by or fall a victim to terrorism. And I have every hope that their efforts will be supplemented in other quarters and carried on with increasing support from all sections of the population. There is already formed there since the last few months an anti-Terrorist League. I understand it is doing good work, its members are fast increasing in numbers and there are branches of the League in several mofussil towns of Bengal. This is as it should be. More than this, His Excellency Sir John Anderson, the Governor of Bengal, has of late been paying considerable attention to the question of relieving unemployment in his province and it is gratifying to find that he proposes to include in his programme the training of some selected detenus for agricultural and industrial occupations: There is published in this morning's papers the full text of the communiqué issued by the Government of Bengal in regard to such training of detenus. The communiqué begins with a reference to the speech made by His Excellency at the end of last month wherein he said :

" I believe that while there is among detenus a certain number of irreconcilables, there is, on the other hand, a large number who have been led astray by a perverted idealism and who can be made to see the error of their ways and to become useful citizens. I consider that the State should recognise that it is incumbent upon it to do what it can to give such men a chance of turning their energies and abilities into useful channels "

Endeavours like these will go a long way to check terrorism.

I now come to the second offence, namely, communism. I equally strongly condemn communism. I do not believe in the abolition of private property nor in the materialistic corruption of society upon which communism is based. Its attack on religion and society is the most subversive of the foundations of life and character, than can be conceived. If there are communistic activities in this country and if they are aimed at the overthrow of Government, then Government are fully justified in taking measures to put them down. I therefore support those provisions of the Bill which are directed against violent manifestations of the communistic movement. But the point about communism is that however wrong one may think it to be it is after all we must recognise but a system of thought and no Government has a right to penalise expression of thought, unless it leads or is calculated to lead to violence. This opinion was quite recently expressed by two learned Judges of the

the Calcutta High Court, both Englishmen, Messrs. Lort Williams and Jack who decided in favour of the accused who were taken up by the police for speaking in favour of communism. Moreover, how are you going to ban communism and uproot it altogether so long as the literature on communism is being freely imported into this country and is being read with avidity by the younger educated classes. Are you going to ban Laski, MacMurray, and a host of other writers who have written on communism? Are you going to make mere possession of communistic literature an offence? All this will have to be done if you want that this country should be free from the slightest taint of communism. Are you prepared to do all this? By all means, let communistic movements or activities if they are directed towards violence be put down but it would be sheer folly to attempt to kill all thought of communism. The antidote to communism is a well-considered, practical system of social and economic reconstruction.

The next ground on which this Bill is sought to be justified is communalism. It is said on behalf of Government that never before has communalism manifested itself to such extent and with such intensity as within recent times. Now, have Government taken care to find out why it has been so? Many people think that the policy of the Government and some times the actual methods of Government officers are partly responsible for these outbursts of communal feeling. I am not prepared to go so far but it seems to me that when the principle of communalism is so freely and almost aggressively recognised in the constitution and in the administration what wonder is there if communal spirit and ambitions are aroused to an undesirable extent, and if they at times manifest themselves in communal antagonism? I strongly condemn all manifestations of communal feeling and antagonism. I also know full well that communal feeling is fanned into flame by reckless utterances and writings of some communal leaders. I strongly condemn all such utterances and writings. But I do not think that special legislation of this kind is necessary to meet communalism. The Indian Penal Code, the Criminal Procedure Code and the local Police Acts are quite sufficient for the purpose. What is wanted is that every officer of Government should be strictly enjoined to maintain the most scrupulous impartiality between one community and another, to show no bias in favour of or against any community.

I now come to the last ground urged by Government in favour of this Bill, namely, the license of the Press. One strongly deprecates such license and I know that the country would not be any the worse off if some of the gutter press went out of existence. But here again the problem is how to maintain legitimate freedom of the Press and at the same time to punish all such writings as are really offensive. As the House is aware and as I have already said Government enacted in 1910 the Press Act. In a historic case under that Act which came before the High Court of Bengal a judicial authority of the eminence of the late Sir Lawrence Jenkins, the then Chief Justice of Bengal, while interpreting the provisions of the Act, expressed the opinion that those provisions were so wide and comprehensive that no writing would fail to come within the purview of the Act. He added that even standard literature might be punishable under the Act. Now, the provisions of this Bill we are discussing relating to the Press are mostly based on that Act and in some respects are worse than

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those in the latter. Government maintains that the cases in which action has been taken under those provisions are so few that they show with what moderation the provisions have been put into operation. This argument misses the real objection to these provisions. The fact is that they hang like the Sword of Damocles over the head of every journalist and act as a damper on free and independent criticism. Every journalist is at the mercy of the Executive. He always has the fear that his criticisms may provoke the wrath of the Executive officers who are after all human and that they may set in motion the machinery of the press legislation against him. Government must recognise that for the preservation of the freedom of the press, they must be prepared for some license of the press and that such license, if it is not too insignificant to be ignored must be dealt with not by such extraordinary legislation but by the ordinary law of the land. I for one would like to go a little further. The Home Member quoted from a letter from the Punjab Government and read out that

“ the present editor of a Sikh newspaper is an ex-convict, a barber by caste who was for a time a syce in a labour corps and was sentenced to imprisonment for desertion. Nearly all the worst vernacular journals have dummy editors of this type, most of whom being ex-convicts for whom imprisonment is no real deterrent ”.

I would therefore suggest that no person should be allowed to make a declaration that he is an editor of a paper unless he possesses certain educational qualifications. On the whole, I am strongly opposed to the provisions of the Bill as regards the press and certainly against making them permanent.

The Bill as I have already stated deals with five different offences and I have expressed my views on each of them. I am in agreement with Government for taking steps to stamp out the worst evils complained of but I am certainly not in agreement with Government for asking the House to agree to the Bill being made an Act for all time. Some of us certainly cannot agree with such a proposal. If the Bill were a temporary one for a limited number of years, I feel confident that Government would receive the unanimous support of the House.

THE HONOURABLE MR. P. N. SAPRU : No, not mine.

THE HONOURABLE SIR PHIROZE SETHNA : That is a matter of opinion I would go further than you and would support it.

As the Bill has come to us in a recommended form it is not open to us to move an amendment to the effect that its operations be confined to a fixed number of years or for the matter of that to move any amendment at all and therefore I for one feel that I cannot vote in its favour.

When the Act of 1932 was introduced in the form of a Bill it was also designed to be permanent but the Select Committee turned down that proposal and Government agreed that its duration should be limited to three years. This period of duration ends in December next and if acting on the same lines as before Government had proposed to renew the measure for say another three years or even five, in spite of what my Honourable friend says, it will

command the support of a great majority of us here. The reason for making the measure a permanent one has been explained by the statement that "temporary legislation designed to counter subversive movements has this unsatisfactory feature that it encouraged those who are promoting such movements to cherish the hope that the time will come when their unlawful activities can be resumed".

Another reason advanced is that the present Government will be handing over to the new Government under the New Constitution and the administrative machine should be such as will amply provide them with the means of countering the subversive and disruptive forces which may attack it. This is with a view to be helpful to the ministers under the new regime. A very beneficent thought indeed and thereby great solicitude is shown for the ministers under the new regime but those men will not be worth their salt if they cannot themselves take care of the situation. If the Bill is for a short period and if at the end of that period the minister in charge thinks that it should be renewed he will certainly propose its continuance and possibly get the Legislature to endorse his views. If, on the other hand, the Legislature will not agree to renew the Act then the Governor General under the new Act is fully armed with authority to certify the Bill as he is doing at the present moment. It would appear therefore that the idea of making this Bill permanent is more for the purpose of helping the future Governors General rather than the ministers so that future Governors General may be saved the unpleasant task of using their powers of certification.

Government appear to be somewhat inconsistent. They propose to repeal certain sections in regard to civil disobedience. Why they should have done so beats me when they lay such great importance on statements made by responsible Congressmen that they will renew civil disobedience at any time when they again think it necessary to do so. In spite of such emphatic statements made by the President of the Congress and others Government have chosen to drop some sections. May I ask if that is done by way of a sop so that the rest of the Bill might be accepted *in toto* by the Legislature and be placed on the Statute-book for all time? The Bill is going to be certified by the Governor General and become an Act. Such being the case we know full well that any criticisms of this House will have no value whatever, so far as the enactment of the Bill is concerned. I beg, however, to submit to my Honourable colleagues that the decision of the Government to place this Bill on the Statute-book, if need be, merely on the signature of the Governor General, should not deter us from expressing our views. My own position I have made absolutely clear. I consider that the provisions of the Bill, so far as they relate to terrorism, communism and communalism are on the whole necessary but I am strongly opposed to the provisions which relate to the Press. As it is the hands of this House are tied, because we can effect no changes and there is no alternative but either to consent to this Bill or to reject it altogether. I for one deeply regret that the action of Government gives us no third alternative and affords us no opportunity of improving the Bill so that it may secure the support of the saner, more sober and moderate sections of opinion in the country.

In concluding his speech in the other place the Honourable the Home Member quoted the Prime Minister Mr. Baldwin as saying that :

"The price of liberty is eternal vigilance and it is our duty to keep the State steady at a point where liberty is neither curtailed by untoward restrictions nor abused by unseemly license".

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With all respect to the Honourable Sir Henry Craik, may I be permitted to point out that the quotation does not apply in this case. May I ask Government if they are practising what the Honourable the Home Member has preached in the words of the Prime Minister? Mr. Baldwin is of opinion that "liberty must not be curtailed by untoward restrictions". Is it not that what is proposed in the Bill does amount to nothing less than imposing "untoward restrictions"? The quotation says "that the price of liberty is eternal vigilance". Passing a Bill of this nature and putting it permanently on the Statute-book will require no vigilance whatsoever. It is intended to make it plain sailing for Government for all time. All I can say is that the certification of this measure with a view to make it permanent cannot but have very undesirable effects upon public opinion and sentiment. For these reasons I am sorry I will not be able to vote for the Bill as it stands, for it is one more illustration of the defiance by Government of public opinion however strongly and constitutionally expressed.

THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ (East Bengal: Muhammadan): Sir, I do not propose to dwell on the details of the Bill for much has been said for and against it. In the interest of the preservation of law and order, perhaps it will not be improper on the part of the Government to be armed with such weapons as are provided for in this Bill. The only thing of vital importance that has struck my mind regarding this Bill is that the Government is apt to the improper use of the power that they are going to acquire under the provisions of this Bill. I can cite one glaring example of such improper use. Only the other day the Government took drastic repressive measure against some Muslims and Moslem newspapers of Lahore on the imaginary ground that it was reported that they had fixed the 20th day of this month for considering whether the civil disobedience campaign could possibly be launched, but I am painfully surprised to find that before the arrival of the appointed day the Government had taken action against some people. Even cold logic would not admit that an action can be taken before the cause of action has actually arisen. I consider it sheer inadvertence on the part of the Government to prosecute those people before the arrival of the day when definite charges could be framed against them. Even a man of my cadre of faith who has always lent his unrelenting and unhesitating support to every measure that was brought before this House, does feel that there is very little that can be said in favour of the action of the Punjab Government in Lahore. In fact, Sir, the action of the Punjab Government has left us in a perplexed position and we, the Muslim legislators here, are at a loss to decide our course of action regarding this Bill. However I do not think it worth while to add to the embarrassment of the Government by opposing the Bill but what I would like to emphasise and stress is that before putting the provision of this Bill into operation the Government should give a careful consideration to the pros and cons of the question and make it a point to see that in future such improper use of this provision does not occur.

With these words, Sir, inasmuch as it touches the safety of the general peaceful public, I support the Bill.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central : Non-Muhammadan) : Sir, I rise to congratulate my friend Mr. Sloan on faithfully discharging his duty in giving vent to his master's voice—I mean the Honourable the Home Member. I am very sorry to remark that my Honourable friend the Home Member has not thought it proper to come to this House on an important occasion like this.

THE HONOURABLE MR. T. SLOAN : May I explain that the Honourable Home Member is detained in another place but will come here as soon as he is free to come.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I am glad to hear from my Honourable friend that we shall have the pleasure of hearing the Honourable the Home Member in this House for the first time in the session on an important measure like this.

Sir, I am one of those who not only oppose this Bill as a permanent but also as a temporary measure, and in this respect I regret I have to differ from the views expressed by my learned friend Sir Phiroze Sethna. We must see what the present situation is and why this Bill is being brought on the Statute-book as a permanent measure. I am glad to hear from my friend that the Bill when introduced as a temporary measure in 1932 was chiefly due to the civil disobedience movement. That was also accepted by the Home Member at that time, and that being the chief reason then for enacting this measure, I regret very much that it should now be placed on the Statute-book as a permanent measure at a time when everybody including my friends on the treasury benches agree that the situation is calmer and the civil disobedience movement is suspended. The other reasons given by my friend are merely secondary. What are these reasons? They are, the existence of terrorism, communism and communalism and another reason which he has given in a broader sense is to safeguard the interests of the future ministers in the next constitution. Sir, I shall deal with each of them separately later on. At present I want to put some very important questions to my Honourable friend and I hope that he will satisfy the House when replying to the debate. Why was this Bill not referred to a Select Committee? We all know that the Bill introduces a very important and fundamental principle, namely, making this measure a permanent one. We all know, Sir, that when the Bill was introduced in 1932 it was referred to a Select Committee and what was the result? The result was that in spite of the fact that the Bill was going to be a permanent measure, a compromise was arrived at in the Select Committee by which certain sections were modified and its permanent feature was changed into a temporary feature for three years. I think, Sir, it was on account of that very reason that the Bill was passed by the House at that time, especially as the chief cause on account of which the Bill was introduced was in existence, I mean the civil disobedience movement. My second question to the Honourable the Home Secretary is why the public was not consulted? I am glad to hear from him that Provincial Governments were consulted on this measure. Sir, I should like to know whether Provincial Governments as a whole were consulted or only the Executive Councillors; because it is a very important point. The public would like to know what were the views of the Ministers who are to a certain

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extent responsible to the Legislature, whether the Ministers in the provinces where there is no terror of terrorism or communism gave their consent for making this all-India Bill a permanent one on the Statute-book? I hope my friend the Honourable the Home Secretary will enlighten the House on these points; and the public will be delighted to know which of the Ministers of the provinces were in favour of this Bill. Then I fail to understand what were the important reasons why, when this Bill has been thrown out by the popular House and the public has given its verdict in the press and on the platform against it, why is the Bill going to be a permanent feature in a certified form? Sir, I think it was the duty of my friend the Honourable the Home Member—I am glad to find he has come to this House for the first time and I congratulate him—

THE HONOURABLE SIR HENRY CRAIK: Not for the first time.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: For the first time this session, Sir—he has recommended to the Governor General to certify the Bill with its permanent feature. When so much opinion was against it and my friend thought that his Government cannot be safely carried on without this measure, what he ought to have done was to approach His Excellency for a temporary and not a permanent measure.

THE HONOURABLE THE PRESIDENT: What makes you say that the Home Member approached His Excellency? This certification was done in exercise of his prerogative by His Excellency the Governor General.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, if I remember aright, when His Excellency addressed both the Houses, he was pleased to say that he agreed with the opinion of the Executive Councillors and certified the Bill.

THE HONOURABLE SIR HENRY CRAIK: His Excellency said nothing of the kind. The responsibility is entirely that of the Governor General.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I was under the impression that the Government as a whole was in favour of making this Bill a permanent measure?

THE HONOURABLE THE PRESIDENT: That is another point altogether.

THE HONOURABLE SIR HENRY CRAIK: They are.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Then, Sir, we all know that under the reformed Constitution the provinces are going to enjoy so-called provincial autonomy and would like to look after law and order according to local conditions and circumstances. That being the situation, I do not know why the Government of India is so very solicitous, so very anxious for bringing this Bill on the Statute-book permanently to safeguard their interests.

THE HONOURABLE THE PRESIDENT: I will thank the Honourable Member not to repeat his arguments.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I will leave that point. There is another important question. Is this legislation to be the precursor of the Government of India Act which

pretends to confer liberty and responsibility upon those who would like to work it later on? It is, as my friend has just said, an irony of fate that whenever a reform was introduced in this country one or other Act of the kind which was so bitterly opposed by our countrymen was brought on to the Statute-book. The Press Act of 1910 was the first measure that was brought on to the Statute-book after the introduction of the Minto-Morley reform, and it was resented by our leaders, including you, Sir. When another reform was introduced, I mean the Montagu-Chelmsford Reform, it was also preceded by a very notorious Act, called the Rowlatt Act and the whole country was vehemently agitating on its passage. We are going to have a new constitution and another notorious Act, called the Criminal Law Amendment Act, is going to be brought permanently on the Statute-book. So, Sir, it is a strange coincidence that with the introduction of reforms in this country such Acts are invariably brought on the Statute-book.

Now, Sir, three important reasons, besides the existence of the civil disobedience movement, have been given by my Honourable friend, and I should like to deal with each of them separately as my friend Sir Phiroze Sethna has done in his own light. Sir, I entirely agree with him and I hope every Member of this House will agree on the point that we detest terrorism and would like to see it buried as soon as possible. I acknowledge that the movement is existing mostly in Bengal and to a certain extent in the Punjab but the other provinces are more or less free and I do not know why this Act is going to be an all-India Act, and why the members of other provinces who have behaved like good boys are going to be punished for the acts of people in other parts of the country? We, Sir, all know that a special Act called the Bengal Criminal Law Amendment Act was brought on to the Statute-book and I find it contains still severer sections than the sections existing in this Bill. With the existence of those sections and the ordinary law of the country, such as the Criminal Law Amendment Act and the Indian Penal Code, I do not think there is any necessity for bringing this legislation on to the Statute-book and especially for the majority of the provinces which have behaved like good boys.

Then, Sir, so far as the existence of the terrorists and anarchists movements are concerned, I must submit to this House that the Press has not much to do with it and by curtailing the liberty of the Press, the Government has not been able to check the movement nor, I must say, will it be able to do so at any time. They do not take their lesson from the newspapers. What is required, Sir, is to find out the root causes of the terrorist and anarchist movements and unless you remove those causes I regret to submit that it is very difficult to remove the movement as a whole. These press laws will never be able to suppress the movement. What is required is to find out the root causes as I say. The causes are economical. We know that there is unemployment in the country. It is for the Government to develop the industries of the country and find employment for them and I am sure if this were done the movement would die a natural death.

Sir, the important question for them is the difference between the "haves" and the "have-nots". It is the question of food that affects them and if that is provided the movement will die out. Then, Sir, another reason is communism. The reasons against communism are the same as those against terrorism and I

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detest the one just as much as the other, but with this difference, that I realise that the communists take their lessons from countries outside India. The Press has nothing to do with the movement and I am glad my friend the Home Secretary in making his speech has accepted that communists' activities are secret and not known much. So, Sir, it is evident that my friend has accepted the view that the Press has not much to do with the communist movement and consequently this reason ought not to have been given for bringing the Act on to the Statute-book. If the Government is anxious to check the movement—as we all want to do—I submit it would be better to check the import of foreign books from which the young men of the country derive the ideas of communism. It is on account of the books of Bertrand Russell and H. G. Wells and other authors, the countrymen of my Honourable friend over there, that communist ideas are spread in this country, and if they are anxious to check them, as I hope they are, it would be better that such books should not be imported into India, or His Majesty's Government may move that such books should not be written in England. This would be a better way of checking the movement instead of muzzling the Press of the country.

Then, Sir, I come to the third reason given by my friend for bringing up this Act. And it is the existence of communalism in this country. Sir, I am ashamed to admit that communalism does exist in this country and of late it has taken a bad turn. But, Sir, who is responsible for this? I hope my friends on the Treasury benches will think in their calmer moments that they are mostly responsible for the communalism in the country. Sir, the communalism in this country is of two types. Intellectual and lower. So far as intellectual communalism is concerned I regret to submit that it is mostly due to the policy of the Government. They have given promises from the days of the Magna Charta to the present day that no distinction of race, creed or colour will be observed. But what do we find? If my friends will look at the Civil List, they will find that most of the important posts in every branch, whether it is the Indian Civil Service, Indian Medical Service, Forest, or any other, are held by non-Indians. May I ask, is this not communalism? May I ask, is it not sectarianism? May I ask, if our countrymen have no grievance in this respect?—whether they have no heart to feel it, in spite of the fact that they have proved their merit in examinations, they do not find good positions?

THE HONOURABLE SIR HENRY CRAIK: They find far more than they did in previous years.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Very few, Sir. May I ask, if this is not communalism? May I ask, how the people of this country will be contented? Will not the people of this country take lessons from these policies? So far as the major communities are concerned, what is the policy of the Government? It is, "Divide and rule". Their object is to put one community against the other. Sometimes they favour the Hindus, sometimes the Muhammadans, sometimes the Sikhs and sometimes the Parsees. They want that all these communities should not live harmoniously together and join hands. Sir, what is the meaning of communal electorates, reservation of seats in the services, communal award, etc? All this is meant to perpetuate the differences between the major communities in

India. As long as these things exist—and Government want that they should exist for ever—I am sure that these communities will not join hands and communal feelings will never disappear. So, Sir, Government are mainly responsible for the existence of intellectual communalism in the country.

Sir, I now come to the other form of communalism, the lower type, whereby riots occur here and there. This is also due to intellectual communalism. Had there not been this intellectual communalism for which the Government are responsible, there would not have been the lower type of communalism on account of which riots occur. Government are therefore responsible for this sort of communalism also.

I now come to another lame excuse given by my Honourable friend for putting the measure permanently on the Statute-book. He says that this is done for the sake of safeguarding the interests of the ministers in the future Constitution. Sir, I would request the Government to let the ministers of the future Government take care of themselves. If there is any sense of responsibility in the Provincial Legislatures, and if parliamentary practice is followed, the ministers will be chosen from the majority party in the Council and they will not go against the wishes of the country. They will take care of themselves and people will show them how to behave. Therefore, this measure is not required for them even before the constitution of the reformed Legislatures. My Honourable friend may put a very important question to me as to what I thought was the reason for Government bringing this measure forward? Sir, the real object of Government is to muzzle the Press. Government are going to give provincial autonomy to the provinces whereby most of the departments will be transferred. The Provincial Governments will be existing upon safeguards. The Governors will be ruling the provinces with safeguards. They will be subjected to public criticism in the Press. Government want the Press to be muzzled beforehand and to let the Governors have their own way with the safeguards without having to face any criticism from the public. That is the chief object of Government bringing this Bill,—to safeguard the interests of the Governors and the services from public criticism.

Sir, this Bill is a mixture of several measures. One who reads the Bill without consulting the other measures will find himself in the dark. He will not be able to know what is the sense of this Bill, if he does not read the Criminal Law Amendment Act of 1932, the Press Act and so many other Acts. I do not know why, when this Bill was drafted, a definite and clear way was not chalked out, and each measure was put in a separate Bill. This shows lack of draftsmanship in the department of the Government.

The underlying principle of this Bill is whether India should be governed by the Executive or by the Judiciary, whether by the rule of order or the rule of law. The principle underlying this Bill is that henceforth India will be governed mostly by the Executive and not by the Judiciary, and that there will be a rule of order and not a rule of law.

I would now, with your permission, Sir, like to examine whether the views I have expressed are in agreement with the views of our learned leaders of the country, leaders who are known to have had very moderate opinions not only amongst us but also amongst the Government too. I will examine their views

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expressed when the Press Act of 1910 was placed on the Statute-book. I will first read two or three sentences from the speech delivered by our revered leader, Mr. Gokhale. Sir, when this Bill was being debated in the old Imperial Legislative Council in 1910, Mr. Gokhale said :

“ My Lord, ”

this was at a time when the Imperial Legislative Council used to be presided over by His Excellency the Governor General, and it required courage to place these views before His Excellency when he was presiding. He addressed the Council in this way :

“ My Lord, it is a cruel irony of fate that the first important measure that comes before the reformed Council is a measure to curtail a great and deeply cherished privilege which the country has enjoyed, with two brief interruptions, for three-quarters of a century. But while the plans of statesmen have matured slowly, events designed by malignant fates to frustrate their purpose have moved faster. And thus we find that just when the scheme of reforms has materialised, the sky is dark with clouds which probably will roll away before long, but which for the time wear a threatening aspect ”.

Then he went on to describe the situation as very serious. At that time political murders and dacoities were being committed. After this he referred to the Press in the country in these fine words :

“ My Lord, I am not one of those who think that any appreciable section of the Indian Press has always been seditious or that the Press in India has, on the whole, done more mischief than good. On the contrary, our Press has been in the main a potent instrument of progress ; it has quickened our national consciousness ; it has spread in the country ideas of justice and equality not only between man and man but also between class and class ; it has stimulated our public spirit ”.

After this he gave the following advice to the Government :

“ My Lord, I feel bound to say that this Bill by itself cannot achieve much. It is even possible that the immediate effect of its passing will be to fill the public mind with a certain amount of resentment. And unless the powers conferred by it are used with the utmost care and caution, the evil which they are intended to combat may only be driven underground. Force may afford temporary relief, but it never can prove a permanent remedy to such a state of things as we have in this country. It is only in the co-operation of all classes and the steady pursuit of a policy of wise conciliation on the part of Government that the best hopes of thoughtful men on both sides for the future of this land must lie ”.

So, Sir, he was of the same view as I have expressed here this morning. What is required is to adopt a conciliatory policy and find out the root cause of this terrorist movement if you want to check it. Now, with your permission, Sir, I want to place your own views before this House. In going through these proceedings I found you were the strongest opponent of the Press Act at that time, and therefore it is but meet and proper for us to take the lead from the President of this House. Referring to the Press you said, Sir :

“ They are wholeheartedly with Government in their efforts at the maintenance of these. (Law and order.) But unfortunately they do not see eye to eye with Government as regards the *modus operandi* and they regard the Bill under discussion as likely to defeat its own object, by rousing the suspicions of the people, by alienating their sympathies, and by giving a handle to seditionists for secret vilification of the Government ”.

So, Sir, you said that if you muzzle the Press the result will be that secret activity will increase.

THE HONOURABLE THE PRESIDENT : But in 25 years time I have become wiser by experience. I may also refer the Honourable Member to my speech in this House in 1932. (Applause.)

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : But those views were expressed at a time when you were perhaps of the same age that we are now. Therefore we are not at fault in following your views. Further on you said—

THE HONOURABLE MR. D. G. MITCHELL (Leader of the House): Honourable Sir, I suggest that we should not bring up pronouncements made 25 years ago by one who is now in the Chair, occupying a position of detachment from all politics.

THE HONOURABLE THE PRESIDENT : Of course, strictly speaking, it is not proper to refer to utterances made by me years ago, though the practice of this House has been not to interfere as far as possible. But I think the Honourable Member would be showing good taste if he does refrain from making these references.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, I am prepared to abide by your wishes and not read these quotations, but I must submit that the Bill in a sense is the same as that of 1910 so far as the Press is concerned, and I do not see any reason why views expressed on the Bill at that time should not be placed before Honourable Members of this House to enable them to realise the views of eminent countrymen of theirs on a similar measure and so to vote accordingly on this Bill. In regard to what I have said about the Press not being responsible for sedition and anarchy, you were pleased to express the same views on that point. You said :

“ My Lord, in my humble — ”

THE HONOURABLE MR. D. G. MITCHELL : Sir, I think the Honourable Member has made it sufficiently clear what your views were 25 years ago ; but I think these references are not relevant and not in good taste. I would ask the Honourable Member kindly to refrain from quoting the remarks of the Chair made so long ago.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, if that is your ruling I will refrain from quoting.

THE HONOURABLE THE PRESIDENT : You are entitled to use my arguments without mentioning my name.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : And what about the quotations of others ?

THE HONOURABLE THE PRESIDENT : You can quote others if their views are of any value after 25 years have elapsed.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Very well, Sir ; I will leave the quotations from your speech by saying this much that you also said that the Press was not responsible for checking this movement and you gave the same advice to the Government before bringing your remarks to a close. Now, Sir, I would have quoted the views of Bhupendra Nath Basu and my revered

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leader Pandit Madan Mohan Malaviya, but I find that the Treasury benches are not favourably inclined to hear the views of my countrymen. I think they would like better to hear the views of their own countrymen; and they may be more appealable to them. Sir Charles Metcalfe known as the liberator of the Press in India in reply to a deputation 100 years ago said this—and the same thing exists today and his remarks are applicable even at the present day. Sir, he said :

“ It rests with them to show that the communication of knowledge is a curse and not a benefit and that the essence of good government is to cover the land with darkness ; for otherwise it must be admitted to be one of the most imperative duties of a Government to confer the incalculable blessing of knowledge on the people, and by what means can this be done more effectively than by the unrestrained liberty of publication and by the stimulus which it gives to the powers of the mind ? If their argument be true, the spread of knowledge may eventually be fatal to our rule in India, I close with them on that point, and maintain that whatever may be the consequence it is our duty to communicate the benefits of knowledge. If India could only be preserved as a part of the British Empire by keeping its inhabitants in a state of ignorance, our domination would be a curse to the country and ought to cease ”.

These were the strongest views expressed by Sir Charles Metcalfe at that time, that the Press should have absolute liberty. It is instrumental in the diffusion of knowledge in the country. Then when the Vernacular Press Act was before the House of Commons in 1878, this is what Mr. Gladstone said about the liberty of the Press.

THE HONOURABLE THE PRESIDENT : This is all ancient literature.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : That does not mean, Sir, it has no value. I think the wisdom of the ancient people is always to be taken into consideration.

Sir, he said :

“ The Bill raises a political question of great importance, of the utmost delicacy, namely, whether it is wise for the Government to take into its own hands and out of the hands of the established legal jurisdiction the power of determining what writing is seditious and what is not ”.

In the course of the same debate Mr. Gladstone observed that

“ the most unfortunate feature which the measure presents is the removal of Press prosecutions from the jurisdiction of the judicial establishments of the country in order that they may be dealt with as matters of executive discretion ”.

By this Act you are taking the powers from the Judiciary and giving a free hand to the Executive. The Executive should always be under the Judiciary in this matter.

THE HONOURABLE THE PRESIDENT : The Honourable Member knows that there are many speakers to follow him and if speeches of this duration are made I am afraid I will have to go in for a night sitting.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : We are prepared to co-operate with you in every respect and if there are night sittings we are prepared to sit for the whole night ; but this is a measure of great importance and there is no time-limit. It is absolutely in our competence to place our views before the Government —

THE HONOURABLE THE PRESIDENT : I did not say that I wanted to stop you from speaking, but you might save the Council some measure of infliction by quoting speeches made about 25 or 30 years ago which do not apply to present conditions.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Very well, Sir. May I have your permission to quote from the recent Conference of the Editors of Newspapers held in Calcutta about two months ago. The proceedings of the Conference are public property and I want to quote from it.

THE HONOURABLE THE PRESIDENT : Yes, you can quote from the proceedings of the Conference.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : This is what one of the best and most moderate editors in our country, Mr. Ramananda Chatterjee, said so far as this Press Act is concerned. He described this law in very beautiful language. He said :

“ Friends, I wish to remind you that though capital punishment has either been removed from the Statute-book or fallen into abeyance in very many civilised countries, it not only exists in India but may be has been inflicted on newspapers without any trial, without a trial by even a court-martial. Securities are demanded again and again and finally there may come the extinction of the paper concerned and even the confiscation of its press. It is often a long drawn affair, which ordinary executions are not. I have no doubt this subject of capital punishment by instalments inflicted on newspapers will receive your attention ”.

So, Sir, my friend Mr. Ramananda Chatterjee, who is known to possess most moderate views has described this Press Act as murder of the Press in India by slow degrees, if not by immediate action. Now, I find that these quotations are distasteful to my Honourable friends on the Treasury benches, I shall therefore not quote but give facts and figures about the rise and fall of presses, newspapers and books whenever this Act is brought on the Statute-book. My friend the Home Secretary has given his own figures and I am giving my own figures. I have no doubt taken those figures from the speeches delivered in the other House the other day. But they were not challenged by my friend the Honourable the Home Member as so many other statements were challenged then and there. Therefore I took them to be correct. Sir, what was the condition of the Press in 1911—1920 when the Press Act was enacted in 1910 ? The rise in the number of presses was from 2,780 to 3,371, that is an increase of about 600 in ten years. The Act was repealed in 1921-22 and what was the result ? In the period from 1921—1931 the number of presses rose from 3,371 to 6,520, that is an increase of about 3,200. So, Sir, we find that this Act goes against the development of the Press in our country.

Then, Sir, so far as newspapers are concerned, let us find out what was the position ? In 1911 the number of newspapers was 2,924 as against 3,091 in 1920. Thus the total increase in this period while the Press Act was in existence was only about 169 newspapers. But when this Act was repealed in 1921-22 the figure at once jumped in another decade, that is from 1921—1931, the number went to 4,500, an increase of about 1,500 newspapers. This shows, Sir, that this Act is always a deterrent on the progress and diffusion of newspapers.

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Now, Sir, this Act also works on the increase of books and literature. What was the position in 1911-12? The number of books was 11,584.

THE HONOURABLE SIR HENRY CRAIK : Where do these figures come from?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I am quoting these figures as they were quoted in the speeches in the Legislative Assembly.

THE HONOURABLE SIR HENRY CRAIK : What is the authority?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : These figures have been taken from the speech of Pandit Govind Ballabh Pant and you, Sir, who challenged so many points did not challenge them.

THE HONOURABLE SIR HENRY CRAIK : Yes, I did.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I have got the speech here, Sir. I am prepared to show it to the Honourable the Home Member that he did not challenge these figures, which means that he accepted them. In 1911-12 the number of books was 11,584 and in 1919-20 it was 11,110, which means that there was a reduction or shrinkage during this period of 500 books. Perhaps they were proscribed under the operation of this Act. But when this Act was repealed in 1921, in the next decade the number went up from 11,110 to 17,427, an increase of more than 6,000. So, Sir, by looking at these figures we come to the conclusion that the Press Act works as a deterrent against the increase of the Press, increase in the number of newspapers and increase in the number of books. So it acts as a deterrent on the diffusion of knowledge in this country and if this Bill is to be brought permanently on the Statute-book I do not know, Sir, what will be the result in the future.

THE HONOURABLE THE PRESIDENT : The increase might have been due to many other causes. It does not follow that it was due to the repeal of the Act.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Yes, Sir, it might be due to other causes but the increase was effected during this period and the decrease was effected in the period when this Bill—

THE HONOURABLE MR. T. SLOAN : May I ask the Honourable Member what about the three years before the introduction of the Press Ordinance of 1930 and the three years after the introduction of the Ordinance? I have given figures which show absolutely that the increase in newspapers was larger while the Press Act was in force than before.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Well, my Honourable friend has got the whole Secretariat behind him and he can collect facts and figures whenever he likes. For us, the non-official Members, it is a very difficult task.

THE HONOURABLE MR. T. SLOAN : I have given the Honourable Member the figures.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : But they do not relate to the years with which I am dealing. My Honourable friend has circulated a pamphlet containing quotations from newspapers. But those quotations are mostly from Bengal and Punjab papers, and for three years only, the years which were probably the most favourable from the Government point of view.

THE HONOURABLE SIR HENRY CRAIK : If the Honourable Member wants more quotations, I can tell him that I have a collection of 429 printed foolscap pages of press cuttings, from every province in India and covering more than three years.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, if the Government was pleased to supply these facts and figures it was but right and proper that they should have supplied them for all the years and not only for three years. The natural conclusion to which we are driven is that they have selected the years in which the facts and figures were in their favour. If my Honourable friend had supplied the figures for all the years we would have been in a better position to judge and lay our views before the House.

Sir, there is another important question in regard to this Bill, and that is whether the existing Acts are sufficient for meeting the situation or not. Sir, if my Honourable friend will look at the sections to which I am referring, he will see that the existing Acts are quite sufficient to cope with the situation and there was absolutely no necessity for bringing this Bill before the House. I will not tire the House by reading all these sections from the Criminal Procedure Code and the Indian Penal Code but, Sir, I will only give the numbers of these sections and request the Honourable Members to read them and then come to a conclusion whether they are quite sufficient to meet the situation or not. So far as the Criminal Procedure Code is concerned, I will invite the attention of Honourable Members to sections 108, 131, 124A and 153A. If Honourable Members will read those sections, I am perfectly sure they will be convinced that these sections give sufficient power to meet the situation and that the Bill is not a necessity but a luxury to safeguard the interests of the officials. They may also read the following sections in the Indian Penal Code, and they will find that they also are quite sufficient to cope with the situation. I refer to sections 141, 349, 350, 351, 352, 120A, 43, 503 and 505. If Honourable Members read these sections of the Criminal Procedure Code and the Indian Penal Code they will be convinced that Government have got ample powers to cope with any situation that may arise owing to the activities of the civil disobedience movement, the terrorist movement, the communist movement, or communalism, as they call it in this country. I will also invite attention to the existence of the Newspapers (Incitement to Offences) Act, 1908, and this is quite sufficient to deal with newspapers. Why do the Government not use that Act? There is another Act, the Explosive Substances Act of 1908. There is a lot of material in that Act so far as the anarchist movement is concerned.

I will now bring my remarks to a close. The object of the Government in bringing forward this measure is to muzzle the Press, so that they may be

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

able to do whatever they like without having to meet public criticism. This Bill is quite unsatisfactory. I regret to submit that it is an insult to the intelligence of this House and the people of this country. I therefore oppose the Motion for consideration.

THE HONOURABLE THE PRESIDENT : I will now adjourn the House till 3 P.M. but I warn Honourable Members that I will probably be occupying the Chair till 6-30 or 7 P.M. this evening.

The Council then adjourned for Lunch till Three of the Clock.

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

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal : Non-Muhammadan) : Sir, it is an irony of fate that within the course of six months this House is asked to flog another dead horse in the shape of the recommended Criminal Law Amendment Bill and is asked once more to help in the performance of the last rites before being carried to the burial ground for finding a permanent resting place on the permanent Statute-book of the country. Sir, I take part in this debate not with any motive of criticising the different provisions in this Bill as I know that this House is, under the present Constitution, debarred from the right of amending or altering the Bill in any way. I, therefore, think, Sir, that instead of having a mockery of a debate on a recommended Bill in this House it would have been better if this House had been spared the trouble of being the pall-bearers of such dead Bills. Sir, the very fact that Government demands the permanency of the emergency measure passed in 1932 for meeting certain emergencies which arose in the past, conclusively proves that either the Criminal Law Amendment Bill passed in 1932 has altogether failed to achieve the object for which it was designed or the Act of 1932 has only partially achieved in suppressing the civil disobedience movement and other cognate movements. If the Bill has failed to achieve its object during the last three years and has failed to suppress those subversive movements then it was up to Government to admit of their failure. It appears that the present Executive is afraid of such an admission as in that case the enactment of 1932 has no right to find a place in the Statute-book. If, on the other hand, the law in force now has only partially achieved its object then, Sir, it was up to Government to ask for the extension of the life of the law by another few years. Had they done so I think the Opposition in the other House and this House would have agreed to pass the measure and this method of certification would not have been necessary. But, Sir, it is only in the Constitution of India that the Executive has been given the unrestricted power of over-riding the wishes of the Legislatures, as the Executive branch of the administration of this country is mainly manned by Europeans who are guided only with the safeguarding of their own interests and not with the interest of the State. Here I make bold to say that if in any other country the Executive would have dared to over-ride twice within six months the decisions of the Legislatures there would have been revolutions instead of civil disobedience movements. Government is demanding the permanency

of the measure for the alleged suppression of three things. The first and foremost argument of Government in favour of the present measure is the suppression of terrorism. Sir, there are very few in this House and outside who will not desire to see this movement altogether stopped. It is unfortunately a disease which has affected most my unfortunate province and to a certain extent the disease has also spread into the Punjab as well. Admitting that to be so, it is for the Government of those provinces to deal with those diseases and I am glad to inform the House that His Excellency the Governor of Bengal has been able to diagnose the disease properly and correctly and is administering remedies by taking various constructive methods which I am confident will in a very short time be able to cure the province permanently of that fell disease of terrorism. Sir, in the same way it is the duty of the Government of the Punjab to take remedial measures against the disease of terrorism. But even then may I ask as to what right have we, in the Central Legislature, to thrust a piece of legislation for combating an evil which is not in existence in other provinces excepting those two. If there is any pain in any part of the body, a good doctor at times prescribes the application of a piece of blister on that particular part of the body. No doctor worth the name excepting a quack ever suggests the blistering of the whole body for curing the pain felt in a limb of the body or in any particular part of it. Here, Sir, to combat the localised disease of terrorism, local remedies are required and, as I said before, thanks are due to His Excellency the Governor of Bengal for finding out various remedies, both pungent and palliative, to cure that local disease. But to cure that local disease in the Punjab and Bengal, the Government of India is suggesting the blistering of the whole of India, by the enactment of this caustic measure, which appears to be nothing but a quack remedy of a quack doctor! The next object of the Government of India is to combat the civil disobedience movement and picketing. Sir, here I think I will be well within bounds if I discuss as to what is really civil disobedience. It is the disobeying of laws which people of India think have been thrust on them by a foreign Executive. That being the ideal of the civil disobedience movement the passing of the present measure in the teeth of the public opposition will, I venture to think, be another weapon and a very good weapon in the hands of the civil resisters. The passing of such measures I believe practically helps the civil disobedience movement rather than checks it. Last but not the least important argument of Government is the suppression of the Press. Sir, in the whole of India the Government of India finds only the European Press and the European news agencies to be friendly with them. Is there any Government in the world where the Executive finds only the foreign Press to be friendly with them and the whole of the national Press against them, I think India is the only solitary country where the Indian Government is not friendly with the Indian Press but only hobnobs with the English Press. Sir, the passing of such legislation will only help in the antagonism between the Government and the national Press which is far from desirable. Friendship can never be cemented by means of coercion. The Press clauses are nothing but coercive measures meant for ruthlessly checking the development of Indian journals and journalism. In every independent country the Press is one of the best engines for the political advancement of the country but India being a dependency must be deprived of her right of developing the Press and journalism.

[Mr. Jagadish Chandra Banerjee.]

In a nutshell I must say that the Bill could have been improved by the amendments of clauses and by extending the life of the Bill by a further period of a few years but as Government was determined not to have any amendments even by way of a change in the punctuation in the Bill the Opposition had no other alternative but to oppose the Bill both on its merits as well as a protest against the method of recommendation and certification adopted in getting law after law passed against public opinion and sentiment.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Mr. President, you have given us very salutary advice. You have asked us to discuss this Bill in a reasonable temper. I can assure you, Sir, that whatever my feelings may be, and I do not conceal from you that they are very strong, I shall try to discuss this Bill in a reasonable temper. The Honourable Mr. Sloan said that he hoped the Council would discuss it without heat and rancour. I can assure him that in my philosophy there is no place for rancour, and as for heat, our complaint is that the Government is very cold and we are suffering from cold in Simla. Sir, Mr. Sloan has asked us to discuss this Bill with a full sense of responsibility and he has laid the blame fairly and squarely upon the other House for rejecting the measure and therefore forcing the Government to certify the Bill in its present form. Sir, the question that I shall consider is, is the action of the Government in all the circumstances such as would justify this House in supporting the Government ? The Executive in this country is an irremovable one ; this irremovable Executive is responsible to the Parliament of another country for the discharge of certain elementary and primary responsibilities. Now, Sir, in a Constitution like this the power of certification has been given to the Executive, so that the Legislature may not be able to cripple it by depriving it of legislation which it considers essential for the discharge of its primary responsibilities. I recognise that the Executive alone can in these circumstances be the judge of whether a particular measure is or is not necessary for the discharge of their responsibility. But, Sir, while recognising this, I make a distinction between the letter of the law and the spirit of the law and I would urge that the use of certification on the present occasion is against the spirit of the Constitution. The power of certification, Sir, is in the nature of an emergency power to be used for essential purposes in an emergency for a limited period. Now, Sir, it could never have been the intention of the framers of the Act, it could never have been the intention certainly of Mr. Montagu, the principal author of this Constitution, that this power should be used to place on the Statute-book a permanent measure of extraordinary severity. No Executive can need legislation of this character permanently ; the power of certification, if it is to be used at all, should be used only for temporary and emergent purposes. What is the definition of emergency ? I was looking up the dictionary and I find that " emergency " is defined as " a sudden condition calling for immediate action ". Now, Sir, Lord Chelmsford said in inaugurating the New Constitution that the principle of " autocracy " had been abandoned and what do we find 15 years after this Constitution has been in operation ? We find that the spirit of autocracy is very much alive and that behind all constitutional forms we still have the undiluted autocracy of the Executive in this country. We also

find that the Government of India has not been slow to take lessons from countries which have ceased to pay homage to the democratic principle. Sir, only a great emergency could have justified, if at all, a measure of this character, but here the emergency is a permanent one. Government cannot visualise a time when this emergency will disappear. It is, I say, Sir, a sorry confession for any Government to make, for what does this confession really come to? It comes to this that Government feel that hereafter in spite of the much vaunted reforms they can only govern by measures of extraordinary severity like this Bill. Assume for a moment that the Assembly was wrong in rejecting the Bill at the Consideration stage. I personally think that it was perfectly right in rejecting it at the Consideration stage. But I shall assume for the sake of argument that the Assembly was wrong in rejecting it at the Consideration stage. Was it necessary for Government to have introduced this Bill, the identical measure, and not listen to the more moderate criticism of their more friendly critics? I am emphasising this aspect of the matter as the House is a revising Chamber and the question before the House really is whether in view of the procedure that Government have adopted, whether in view of all the circumstances of the case, the House should support the Government and revise what the other Chamber has done? The House is entitled to ask, has any response been shown by Government to the popular views as voiced by the more moderate critics of the Government in the other House? In a struggle between the Government and the other House in a Constitution, like ours we ought not to support Government until we feel convinced that Government has shown a spirit of reasonableness, until we feel convinced that Government has shown a spirit of responsiveness, towards at any rate the more moderate critics in the other place. Sir, if we think as I do that the Bill goes much beyond the necessities of the situation, if we think as I do that an outrageous measure of this character ought at all events not to have been placed permanently on the Statute-book of the land, then I say we ought not on a supreme occasion like this hesitate to assert ourselves and that indeed we ought to record a decisive vote against Government on this matter.

Sir, I will now come to the clauses of the Bill itself. The Bill is admittedly of extreme severity. I have, in reading through the Bill, tried to discover a principle behind the Bill. Sir, what are the principles behind this measure? The principles behind the measure are restriction of freedom of the individual in certain essential matters and substitution of executive discretion for the rule of law as a permanent feature of our jurisprudence. Now, Sir, I do not want to harp on elementary propositions. But I will say this that these principles are a direct negation of all that we have been taught to admire in British institutions by our British masters. If I was asked what was the greatest contribution that Britain had made to the political organisation of the world, I would say that it was this conception of the rule of law. Things have come to such a pass in this country that you feel that you can only govern it by going back upon all your principles and as one who admires British institutions I am not going to help you to do that. Sir, let me examine this measure for one moment. What are the powers that it gives? Clause 5 makes it a penal offence to publish or re-publish proscribed literature. Now, Sir, the original order was an executive order; it may itself have been wrong. Two wrongs do not make a right, and while on this question of proscribed literature, may I

[Mr. P. N. Sapru.]

say, Sir, that Government has not in all cases exercised its powers wisely and discreetly. I find, Sir, that some very great literature has been proscribed. I will refer, Sir, to three books, books with which I fundamentally differ, but books which I think every intelligent man ought to read with intelligence and care. The first is Trotsky's *History of the Russian Revolution*. It is proscribed. Ralph Fox's *Lenini* is a proscribed book; and so is Strachey's *Coming Struggle for Power* a proscribed book. These books are not likely to be read by unintelligent men, but by intelligent men who have given thought to these grave questions of economic reconstruction. These books can only be read by men with a university education. It is an insult to my intelligence to be told that if I read Trotsky's *History of the Russian Revolution*, that if I read a book by one of the principal actors in the Russian drama, I shall be converted to his point of view and I shall not have sense enough to distinguish between what is right and what is wrong. Sir, that is how the power of proscribing books has been used. It has been used to stifle thought, to stifle the free expression of public opinion on these matters, to make it impossible for those who want to keep themselves in touch with modern thought to do so.

THE HONOURABLE THE PRESIDENT: What effect would it have on men of lesser intelligence?

THE HONOURABLE MR. P. N. SAPRU: Sir, men of lesser intelligence are not likely to read these books. The only people who are likely to interest themselves in these books are students of political philosophy. I have been a teacher of political philosophy myself and I can assure my Honourable friend, Sir Henry Craik, that he will find that our students can discuss very intelligently these problems of communism, fascism, liberalism and conservatism, and he will find in a university debating society very intelligent criticism of communistic philosophy, and they are able to make this intelligent criticism of communistic philosophy because they have read some communistic and socialistic literature. If you want to proscribe all such books, you will have to proscribe the works of men who have occupied positions as Members of His Majesty's Government, such as the writings of Sir Stafford Cripps. You will have to proscribe the books of Professor Laski, Bertrand Russell and others, which are very nearly communistic, though not wholly so. Where are you going to stop? If you want to deal with communism in this stringent manner, you will have to shut up your universities. You will have to deport your teachers of philosophy, your teachers of economics, your teachers of politics, your teachers of history. You will then have peace, but it will be the peace of the grave. That is not the way in which you will be able to deal with communism. I do not accept the communistic philosophy. I think it is fundamentally wrong as a philosophy. But I do say that the communist has a right to express his own opinions so long as he does not commit any overt act. I will revert, Sir, to the question of communism a little later.

THE HONOURABLE SIR HENRY CRAIK: May I point out to the Honourable Member that the prescription of such books is not done under this Bill?

THE HONOURABLE MR. P. N. SAPRU : I know, Sir. I was pointing out that the original order of proscription may have been wrong and therefore it became necessary for me to comment on this power of proscription which you have under this Act of 1908. I am not a supporter of the other Act either.

I will now come, Sir, to clause 7 which deals with picketing. This clause would make what is called peaceful picketing a legal offence. Now, Sir, I am one of those who look upon peaceful picketing as a perfectly legitimate weapon of propaganda. Sir, I think it is one of the elementary rights a man should have. I should have the right of persuading, cajoling, and remonstrating with my fellow countrymen in regard to matters which I consider essential. The wording of the section is too wide, it would make many legitimate activities an offence. What will be the effect of this section? Sir, so far as violence or intimidation is concerned, that of course can be dealt with under the ordinary law. What you want really to do is to make picketing cognisable. Well, really the right to complain against assault, the right to complain against annoyance, is in the nature of a personal right and it is regarded as a personal right for very good reasons. You want to convert this personal right to complaint into a criminal offence cognisable by the police. What will be the position under the section? I may have very good reasons for not proceeding against, say, a lady who is loitering about my shop. She may be my sister; she may be my daughter, she may be a friend's wife? And yet because that lady is loitering near my shop, some policeman—and we have got not over-scrupulous policemen in this country—can arrest her, and if I am a truthful man I will have to depose against some very near and dear relation of mine. And what will be the result in my case? You will make my position with my people, with my friends and relations, with the society in which I live more difficult. Very difficult indeed. You say that this right is necessary in order that business men might be protected. May I ask, Sir, whether the Government has received any representations from Indian Chambers of Commerce in regard to this matter? May I ask, Sir, whether business men really like this change in the law? After all, if some ladies are proceeded against for loitering about shops business men of the locality might find their own business affected. Sir, you say that this right is necessary because that is the form which civil disobedience will take in future. No, Sir, civil resisters welcome arrest. They want to be arrested. How are you going to deal by this clause with civil disobedience? You are simply giving them an opportunity to be arrested. They have raised suffering to the level of a religion. That is my chief difference with them. I do not believe that you can lift suffering to the level of a religion as they do. Then, Sir, I say this power can be used against honest labour disputes. The right to refuse work if conditions are unsatisfactory is a right which organised labour has won after a great deal of struggle and it will make the work of the honest trade unions very difficult. In a strike, it may be necessary for the strikers to place certain pickets and a Government of vested interests—and such Governments are quite possible under the New Constitution—a Government of vested interests might well lose its head and use this power to suppress legitimate trade union activity. Sir, I think it is a very dangerous change in the law and so far as I am concerned my difference in this matter is of a very fundamental character.

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Then, Sir, I shall go on to consider the provisions in regard to unlawful associations. Now, Sir, the order declaring an association to be unlawful will be an executive order and it will not be open to the association to go to any court and show that it is not in fact an unlawful association, that its activities are not in fact unlawful. I might point out that Government have not limited this power of declaring associations unlawful to violent associations only. It will be possible for you to attack under this law what you call seditious organisations and what some of us would call patriotic organisations. Now, Sir, you go further and what you do is you confiscate the properties of these organisations. You take charge of the moneys of these organisations and the organisation affected cannot go to a court of law and say: "Well, this order is wrong. We are not really an unlawful organisation". Of course, if the money is confiscated what the organisation can do is to show that the money did not belong to the organisation. There you are protecting the rights of a third party and not the rights of the organisation itself. Well, we talk, Sir, of the sacred rights of property. We accuse Russian communists and German Nazis of attacking private property. Here, a mighty Government confiscates the property of its subjects, and these subjects, who pay allegiance to that Government, who have not been declared by any court of law not to pay allegiance to that Government, they have no opportunity to show that the order declaring them unlawful is wrong. It is a monstrous proposition which I am not prepared to accept for a moment. I therefore cannot accept this clause.

I then come to the provisions in regard to the Press. The Indian Press has been attacked very often, sometimes unreasonably, sometimes reasonably, for misbehaviour. I am not here to defend the dirty press. But what are the powers that you give? Here again, your sections are worded in very wide terms. You can demand a security against the Press for almost anything in the world, for anything which tends directly or indirectly to do the things mentioned in your clauses (a), (b), (c), (d), (e), (f), (g), (h) and (i) of section 4 of the Indian Press (Emergency Powers) Act, 1931. And what is the interpretation that Judges have placed on this right of appeal given to the Press to go to the High Court? High Courts, Sir,—I am referring to the judgments of Sir Lawrence Jenkins and Sir Abdur Rahim,—High Courts think that almost anything in the world can come under this law. Any attempt to bring into hatred or contempt, directly or indirectly, the Government established by law in British India will come under this clause. What will be the Government established by law in British India hereafter? It will be—at any rate this is what you tell us—a responsible Government in the provinces and a semi or quasi-responsible Government at the centre. Under a system of responsible Government we have the Opposition and we have the Government, and the Opposition cannot have much love for the Government. It will be the business of the Opposition to discredit the Government established by law in British India. It will be the business of the Opposition to promote disaffection against Government. It cannot certainly have affection for the Government and one learned judge defines sedition as want of affection. The opposition press will be at the mercy of those with whom they differ fundamentally. In England, the law of sedition is different. There you have got to prove an overt act before you can get a conviction for sedition. That is not the position

under this section. Therefore, Sir, the position is that you have placed an enormous and intolerable burden—an almost impossible burden—upon the Press affected. The man who is affected by this order will have to show the impossible. He will have to show that directly or indirectly his words could never have meant what the Government say they do mean. The appeal is therefore illusory, and I would therefore say that what you really want to do is to control the Press. What you want to do is to muzzle the Press, and that is really the object of this measure before the House. Sir, the Indian Press has rendered great services to this country. The Indian Press can be proud of its record. It is a press which has produced persons of the type of Surendra Nath Banerjee, Motilal Ghose, Kristodas Pal, G. Subramania Aiyar, Rangaswamy Ayyangar, Mohamed Ali, and many other eminent journalists. There are among living journalists my distinguished leader, C. Y. Chintamani, K. Natarajan, Kalinath Roy and S. A. Brelvi. I think a word is necessary on an occasion like this in praise of the Indian Press. But I will submit that it is possible for an autocracy to control a Press. It is possible for a bureaucracy to control a Press. But under a system of responsible Government, a free Press is essential. You cannot have a liberal democracy and a controlled Press, for, after all, you must give a chance to the Opposition parties to educate public opinion, to influence public opinion, in their favour. That is the meaning of liberal democracy and that is the difference between a Totalitarian State and liberal democracy. In a liberal democracy you must have what Professor Barker would call a free competition of ideas. Impartial administration of a law like this in a system of responsible government would be well nigh impossible. You say that the reasonable Press need have no fear under this law and that you have been using your powers very discreetly, that the Indian Press has been abusing its powers, that your experience is that whenever you do away with the Press Act, violent and seditious writings become more frequent. We have been supplied with some selections from “Press comments in connection with Press legislation”. I have been through all these pages—I think they cover about 25 pages—and I find that the writings you object to are from papers published in Bengal and the Punjab. So far as my province is concerned, I do not find a single quotation from any newspaper in my province. I think, Sir, I am entitled to claim that my province at any rate has a clean record in the matter of the Press. Why should you penalise the Press of a whole country for the faults of my Bengal and Punjab friends? Sir, Bengal and the Punjab have their peculiar problems, and I see no reason why the rest of the country should be penalised for the faults of Bengal and the Punjab.

Then, Sir, so far as I can see—of course, I shall be corrected by the Honourable the Home Secretary if I am wrong—so far as I can see, these writings have not been pronounced to be seditious or violent by any court of law. I am quite prepared to recognise that some of these writings are quite indefensible—absolutely indefensible. I have got no good word to say about these writings, and particularly the writings which directly or indirectly encourage or incite violence. But, after all, it is a point that these writings have not been declared to be seditious or violent by any court of law, and I cannot substitute my judgment for the judgment of a court of law. You say that you need these laws because if the Press law is relaxed or modified, writings of this character will become more frequent. My answer to that is

[Mr. F. N. Sāpru.]

that you have under the existing law ample powers to deal with seditious or violent writings. You have section 124A, which is very widely worded; you have section 153A which again is widely worded; you have section 108 of the Criminal Procedure Code, and I do not understand why action has not been taken in many cases under section 108 of the Criminal Procedure Code. You have, as pointed out by my Honourable friend, Mr. Mehrotra, the Newspapers (Incitement to Offences) Act. There are many other provisions of the penal law under which you can deal with these men. You say that you really want preventive powers. Well, how far are you going to extend this doctrine of preventive powers? In some parts of our province dacoities are becoming very very frequent; then why not invest your police superintendents and your infallible district magistrates with preventive powers? Why not let them act on the information of spies and informers in regard to these dacoities also? Sir, we cannot really go to the extent you want us to do. The doctrine of preventive powers is a dangerous doctrine. The subject has been given certain rights. Municipal courts exist in order to see that the subject gets redress for any grievance that he may have against the executive. We can not dispense with judicial procedure. Then it has been said that in spite of these press laws the number of newspapers in this country has increased. I should like to know the political complexion of those newspapers. No information has been supplied to us as to whether these newspapers which have so increased in recent years are of the loyalist kind or of the patriotic kind. I should also like to point out here that on account of the economic depression there is great unemployment among our young men, and some of these young men have started small presses and some people have helped them to do so in order that they might get suitable employment and be away from dangerous activities. Therefore it is no answer to say that the number of presses has increased. Sir, I should like the House to realise the difficulties of pressmen in this country. It is a very poor country. Rs. 250 may not mean much to my Honourable friend the Home Secretary, but they mean much to the men who start these newspapers and the forfeiture of security means much to them. And unemployment is growing among our young men. There are very few careers open to them, and if you make it difficult for them to join the profession of journalism you are really depriving them of an honourable career. We want a healthy and virile press under a system of responsible government, and soon hereafter we shall have responsible governments in the provinces. If you make it obligatory on these men to deposit securities, or if you reserve to yourself the right of demanding securities you may make it impossible or difficult for the more honourable type of journalist to join the journalistic profession. He will always have the Sword of Damocles hanging over him. Sir, it is no use your saying that these powers have not been misused. The tendency to misuse a power is always very great. We find that our High Courts have got certain summary powers under the contempt procedure and our experience has been that those summary powers have not always been used in all cases wisely. Human nature being what it is, once a man is invested with arbitrary power the tendency to use that arbitrary power in an arbitrary manner becomes irresistible. Then, as I say, you will prevent the reasonably honest men from entering the profession of journalism because they will always

feel that they will really have no redress. They may write something which they think all right but the district magistrate or the Local Government may take a different view. The journalist is absolutely at their mercy. Therefore they hesitate to join the journalistic profession. That fear works in the minds of our young men. I can tell you my own experience as an educationist. I was for a long time Secretary of the Students' Advisory Committee and many students used to come to me for advice as to what career to adopt. Well, some of them were brilliant and capable writers and I would say, "Why not join journalism?" But they would say, "It is a very risky profession. We might get into jail or have our security forfeited. We cannot join journalism". That is the mentality that you develop by these preventive provisions. And because, Sir, I think the development of this country depends upon the existence of a healthy and virile Press, I must strongly oppose the proposals in regard to the control of the Press. Those proposals admit of no compromise.

Sir, I come to the case for these measures as put forward by the Honourable the Home Secretary. What is the case he has put forward? He says that in this country we have to deal with four great dangers, civil disobedience, which is in abeyance at present but which may be revived any moment, terrorism, communism and communalism. I shall deal with all these dangers, and with the civil disobedience danger first. Congress has suspended civil disobedience and Congressmen say that the suspension is genuine; they are reverting to constitutional methods. Academically and theoretically it is true that Congress still stands committed to civil disobedience, but what does that really come to? There are dissenters in every country; there are passive resisters in every country; there are organised groups in every country who question the absolute sovereignty of the State, who reserve to themselves the right of voicing their dissent from laws which they regard as immoral by disobeying those laws and inviting upon themselves the consequences of that disobedience. Civil disobedience, as far as I have been able to understand it, is not comparable to the general strike of syndicalists. The idea behind civil disobedience is to invite suffering and by so doing to melt the hearts of your opponents. Repression is not the way to deal with men of this temper who have no objection to going to jail, who welcome jail. In any case I see no reason why if you follow a wise and generous policy there should be any civil disobedience in this country. In any case, I say you have ample powers under the present Constitution to deal with any emergency and you will have ample powers to deal with any emergency under the Constitution that will be functioning next year in this country. If Ministers fail, there will be the Governors and the Governor General who have ample powers under the New Constitution to deal with the civil disobedience movement. Why do you wish to provide yourself against a possible contingency? Is it because you want a further safeguard? Is it because you think that this is one new safeguard under which the New Constitution must function? If you will permit me to say so with all respect and in all humility, I think, Sir, the real reason for this Bill is that it is in the nature of a further safeguard.

I come to the next danger, terrorism. Now, Sir, I am one of those who believe and believe very earnestly and sincerely that human life is sacred. I would not hurt even a fly and I do not wish to say one word in extenuation

[Mr. P. N. Saprū.]

of murder. Murder, Sir, is murder, whatever the motive of the offender and I think the question of motive is entirely irrelevant; I do not wish to go into that question at all; but, Sir, we have had this terrorism for the last 27 years and I wish to ask myself, why is it in Bengal that we have terrorism. The duty of a statesman is to take a broad view of a problem; here is this problem, and we want to know this and I hope my Honourable friend the Home Secretary will consider it from this point of view. Is there any social responsibility for terrorism? Is society or is Government in any way responsible for this terrible cult of terrorism and if there is some social responsibility for terrorism is it not our duty to see that we wean away by measures of a constructive character the youth of our country from this terrible cult? Can we not wean these misguided youths, these perverted youths, away by a constructive policy of social and economic reconstruction from this terrible cult of terrorism? When I read the statement of Bina Das, I asked myself. How it was that a woman who might have made an admirable wife and a good mother came to end as a criminal? No thoughtful man could help asking himself the question, is there any social responsibility for the crime that she committed? While suppressing terrorism by all the legitimate means open to us, we ought also to try and find a permanent cure for it. We ought not to deal with terrorism by a mere policy of negation; we ought to have a more constructive policy, a policy which will provide employment to the youth of this country, a policy which will enable the youth of this country to see the vision of freedom in their lifetime. Sir, if you will follow a wise policy I assure you that you will have no terrorism in this country, for the terrorist cult is against the culture and civilisation of India. Sir, I hope the Honourable the Home Member will not misunderstand the spirit of my remarks—I am speaking as one who wants to co-operate with him if I can in getting this country rid of this terrible cult.

Then, Sir, we come to the question of communalism. Now, Sir, my Honourable friend the Home Secretary has not made out that the communal situation is worse than it was previously; he has asserted that it is worse than before; but he has not made that out. The only apple of discord between the communities is the Communal Award, but, Sir, so far as the Communal Award is concerned, the Act has been passed. Indian political parties are not going to ignore this Constitution, whatever their views in regard to the nature of this Constitution or the Communal Award might be; economic issues are coming to the forefront and in my own province, I find the President of the Hindu Mahasabha working in close co-operation with the President of the All-India Muslim Conference. I do not belong to their group. Sir, I say this to show that it is a welcome sign of the times that economic issues are coming to the forefront. Government has accused the Indian Press of encouraging communalism? I would ask, is the record of the Government in regard to communalism clean? I do not say that you have directly encouraged communalism. It will be a difficult statement to substantiate, though one of your own men, Lord Olivier, on one occasion made that statement. But is it not a fact that communalism is the way to high office? If I can show that I am a great communal leader, I can be a Rai Bahadur if I happen to be a local magnate or a Khan Bahadur if I happen to be a Muslim and even something bigger if I

happen to be a man with higher aspirations. Sir, if we want to understand what communalism is, what is the reason for this communalism, we have got to go back to 1858 and all that has happened since then. We have got to go back to 1905 and all that has happened between 1905 and 1935. I am prepared to recognise that the failure of our nationalism to solve the communal problem has had disastrous effects upon our national life and I have no word of praise for communalists, whether Hindus or Muhammadans. But I want Government, Sir, to face facts squarely and I would say that a part of the responsibility for this communalism rests with the British Government in India. Sir, in any case the communal problem is acute at present in only two provinces as far as I can see.

THE HONOURABLE SIR HENRY CRAIK : No.

THE HONOURABLE MR. P. N. SAPRU : We have had no communal riots or very serious communal riots. We had one at Ferozabad ; but, Sir, we have had many more riots in past years. I should like the Honourable the Home Member to compare the figures—

THE HONOURABLE SIR HENRY CRAIK : Secunderabad.

THE HONOURABLE MR. P. N. SAPRU : It is not in British India. It is territory administered by the Political Department.

Sir, the Indian Press has been blamed for encouraging communalism. I should like to pay a tribute to the Indian Press. There are great papers which recognise their responsibility and the Press has been a powerful factor in the growth of real and true nationalism in this country. No one can accuse our Congress friends at any rate of communalism and you can have no fear so far as the Congress is concerned in this respect.

Now, Sir, I come to the last danger, communism. What is the evidence that there is communism in this country ? My Honourable friend says : " If you will come to the archives of my office "—and I shall not be permitted to those archives—" I will point out to you evidence that these fellows are being financed from Russia or some other country ". We cannot talk of Russia now. Anglo-Russian relations are very good. But what is the evidence that there is communism in India. A Congress socialist cannot be described as a communist. His ideology is not Marxian. If your idea is to stop communist ideas flowing into India, then you must be logical. You must shut up your universities and secondary schools. You must prevent the rapid growth of communications. You must isolate India from the rest of the world. You will have to do many more things also. No, Sir, that is not the way in which you can deal with communism. I venture to say that the Indian soil is not congenial for the growth of communism. We are a very superstitious people ; we are a very religious people. We do not believe in the materialistic interpretation of history. Sir, I will just repeat a conversation which I had with a friend who called himself a communist. I am afraid I am taking a great deal of time—I should like to cut short—I hope you will permit me, Sir, to say what I want. I had a conversation with a friend who imagined he was a communist. He was a Master of Arts of our University, presumably a well educated man. I asked him, " What do you mean by communism ? " He replied, " Adult suffrage ! " That is the communism, we have in this country. There is,

[Mr. P. N. Saprú.]

I will admit, much dissatisfaction with the present social order. There is much dissatisfaction with the present economic order. There is, I will admit, some economic unrest. There is much dissatisfaction with the present economic order because the average man feels that he has not a fair chance in this country. He cannot get employment. If our property

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owners will realise their responsibilities, if our capitalists will realise that property has certain responsibilities attached to it, if our Government will follow a policy of real national economic development, if they will adopt a wise policy of planned economy, if our capitalists will be fair to the working classes, I can assure you, Sir, that communism will never flourish in this country. The genius of this country is against communism. But, Sir, in the name of communism what have Government been doing? They have been attacking organised labour. They have declared certain labour organisations unlawful. Some of these labour men have gone to courts of law and they have been declared to be innocent. My respected friend, Mr. Joshi, tells me that some of these organisations—and I am prepared to accept the statement of Mr. Joshi because Mr. Joshi I know is not a communist and is a very moderate man—that some of these labour organisations which have been banned were not communist at all. There were some men in the organisation who had communistic ideas but is that a good reason for declaring a whole organisation illegal? I say, Sir, this bogey of communism you have only created in order to get the votes of our friends with vested interests, in order to induce these gentlemen to vote for this extraordinary measure.

I will come, Sir, to another consideration, and that is a moral consideration. Sir, in dealing with these dangers, the methods employed must be such as a wise man would be justified in employing. The State is not above morality. We cannot have two standards of morality, one for the individual and the other for the State. There is one absolute standard of morality and that is a standard which is as much binding on the State as on the individual and if I find, Sir, that these measures are such that I cannot describe them as moral measures, I am bound to condemn them.

Then, finally, I come to an over-riding consideration. Next year we shall have provincial autonomy with Federation following soon after. Indian Executives and Indian Legislatures will be primarily responsible for the maintenance of order. The New Constitution is an extraordinarily conservative one. It is full of safeguards and reservations. These we can fight. But it is the extraordinarily conservative character of the New Constitution which has troubled me. Vested interests will be in a dominating position. Even Lord Lothian in an admirable article which he has contributed to *Twentieth Century* admits that vested interests will be in a very strong position. In fact, it will not be possible for progressive political parties to hold power at the centre. Now, Sir, there is no guarantee that these powers will not be used by these Indian Governments of the future to crush their opponents, the parties that will be in opposition to them. Indian political parties have yet to learn the political game. Sir, we cannot be indifferent to the position of democracy at the present day. We know, Sir, how dictatorships have been established in Germany, in Italy, in certain other continental countries. These political parties have acquired

power through the constitutional machinery and they have used that power to establish a dictatorship of the right or the left.

THE HONOURABLE THE PRESIDENT : You are not speaking of the Government of India.

THE HONOURABLE MR. P. N. SAPRU : Sir, I am coming to a most important consideration. Sir, Governments of the right and the left may try to establish, under the cover of laws, here also a Totalitarian State. The difference, Sir, between a Totalitarian State and a liberal democracy is that, while both claim to derive power from the people, in the latter you have what you may call a free competition of ideas. It is clear that democracy cannot function without freedom of association and freedom of the press. There is danger, therefore, Sir, that under an Indianized Government these powers may be used by Governments of vested interests to oppress their opponents. Situations may be created which may provide occasion for the suppression of opposition groups and the establishment of a dictatorship. Indeed, Sir Malcolm Hailey in a paper which he read at Oxford told us that that is how Indian genius will assert itself, that it will assert itself in some form of personal dictatorship. Well, Sir, I do not wish to see the funeral of democracy before it is born in this country. There is, as far as I am able to see, no safeguard against a danger of this kind. What more easy than to forfeit the funds of your opponents, than to declare the associations of your opponents unlawful and then go forward with your policies and your programmes? We do not want, Sir, a so called responsible government of vested interests to be used as an instrument for crushing the democracy which is yet in its infancy in this country. We are living in a period of great economic depression which has hit our vested interests hard. They are terribly afraid of new ideas and they do not know, Sir, how these ideas will work out in life. It may be that they will try to establish dictatorships. There is danger that these powers may be misused by governments of the future. I would rather trust the present Executive than an Indian Executive of vested interests in dealing with these dangers. Sir, I have little more to say. The Bill challenges the fundamentals of one's creed. I am not prepared to deny that creed. I, Sir, have a belief in liberal democracy. I believe in it with the fervour of religious conviction. And this Bill is inconsistent with the basic principles of Liberal Democracy, as I understand them. As one who values certain principles, I cannot be a party to this measure and I shall consider it a sacred duty to vote against this measure.

THE HONOURABLE MAHARAJADHIRAJA SIR KAMESHWAR SINGH OF DARBHANGA (Bihar and Orissa : Nominated Non-Official) : Sir, I rise to support the Bill that is now before the House. I do so because I am convinced, on looking at the facts and figures that have been brought to light in the course of discussion on the measure, that it is necessary for maintaining tranquillity in this country that the Executive should be armed with powers which this Bill would confer on it.

We cannot disguise the fact that there are at present two conflicting schools of political thought in this country. One of them believes in revolutionary methods, considers disorder as a necessary prelude to order, and aims

[Sir Kameshwar Singh.]

at destroying the existing order of things. The other school of thought is definitely in favour of a peaceful atmosphere and a firm believer in the process of evolution. There are many shades of political opinions within and between these thought currents, but they, if I may say so, constitute distinction without difference. Generally speaking, the root cause of this main difference in outlook is economic. The revolutionary mentality is chiefly the mentality of what is termed "have nots"; while the peaceful evolution is considered essential by most of those who are described as "haves" or "stake-holders", as well as by people who are fruitfully occupied with the business of their calling. I am not referring to any party, as every party has got within it members holding different shades of opinions although agreeing to the majority rule. I am not referring to the avowed object of any association or individual. I allude to the mentality of people in general.

That being so, Sir, the stake-holders who look to the Government for the protection of their rights and interests, must consider it to be their paramount duty to strengthen its hands to keep in check all those factors that have disruptive or coercive tendencies.

Sir, I will not discuss the details of the Bill, because it is not a new measure. It will only continue the existing law. We have seen how effectively it has dealt with the civil disobedience movement. If the terrorists' activities, communists' menace and communal unrest have not assumed uglier shape it is because the Executive are fully armed to deal with them. So we have to ask ourselves in respect of this Bill: "Should we wait till the civil disobedience movement reappears, till there are more murders and dacoities committed by the terrorists, till the communists party has got more recruits and better organisation and till the communal unrest has developed into a civil war and then re-arm the Executive with necessary powers to meet the situation or should we give it the power here and now to maintain a peaceful atmosphere?" Sir, prevention is always better than cure and I certainly prefer the second alternative.

We have seen how the situation has improved by the application of the law during these three years. I hope that it will improve further if the law is permanently on the Statute-book. Those only need fear the law who like the commission of the crimes which this Bill seeks to prevent. Others certainly have no cause for apprehension. Let me wish, however, that the public will attempt not to transgress it, and no occasion will arise for the use of the legislation. I appeal to the leaders of public opinion to bring about a situation in this country in which the law may remain a dead letter.

Sir, most of those who oppose this Bill attribute machiavellian designs to the present Executive. But they must remember that before long the present character of the Executive will have no place in the constitution of the country and the law that is being enacted at present will shortly be administered by Ministers responsible to the Legislature. The anxiety of the present Executive, as has been clearly explained by His Excellency the Viceroy in his Address to the Members of the Central Legislature on the 16th instant is to hand over the reins of office to responsible ministers in the best of condition. So I think that the allegation has no legs to stand. We have to recognise that

responsibility and power must go hand in hand. So long as we hold the present Executive responsible for the maintenance of law and order we must arm it with power to discharge its duties.

I have no doubt, Sir, that this House will pass the legislation.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal: Muhammadan) : Sir, I had no intention to intervene in this debate, but I rise, as I feel impelled, to make a few observations on the Bill now before this House as certified and recommended by His Excellency the Viceroy and the Governor General which he deemed essential to do in the interest of peace, tranquillity and the good government of British India.

I think, Sir, no Honourable Member of this House will deny the fact that although the inhuman and cruel activities of terrorism have apparently lessened in Bengal, it is still lurking there and, as stated by His Excellency the Governor of Bengal in a recent address at Dacca, the virus of terrorism is not yet dead.

I admit, Sir, coming as I do from Bengal and specially from a terrorist district like Midnapore, that Government was fully justified in bringing this emergency measure, the Criminal Law Amendment Act of 1932, which expires on the 18th December, 1935.

Sir, this Bill was twice placed before the other place, I mean the Assembly, which is the more representative and popular House and was twice rejected by that House. Now, Sir, may I know from the Home Secretary opposite what justification the Government of India have in forcing down our throat this bitter sugar-coated pill against the wishes of the accredited representatives of India ? I know, Sir, that this Bill will be passed by this House shortly by a majority of votes.

We are supposed to possess equal rights with the officials and call ourselves equal partners. But, Sir, when the question of advantages and self-respect come they always go to the official side. Sir, the Act of 1932 was admittedly directed to combat the triple menace, *viz.*, terrorism, communism and the civil disobedience movement. But it does not appeal to reason by any stretch of the imagination, what justification have the Government of India to bring this law in headlong haste in a recommended Bill before this House in the face of public opinion ? Again, Sir, I notice that the elected representatives of this House are always treated with scant courtesy and are asked to pass the Bill without giving the House an opportunity to amend it in line with popular demands. Sir, it would have been a wiser and a better course to delay this Bill and to hold it in abeyance till the period of its expiry. Government could have given warning to the Congress, the terrorists and the Press not to carry out picketing, and press agitation for subversive movements, and would have watched the situation, after the expiry for at least two months. If the warning had been violated, Government would then be justified in bringing in a more drastic measure than this Bill, and it would have received wide and extensive support of this House and the other House. The January session is not far off. Heaven would not have fallen or toppled to the ground if this Bill had been held in abeyance for two months more. Then public opinion would have been on the side of the Government.

[Mr. Mahmood Suhrawardy.]

Lastly, Sir, the Executive, Legislature and Judiciary, are the three great powers of the King. One should not trample on the other in the name of good government. Sir, I offer this criticism not in a spirit of opposition to Government, but from a sense of duty. Sir, I must make my position clear before the House as an elected representative before I cast my vote.

THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA (West Bengal: Non-Muhammadan): Sir, the Bill has been brought to this House in a recommended form which, in other words, means that this House has been practically gagged from discussing either the merits or the demerits of the Bill or to suggest any amendments for improving the Bill or its clauses. In other words, it means that whether this House wishes it or not, the Bill is finding its way through the wide door of certification on to the permanent Statute-book in the very form in which it has been brought before this House. In spite of all these difficulties I feel I will be failing in my duty if I do not speak a few words on this Motion.

Sir, in 1932, when the Criminal Law Amendment Bill was first introduced in the Legislative Assembly, it was done in such a form as to make the Bill a permanent measure. But good sense prevailed on the Government to meet public opinion as reflected in the other House by acceding to the request of the Opposition to enact the measure for a limited period and as such subsection (3) of section 1 was added to the original Bill for the purpose of limiting the life of the Bill to three years. Sir, now Government has again brought the present Bill before the Legislature for the purpose of enacting it as a permanent measure. Considering the circumstances under which this Bill was thrown out in the Consideration stage in the other House, it gives one the impression—and I believe a right impression too—that the representatives of the people in this country were not so much against the provisions of the Bill but were against the principle of making this measure a permanent one. I admit that special circumstances require special powers for the Executive to deal with emergencies. Such circumstances arose in 1932 and the Indian Legislatures rose to the occasion and gave the powers required by the Executive to meet the situation. At the present moment, Sir, the circumstances are quite different to those prevailing in the year 1932. The civil disobedience movement and all its consequential movements are gone for all practical purposes. The present Executive want those very powers given to them in 1932 for all time to come. Let us examine as to how far the 1932 Act achieved its object. It may be that the Act of 1932 has only partially achieved the object for which it was designed, and therefore the life of that particular law might require extension for a further period. Had the Government brought this measure with that object in view, I think the whole of India would have been willing to lend the measure their full support for the extension of the life of the Bill for a few years more. But, Sir, on the contrary Government's case is that the Criminal Law Amendment Act of 1932 has gained its object fully in crushing those very subversive movements for the purpose of which it was passed in 1932, and therefore they want the measure permanently on the Statute-book so that in the event of a recrudescence of those very movements Government might use these powers to meet such hypothetical situations if and when they arise. Sir, I am bound to say that no Legislature in

the world ever agrees to pass a legislation on a hypothetical proposition. No Legislature can ever agree to arm the Executive with such absolute autocratic powers as are contained in the present measure for all time to come. Further, Sir, in the event of a sudden recrudescence of all those subversive movements mentioned in the statement of objects and reasons appended to this Bill, the Government have certainly got the absolute right and full power under the present Constitution to pass Ordinances and during the lifetime of such Ordinances the Legislatures may be convinced not only of the passing of the present measure but even a stronger measure if that be necessary. Sir, I think I have proved that there was no necessity for Government to avail themselves of these extraordinary powers of recommendation and certification unless and until they proved to the people at large that the Indian Legislatures even refused to give the Executive these very powers for another limited period.

Before I conclude I would like to explain my position more fully so that my intentions may not be misconstrued. I am thoroughly prepared to agree with Government about the necessity of the extension of the life of the present measure by a few years more but at the same time I am not prepared to agree with them about the necessity of this measure being brought on the Statute-book for all time to come. But as it is not possible to suggest amendments to this recommended Bill for the limitation of the life of this measure I would therefore refrain from voting on either side.

THE HONOURABLE MR. G. R. CAMPBELL (Bengal Chamber of Commerce): Sir, I should like to correct, though I may be wrong myself, what occurs to me as a slight misapprehension in the implications of the phrase "the freedom of the Press". It has always seemed to me, Sir, that one of the main functions of the daily or weekly newspaper was that the ordinary man in the street could correct his impressions, that it was the medium by which he might distinguish between the truth or the falsity of the rumours and the gossip gathered as he went about his daily occupations. If that is so, Sir, then it seems to me that some Honourable Members attach too much weight to the point of view of the Press when discussing the freedom of the Press and do not think sufficiently of the people whose interests they must watch. My Honourable friend Sir Phiroze Sethna suggested that there should be a time-limit to this legislation. I should like to ask him if in laying down a standard of morality for himself he puts a time-limit on it? I do not think he does and I do not think that arises in this case, because if the law of the land is observed this Act will for all practical purposes become a dead letter.

Certain Honourable Members have referred to that occasion on which we were privileged to hear the views of His Excellency the Governor General and his reasons for recommending this measure. I suggest that he did not come to his conclusions without the most careful consideration, and I cannot imagine, Sir, that anything but the most mature judgment, the greatest consideration for the welfare of the people of this land, and certainly no thought of repression, guided the deliberations of that "very parfit gentile Knight". Therefore, Sir, I appeal to all Members to support Government and in this Honourable House of statesmen I hope that none will be found to be numbered among those people who cling to fictions the more obstinately, the more unpalatable they find the admission of facts.

Sir, I support the Motion.

THE HONOURABLE RAJA CHARANJIT SINGH (Punjab : Nominated Non-Official) : Sir, on behalf of my province I rise to support the Motion which was so ably moved by my Honourable friend Mr. Sloan this morning. The Bill before the House is not a new measure. It proposes to renew some of the provisions of the Bills of 1931 and 1932, which were duly passed by this House as well as the other. As a matter of fact no less than eight sections and one sub-section of the previous Acts are being repealed by this Bill. Now, Sir, Honourable Members are fully aware that all Local Governments are unanimous in asking for this Bill. Is there any justification for refusing this unanimous demand ? The situation in some of the provinces is such that I am afraid this Bill will not be sufficient to cope with it. The result is that some, like Bengal, have already passed special and more stringent Acts, and the others are going to do so very shortly. For instance, the Punjab Government asked for the retention of section 6. This will now have to be incorporated in the local Bill which is coming up in the Local Council next month. Some Honourable Members have spoken about the liberty of the individual. In my opinion that argument is really for the Bill and not against it. It restrains the liberty of only those who try to restrain the liberties of their fellow-subjects. Therefore it restores the liberty of all those whose liberty has been restricted by picketing, boycotting, etc.

Another objection which I heard this morning was that the Bill is all right, but that it should have been only for a limited period. Past experience has shown that a temporary Bill does not eradicate the disease. Only the symptoms are subdued. In order to have a permanent cure, a permanent remedy must be prescribed. Another objection which I heard was that it would prevent the diffusion of knowledge. I am sure the Honourable Member who made that assertion did not really mean what he said. By no stretch of the imagination can it be said that seditious and inciting articles diffuse knowledge. I hope this House will rise to its responsibility and support this Bill.

THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH (Bihar and Orissa : Non-Muhammadan) : Sir, many things can be said for and against the proposed Bill but with a clear conscience I cannot deny the necessity of a measure like this for stopping certain vicious movements existing in the country for the subversion of law and order. Sir, once when it is agreed that all those movements, which the Honourable the Home Secretary, Mr. Sloan, enumerated this morning, are in existence, whether in an active or dormant state, it would be very difficult for the majority of the Members of this House to deny the powers contained in the Bill under discussion to the Executive. Can any body deny that the activities of these movements are not opposed to Indian culture and society of which we are so proud ? I ask with all seriousness whether there is any body here or outside who would be willing to see a further widening of the gulf of communal feeling through the agency of the muck-room press, the cuttings from which have been supplied to us in the form of a booklet only the day before yesterday by the Government ? I can not but refer to the last picketing of schools and colleges which produced the worst effects and by which the lives of thousands of our brilliant young men were blasted for ever. By the terrorist movement so many brilliant lives of Europeans and Indians are lost for nothing. These improper movements from the West can never be made to yield good results on Indian soil. The only thing that we may seriously

consider now is not the denial of the powers to the Executive, whether white or brown, but to suggest to the Government to see that in applying the measure to each individual case the utmost care is taken to prevent the misuse of these wide powers.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay : Nominated Non-Official) : I wonder, Sir, whether the Government have not gone too far in making the alterations they have made in the Act of 1932 ? If the object was to conciliate their opponents or to make a generous gesture for the good of the country, all their efforts have proved futile. No response has been elicited and it has been treated with contempt. I believe, Sir, that those who have made up their mind not to be placated or conciliated will under no circumstances agree to any conciliation. It is unfortunate that in India a certain section of the educated classes is so opposed to Government. Living under the freedom of the British Government, with security of life and property, with justice, with freedom for industry, commerce, trade and professions, I cannot understand why there should be such implacable hostility, nay even malevolent and venomous hatred against them. It is said that they want their birth-rights. I should like to ask what those birth-rights are and whether their forbears under the Moghuls, Tartars and under their own Kings, had any ? Even at the present day if they were to go to any Indian Administration and ask for their birth-rights, they would get short shrift. If this is the result of the education planned by Macaulay, his shades would say, " Is this the pass to which British education has brought a section of the Indian public ? " Is that not really disheartening ?

Sir, conditions as they exist today are deliberately ignored by a party, though they do and must admit them in their heart of hearts. The policy which is being pursued at present is not unlike that of the ostrich which buries its head in the sand during danger. The nationalists with blinkers over their eyes and their ears plugged keep out all sight and sound. And all for what purpose ? Is it to prevent the passing of measures that are meant for the safety and tranquillity of the people of India ? Are they not yet satisfied with the disasters, the disorganisation and the misery that was entailed upon all classes including the masses by the miscalled disobedience movement ? It was no more than terrorism of another kind. Bombay's ghastly sufferings and horrors I described, Sir, in my maiden speech in 1932. Civil disobedience has been temporarily locked up, to be brought out at a propitious moment and the result would be chaos, anarchy, bloodshed, and a revolution on the crest of which they will ride to get power and prestige and to drive the British Government out of India. That is their underlying policy, which some barefacedly avow, while others have not the moral courage to do so. And what is the programme which has been sketched out ? It is that under the new constitution they will try to capture as many seats as possible, accept office and, on a difference of opinion with the Governor, resign in a body ; then there will follow another election ; they will get in again and repeat the same tactics ; and if they fail to achieve their purpose, start civil disobedience once again ! That is the programme of some of the nationalists. And such men have the hardihood to call themselves nationalists ! Nationalist forsooth ! They are the greatest enemies of the country. They are out for power and pelf, for self-aggrandisement and not for the masses for whom they allege to speak. Let the

[Sir Nasarvanji Choksy.]

Government remember that the Ethiopian can never change his skin nor the leopard its spots!

Why should the nationalists be afraid of this Bill is the question? Sir, on a memorable occasion at Bombay in 1932 when there was a large and representative gathering because of the fears entertained of the 1932 Bill, I said that those whose hands were clean had no reason to be afraid. I would ask the opponents, are you afraid now? I repeat today, Sir, those very words on the floor of this Honourable House and I say again that those whose hands are clean have no reason to be afraid. It is absurd to say that the Governor under the safeguards will terrorise his Council and put the members into jail, simply because they happen to differ from him. No Governor worth his while would ever abuse his powers.

The Bill, Sir, has not been discussed on its merits. Side-tracking, perfervid platitudes of the market place and extraneous considerations have entered into it. No reasoned arguments have been advanced. There has been a point blank refusal to face facts as they have been placed before them. What does that mean? It means simply that they are not prepared to do their duty to the country. With regard to the sections of the Bill, I would refer to two or three only. There is the question of picketing. Picketing can never be peaceful in India. In fact peace and picketing are not synonymous. It is exploitation for the purpose of hooliganism. Intimidation of a violent character is at the root. Trade disputes are also within its purview. It was a great blunder on the part of Government to have allowed it. It can never be a legitimate weapon for the redress of grievances of labour in India, whatever it may be in other better educated and more civilized countries. Then I come to the second and the most deplorable part which refers to terrorism. I would enquire into the machiavellian casuistry of Indian speakers and writers who in one breath laud and extol murder but condemn the act. Does it not savour of condoning sins one is inclined to by damning those one has no mind to! Sir, who can imagine what must be the feelings of the poor deluded victims who had been egged on to commit murders when they pay the penalty for their crimes? Have those inhuman monsters who incite them no pity for those whom they delude?

I would now ask, Sir, what measures have been taken by the nationalists who are supposed to be the guardians of the public to reclaim these persons? It has been said we ought to find out the root causes. What are the root causes? It is the faulty system of education in vogue that requires a new orientation. Is it not that false ideas have been instilled into or have been acquired by the youths who have been to the universities, who consider it beneath their dignity to do any other save clerical or professional work? The time has come when the battalions of graduates who are turned out every year should be put a stop to. Our universities should cease to function for about ten years, so that this flow of graduates may be checked, and those without work at present may be trained to some serious and useful kind of work that would enable them to maintain themselves. Otherwise the evil would grow on year by year and the number of unemployed B. As. would enormously increase. Sir, what little has been done in Bengal to reclaim the youths

who are in detention camps as detenus or released on parole is through the inspiration of Government officials. I must say that great credit is due to the interest evinced by His Excellency Sir George Anderson, the Governor of Bengal, who has just issued a practical scheme for the purpose. And it was he who was charged with some sort of connection with the Black and Tan movement in Ireland by a nationalist leader. Sir Samuel Hoare's scathing retort was that insinuation was worse than a lie !

Coming to the press, Sir, enough has been said about it. There is, however, another kind of press which I would call the " leaflet press " to which I would invite the attention of Government. They are merely leaflets printed upon coloured pieces of paper in various languages, containing a paraphrase of what has been said by the bigger papers, with lies, perversion of facts with the object of instilling hatred into the masses. They are cheap, avidly and gloatingly absorbed. I think Government should take precautions to see that the authors of these papers are properly dealt with.

And, Sir, what of the future ? I believe a day will come when those who have rejected the present Bill will rue the day if their party comes into power and its adherents are dissatisfied with the distribution of the loaves and fishes or through other causes. Verily they would ask to be saved from their friends ! On the other hand, another party in power may require the Bill for the sake of good government. Sir, neither party will thank this House for depriving them of a weapon of protection afforded by this Bill.

Sir, this Bill is essential for public safety, security and tranquillity. Of the dangers of communalism I would say nothing as instances are too fresh in our memory. But so far as communism is concerned, I cannot agree with my Honourable friend, Mr. Sapru, when he says that communism is alien to the genius of the people of India. We never know the subterranean ways in which communism works in India. The latest instance is what occurred in Bombay four days ago. Nineteen premises were raided by the police and cartloads of literature were removed for investigation. Communism is aimed at the undermining and overthrow of the constitution and of the British Government. Sir, black clouds are hanging overhead and wisdom dictates that we should not follow the policy of the ostrich. We have to keep ourselves awake, alert and furnish ourselves with the necessary weapons in our armoury to fight those whose sole desire is to oust the British Government from India.

Sir, with these words, I support the Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, it is my unpleasant duty to oppose the consideration of this Bill. I do so with the feeling that the stage in which the opinion of this House is invited on the point is such that no other course is left open to us than to oppose the consideration of the Bill.

Before referring to the details of the Bill, may I submit that I am not altogether opposed to the principles underlying the Bill. I concede that occasions may arise when the Executive may be armed with special powers necessary to control outbursts of passions or outbursts of political crime. And whenever such an occasion arises a legislature will be failing in its duty if it did not give the Government the necessary support in administering the country.

[Rai Bahadur Lala Ram Saran Das.]

There is no doubt that there was a situation in the past which required the Executive to be armed with special powers. But the question that faces us today is whether those powers are still necessary, whether any modification is called for and whether the powers granted in the past have been used for the purpose for which they were intended.

I am sure that every fair-minded person will concede that the political temper of the country is calm and the Government itself has admitted that by partial omission of certain clauses of the Act. The Government, however, contends that it must be armed with these powers permanently to deal with future contingencies. I am sure that this wish of the Government springs more from their desire to be on the safe side, than because of any development which they fear in the immediate future. My answer to this is that the Government, having gained the experience of dealing with civil disobedience can, without difficulty, bring the law into force by an Ordinance, if and when the situation so requires. It would be unwise to arm the Executive with special powers in this respect permanently because it will mean that they will develop a psychology based on these laws as a normal state of mind and thereby retard healthy growth of administrative outlook in relation to democratic requirements of the modern age.

We have been told that though civil disobedience is not an immediate danger there are the triple dangers of terrorism, communism, and communalism. Let me examine them.

I have no doubt that every Indian who has not lost balance of mind will concede that terrorism is a greater danger to our own social stability than even to the Government ; therefore any measures that are taken to efface it from this country would receive our wholehearted support. But where the Government forgets its obligation to India is that it is trying to meet it by measures which aim at immediate results and do not likewise go to the root of the problem. What India needs is a permanent solution and that can be achieved only by removing its causes. I am glad that His Excellency the Governor of Bengal has partially attempted to provide these solutions and I hope that all Provincial Governments will direct their attention to providing a corrective to terrorism by improving the system of education and providing that outlet for the young men as would turn their minds from evil designs born of despair and misdirected towards political myth.

I come now to communism. The Honourable the Home Member himself admitted in the other House that this is not an immediate danger but that it might become a very grave one. Sir, frankly, I am confident that communism will not grow in this country if Government takes the precaution of not giving it undue importance and publicity. Therefore the best way to deal with it is through the ordinary law to take such action as is really called for and not to advertise it. Communism has attracted greater attention through press notices of Government's action than through its own inherent appeal to the minds of the people of India whose customs and religious faith totally abhor the communistic system of society.

Finally, I come to the question of communal dissensions. I admit that the situation is not altogether free from anxiety. In my own province thanks

to the vigilance of the Punjab Government we have been saved communal troubles arising out of the unfortunate developments in Lahore. I cannot at the same time refrain from mentioning that communalism has been fed by Government's own actions which, however well-intentioned, have had the effect of encouraging communal tendencies and even propitiating them through the Communal Award and other partial acts at the expense of the general welfare of the community. There is no greater proof of this than the steel frame of the Indian Civil Service administration has been weakened by the introduction of an element appointed as a result of the Government's communal policy in the services. However, I hope that under the New Constitution, when Provincial Councils will be totally elected, the ministries in power would see to it that there communal feeling is curbed, for by feeding it they may ultimately stand to lose office and power. At present communalists run no such risk because of the official influence and patronage in the province. At any rate I do not feel that communalism can be classed among those dangers which require all-India legislation of this character and such stringent control of the Press. At best local Acts can be passed to deal with local situations.

I trust, Sir, it will be conceded by my Honourable friend the Home Secretary that I have approached the problem in the spirit of one who appreciates the difficulties which the authorities are confronted with. I feel, that on closer examination of the Bill, it would have been possible to so remodel it as to meet the purposes of Government as well as satisfy public opinion by limiting the life of the Bill to a year or two thereby covering the period which provides a gap between the present Constitution and the New Constitution. Perhaps even the other House would have taken such a course if some gesture had been made indicating the chance of reasonable amendments to the Bill. However, it is too late to talk about this and the position remains that an opportunity of improving the Bill has been denied to us. The result is that we have either to accept the Bill as it stands or reject it. That is a very unfair proposition and I cannot see why we should be blamed if we refuse to be a party to either of them. We cannot, in the circumstances, share responsibility with His Excellency the Viceroy for a Bill, in the reshaping of which we can have no hand. My appeal to Government is to reconsider the matter and in the light of the conclusive verdict of the Assembly, drop this Bill and leave the Local Councils to take local measures—which most of them have already done—to deal with dangers against which Government wishes to arm itself with these extraordinary powers.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON (Punjab : Nominated Non-Official) : Sir, it is not denied that terrorism is not dead ; it is not denied that communism exists, whatever the reason. It is not denied that communalism is much worse now than before. No practical remedy to eradicate these evils is suggested, and yet it is urged that a law which enabled Government to check lawlessness in the country and to bring the situation under control should not be continued in the future.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Remedies have been suggested.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON : Sir, as a District Magistrate and Commissioner, I had experience

[Sir Mohammad Hayat Khan Noon.]

of combating the wave of lawlessness in my province in 1930. The use of the permanent law failed to restore peace and order. Ordinances had to be issued and later on these Ordinances was incorporated into the law. The results secured by that law are apparent. While there is quiet and peace it is very easy to say that this could have been done or that should have been done. But when the trouble comes and spreads, then the whole responsibility of maintaining law and order is thrown on the Administration and very little practical help is rendered by the outsiders and by those who hold the view that the Executive should not be entrusted with additional powers. My Honourable friend Mr. Mehrotra quoted this morning certain sections of the Indian Penal Code and the Criminal Procedure Code and was of the opinion that the use of those sections could cope with any situation. Well, Sir, opinions differ, and I beg to differ from him. All these sections existed in 1929 and 1930 and proper use of these sections was made then and it was not possible with the use of all these powers to restore peace.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muham-madan) : On a point of information, Sir. Is the condition the same this year as it was in 1930 ?

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON : I am giving my experience of 1930 when I was in service and had the experience of combating lawlessness. Of course, Sir, if my Honourable friend Mr. Mehrotra had in view some special method of the use of those sections, then we will be very grateful if he will explain it to us.

With these remarks, Sir, I support the Bill.

THE HONOURABLE THE PRESIDENT : Further discussion on this Bill will take place on Wednesday next. The Council will now adjourn.

The Council then adjourned till Eleven of the Clock on Tuesday, the 24th September, 1935.