

Thursday, 31st March 1932

THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME III, 1932

(14th March to 6th April, 1932)

THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
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Legislative Assembly

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MR. B. SITARAMARAJU, M.L.A.

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LEGISLATIVE ASSEMBLY.

Thursday, 31st March, 1932.

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

QUESTIONS AND ANSWERS.

LETTER BY MEMBERS OF THE LEGISLATIVE ASSEMBLY ON THE FUTURE CONSTITUTION OF INDIA.

1084. ***Mr. C. S. Ranga Iyer:** (a) Will Government be pleased to state if they are aware that a letter was addressed by some Members of the Legislative Assembly to the Honourable the Leader of the House on the question of the future constitution of India?

(b) If so, will Government be pleased to lay the letter on the table of the House?

(c) Do Government propose to forward the letter to the Secretary of State for India along with the proceedings of the Assembly to which the letter refers?

The Honourable Sir George Rainy: (a) Yes.

(b) A copy of the letter referred to is laid on the table.

(c) Action will be taken as suggested.

Legislative Assembly,
New Delhi, 16th March, 1932.

To

The Hon'ble Sir George Rainy,
Leader, Legislative Assembly.

Sir,

Lest the speeches of the Assembly Opposition leaders revealing their own views during the debate on Monday, the 14th March, 1932, on the "token" cut motion of Sir Hari Singh Gour under the head Executive Council (future of Indian Constitution) should be misunderstood as expressing the considered views of the Opposition, the undersigned who were not able to express their views owing to the peculiar circumstances in which the debate took place on Monday, desire to place on record that they are not agreeable to whittling down the scheme of Constitutional reforms adumbrated at the Round Table Conference, nor are they agreeable to the whittling down of the responsibility at the Centre in any future scheme, federal or otherwise, nor

do they approve of a revival of the Scheme of the Simon Commission or of the Indian Central Committee in any shape or form.

(Sd.) HARI RAJ SWARUP,	(Sd.) K. P. THAMPAN,
„ B. N. MISRA,	„ SATYENDRANATH SEN,
„ GAYA PRASAD SINGH,	„ SUKHRAJ ROY,
„ HARBANS SINGH,	„ DHIRENDRA KANTA LAHIRI
„ KRISHNAMACHARIAR,	CHAUDHURY,
„ RAGHUBIR SINGH,	„ C. C. BISWAS,
„ B. L. RASTOGI,	„ K. C. NEOGY,
„ H. B. SARDA,	„ BHUPUT SING,
„ S. G. JOG,	„ SATISH CHANDRA SEN,
„ AMAR NATH DUTT,	„ T. N. RAMAKRISHNA
„ SANT SINGH,	REDDI,
„ LILA DHAR,	„ RAMESHWAR PRASAD
„ ISRA CHAUDHRI,	BAGLA,
„ C. S. IYER,	„ B. DAS,
„ JAGANNATH AGGARWAL,	„ B. V. JADHAV.

CANDIDATES APPOINTED TO THE SUPERIOR TELEGRAPH AND WIRELESS
ENGINEERING BRANCHES, POSTS AND TELEGRAPHS DEPARTMENT.

1085. ***Mr. B. Sitaramaraju:** (a) Is it a fact that two candidates have been appointed, with effect from the 1st March, 1932, to the Superior Telegraph and Wireless Engineering Branches (Posts and Telegraphs Department) on the result of the competitive examination held by the Public Service Commission in November, 1931?

(b) Is it a fact that their position on the consolidated list of candidates for the Superior Engineering Services Examination was 22nd?

(c) Is it a fact that as a result of their selection the sixth candidate on that list has not been selected either for the I. R. S. E. or for the I. S. E.?

(d) Is it a fact that the principle followed in making the selection last year was to treat the examination as a combined one for all the three Superior Engineering Services and to select from the consolidated list as many of the topmost candidates as there were open vacancies in all the three Engineering Services combined?

(e) Is it a fact that the result of the selection for the I. R. S. E. and the I. S. E. on the result of the Superior Engineering Services Examination held in November last has not yet been announced? If so, will Government explain the reason for making appointments to the Superior Telegraph and Wireless Engineering Branches (Posts and Telegraphs Department)?

(f) Is it a fact that the principle followed last year in making the selection for the I. R. S. E. or I. S. E. has not been followed in the case of the sixth candidate mentioned in part (c) above?

The Honourable Sir Joseph Bhore: (a) The two candidates alluded to have been selected for training with a view to appointment as stated.

(b) They were twenty-second and twenty-third in the list.

(c) and (d). Yes.

(e) The selection was announced in two Press Communiqués dated the 24th and 21st March, respectively.

The second part of the question does not arise.

(f) In so far as last year, those who were highest in the list were all selected for the service, whereas this year the first four candidates and the 22nd and 23rd were selected, the practice has not been uniform. In making their selections, Government gave the top candidates their first preference. Messrs. Saroj Kumar Kanjilal and Prem Mahesh Agarwala were the next persons in order of merit who had entered themselves as candidates for this service.

**ARREST OF MR. W. A. EDGE OF THE PUBLIC WORKS DEPARTMENT, DELHI,
FOR ALLEGED EMBEZZLEMENT.**

1086. ***Sirdar Harbans Singh Brar:** (a) Will Government please state if it is a fact that Mr. W. A. Edge, S.D.O. of Central P. W. D., Delhi, was arrested by the police on 15th March, 1932, in connection with alleged embezzlement of I. D. R. charges at Barakhamba?

(b) If the answer to the above be in the affirmative, will Government say if they have suspended Mr. Edge and if not, why not?

(c) If Mr. Edge is kept on duty can he under the rules deal with matters having direct or indirect bearing on his case?

The Honourable Sir Joseph Bhoré: (a) Yes.

(b) Mr. Edge was not suspended. Before arrangements could be made to relieve him, the case against him was withdrawn and he was discharged.

(c) Does not arise.

**DISTINCTION BETWEEN JAINS AND HINDUS IN CONNECTION WITH
RETRENCHMENT IN THE OFFICE OF THE ACCOUNTANT GENERAL,
CENTRAL REVENUES.**

1087. ***Mr. Lalchand Navalrai** (on behalf of Bhai Parma Nand): (a) Is it a fact that discrimination has been made by the office of the Accountant General, Central Revenues, between the Jains and other Hindus in the matter of retrenching the employees in that office?

(b) If the answer to part (a) is in the affirmative, do the authorities in that office propose to create a kind of differentiation between the Jains and other Hindus? If not, what are their reasons for the above discrimination?

Mr. J. C. Nixon: Enquiry is being made and a reply will be laid on the table in due course.

†1088.

FINANCIAL RELATIONS BETWEEN THE CENTRAL GOVERNMENT AND THE PROVINCES.

1089. ***Mr. B. Das:** (a) Will Government be pleased to state whether the new constitutional reforms will simultaneously bring readjustment of financial relations between the Centre and provinces?

(b) Is the Federal Finance Committee looking into this aspect of the question?

(c) Will Government be pleased to state whether they intend to adhere to the principle of equitable distribution of tax between the Centre and provinces, as has been the practice since 1921, or do they want to go back to pre-Montagu-Chelmsford Reforms policy again and collect taxes at the centre and distribute to provinces as has been done in the case of the North-West Frontier Province by giving it a subvention of one crore of rupees from Central funds?

(d) Do Government propose to allocate further taxes from the Centre to the North-West Frontier Province, so that it will do three years hence without the subvention?

The Honourable Sir George Rainy: (a) The Government of India are unable to state what the new constitution will provide in this matter.

(b) The Federal Finance Committee will report on certain aspects of the question.

(c) I cannot at this stage state what the Government of India's opinion will be on any proposals which may eventually be made.

(d) The position of the North-West Frontier Province will depend upon the final constitutional arrangements which may be adopted.

SUBVENTION GRANTED TO THE NORTH-WEST FRONTIER PROVINCE.

1090. ***Mr. B. Das:** (a) With reference to the announcement of the grant of a subvention to the North-West Frontier Province in the Honourable the Finance Member's speech in paragraph 36:

"The subvention is to be operative for three years, or until the new constitution for India is inaugurated—whichever is the earlier. In either event the position will again be revised",

will Government be pleased to state if it will be left to the new Assembly (Federal Assembly or whatever it be called) to revise the amount of subvention to the North-West Frontier Province?

(b) Will Government be pleased to state whether this subvention of one crore of rupees will be incorporated also in the new Government of India Act, arising out of the constitutional reforms?

The Honourable Sir George Rainy: (a) and (b). It is impossible for me at this stage to say what procedure will be provided for in or under the new legislation for such a payment as this.

Consequently I am unable to reply explicitly to part (b) of the question, but the Honourable Member may rest assured that due provision will be made in the new Act.

GRANTS TO ORISSA AND SIND AND FOR BUILDINGS IN NEW DELHI.

1091. ***Mr. B. Das:** (a) Will Government be pleased to state whether they propose to grant lump sum provincial balances to the Provinces of Orissa and Sind as stated in the footnote at page 685 of the Detailed Estimates and Demands for Grants ("a sum of rupees ten lakhs from the Government of India balances will also be placed at the disposal of the new province")?

(b) Are Government making any special contribution towards the Council and other buildings of the new Government?

The Honourable Sir George Rainy: (a) The Government of India are not at present proposing anything of this kind.

(b) The Government of India assumed an expenditure of Rs. 3 lakhs for special building operations necessitated by the new status of the North-West Frontier Province in estimating the amount of the opening balance to be allotted to the province.

Mr. B. Das: Will the Honourable Member bear in mind the suggestion made in the question?

The Honourable Sir George Rainy: I am sure my Honourable colleague always bears in mind my Honourable friend's suggestions.

PROTECTION FOR THE COTTON MILL INDUSTRY.

1092. ***Mr. B. Das:** (a) Will Government be pleased to state if they have referred the question of protection to the cotton mill industries to the Tariff Board? What are the terms of reference of this inquiry?

(b) Did the cotton mill industries ask for such an inquiry at present?

The Honourable Sir George Rainy: (a) and (b). Government have not yet referred the question of protection to the cotton mill industry to the Tariff Board for enquiry but they propose to do so shortly in accordance with the undertaking given in this House by the Honourable the Finance Member in his Budget speech on the 29th February, 1930, and by me on the 13th March, 1930, during the passage of the Cotton Textile Industry (Protection) Bill. The terms of reference, when formulated, will, as usual, be published in the Gazette of India.

NUMBER OF CLERKS IN THE OFFICE OF THE SUPERINTENDENT OF EDUCATION, DELHI, AJMER-MERWARA AND CENTRAL INDIA.

1093. ***Mr. S. C. Mitra** (on behalf of Mr. B. N. Misra): (a) Will Government be pleased to state the number of clerks working in the Office of the Superintendent of Education, Delhi, Ajmer-Merwara and Central India and how many of them are Hindus, Muslims and others?

(b) Is it a fact that the son of the Head Clerk of that office is also working under his father?

Sir Frank Noyce: (a) There are ten clerks in the Office of the Superintendent of Education, Delhi, Ajmer-Merwara and Central India, of whom seven are Muslims and three Hindus.

(b) Yes.

DEPARTMENTAL PUNISHMENT OF GOVERNMENT SERVANTS.

1094. ***Mr. S. C. Mitra** (on behalf of Mr. B. N. Misra): Will Government please state if it is a fact that no departmental punishment is permissible under rules in the following cases:

- (a) if a Government servant merely attends a political meeting and takes no part in the proceedings thereof;
- (b) if a Government servant is honourably acquitted or discharged after full enquiry by a court of law on the charge of bribery or any other allegation amounting to moral turpitude such as misappropriation of Government money, etc., and
- (c) if a Government servant, though handed over to the police, is not ultimately challaned by that authority for want of evidence against him?

The Honourable Sir James Crerar: (a) The attention of the Honourable Member is invited to rules 22 and 23 of the Government Servants Conduct Rules, a copy of which is in the Library.

(b) and (c). An order of acquittal or discharge by a court of law is not necessarily a bar to the institution of departmental proceedings. Nor would the inability of the police to pursue an investigation into the conduct of a Government servant always prevent such conduct being the subject of departmental proceedings.

INDIAN ARMY CADETS ADMITTED TO SANDHURST.

1095. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Sir Abdullah Suhrawardy): (a) Will Government please state the total number of Indian Army Cadets who have been admitted into the English Sandhurst by nomination up to now? How many of them were above the age of 25 on the date of their nomination?

(b) Have Government considered the following recommendation of the Indian Military College Committee which was presided over by His Excellency the Commander-in-Chief:

"Indian Army Cadets will ordinarily be eligible for nomination as at present up to the age of 25. As for some years to come at any rate, it may be difficult to obtain from the ranks youngmen of 25 or under possessing sufficient educational qualifications, it is desirable that the condition of age should be waived, as is also the present practice for the next few years!"

(c) Do Government propose to waive the condition of age in the case of those Indian Army Cadets who are members of the regular units of the Indian Army and of the Auxiliary and Territorial Forces? If so, to what extent? If not, why not?

Mr. G. M. Young: (a) The total up to date is seven. One was over 25 years of age. The figures given at the end of paragraph 13 of the Indian Military College Committee's report appear to have been incorrect.

(b) Yes.

(c) It will not be necessary to do so, since no difficulty is now anticipated in obtaining a sufficient number of Indian Army cadets below the age of 25 years.

PORTERS OF THE RAILWAY MAIL SERVICE "A" DIVISION REMOVED FROM SERVICE.

1096. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Rai Bahadur Lala Brij Kishore): (a) Is it a fact that some porters of R. M. S. "A" Division have been removed from service? If so, how many and on what grounds?

(b) Will Government be also pleased to state how many have been reinstated after an appeal to the Postmaster General, United Provinces and how many of these are still unprovided for and outsiders working in their places

Mr. T. Ryan: With your permission, Sir, I propose to take questions Nos. 1096, 1097 and 1098 together. Government have no information on the points raised in these questions with all of which, however, it is within the competence of the Head of the Circle to deal. A copy of the questions is accordingly being forwarded to the Postmaster General, United Provinces, for such action as he may think desirable.

DISSATISFACTION AMONG STAFF OF THE RAILWAY MAIL SERVICE "A" DIVISION.

†1097. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Rai Bahadur Lala Brij Kishore): (a) Are Government aware of the fact that great dissatisfaction prevails among the staff of R. M. S. "A" Division if so, why?

(b) Do Government propose to make any inquiries?

PORTERS APPOINTED TO THE RAILWAY MAIL SERVICE "A" DIVISION.

†1098. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Rai Bahadur Lala Brij Kishore): (a) Is it a fact that many porters have been appointed in the R. M. S. "A" Division, without producing medical certificates of fitness and without the approval of the Postmaster General? If so, what departmental action do Government propose to take in the matter?

(b) Is it a fact that certain porters of other Circles have been taken in the R. M. S. "A" Division, without the approval of the Postmaster General, United Provinces, and their travelling allowance bills passed? If so, what action has been taken in the matter?

SHORT NOTICE QUESTION AND ANSWER.

SECRET EUROPEAN CIRCULAR REGARDING THE REFORMS.

Mr. Lalchand Navalrai: (a) Has Government's attention been drawn to the article in the *Tribune* of the 20th March, 1932, under the caption "Secret European Circular"?

(b) Are the facts contained in it impugning the *bond fides* of the present British Government regarding the Round Table Conference, their mind to break up the Conference in order to fight the Congress and give only nominal reforms to India correct?

†For answer to this question, see answer to question No. 1096.

(c) Is it a fact that in consequence a plan was adopted in which the British Government, the Europeans, the Muslims, the Princes and the minorities 'joined hands and also succeeded in roping in their so-called "strange companions" the Moderates represented by Sir T. B. Saprú, Sir A. P. Patro, Mr. M. R. Jayakar and others?

(d) Is it a fact that in consequence the Europeans of the Round Table Conference pressed upon Government to show one essential earnest of good faith, *viz.*, to undertake to bring in the Provincial and Central constitutions in one Act?

(e) Is it a fact that in return the Europeans of the Round Table Conference promised the Muslims to find places for them in European firms?

(f) Is it a fact that all this took place sometime before the United Provinces Congress Committee passed a resolution advising tenants in a particular district in the province to withhold payment of rent and long before the Congress restarted the civil disobedience movement?

(g) Is it a fact that Mr. Benthall was one of the members of the Round Table Conference?

(h) If so, is it a fact that Mr. Benthall or any other European has issued the circular in the terms mentioned in the aforesaid article to give effect to the above-mentioned secret settlement?

(i) Are Government prepared to deny that such a circular has been issued?

(j) Are Government prepared to repudiate the charges mentioned in the aforesaid article publicly by a press communiqué and make a full statement on the subject on the floor of this House? If not, why not?

(k) If what are stated above are correct, will Government be pleased to state what is their present object in carrying on the Round Table Conference Committees any further and at such enormous cost?

The Honourable Sir George Rainy: (a) Government have seen the Press accounts of the circular. They have no other information regarding it.

(b) to (k). Government are concerned with the other part of the question only in so far as they relate to first, the suggestion of bad faith on the part of His Majesty's Government as regards the Round Table Conference and their policy of constitutional reforms for India, and second, the implication that action was taken against the Congress not because of their activities but as part of a preconceived plan.

In regard to the first, I would refer the Honourable Member to the statement made by the Prime Minister on the 1st December last, which contains a full enunciation of the policy of His Majesty's Government; I would further remind him of the intensive efforts that have since been made, and are now being made, to expedite the progress of the reforms; I would also refer him to the statement issued by His Majesty's Government on March the 19th, 1932, and to the speech made by the Secretary of State in the House of Commons on March 24th, 1932. These contain a complete refutation of the first suggestion.

In regard to the second, there is no foundation whatsoever for the suggestion that the action taken against the Congress was not determined solely and entirely by the situation created in India, and particularly in the United Provinces and the North-West Frontier Province, by their activities. In this connection I would refer the Honourable Member to the statements issued by the Government of the United Provinces on the 14th of December, 1931, by the Chief Commissioner of the North-West Frontier Province on the 24th and 30th December, 1931, and by the Government of India on the 4th January, 1932.

Mr. N. M. Joshi: Mr. Benthall in his letter says that as a result of the election the policy of Government undoubtedly changed. I want to know how that policy changed?

The Honourable Sir George Rainy: I see no obligation resting on Government to explain circulars attributed to particular private individuals.

Mr. N. M. Joshi: I am not asking him to explain the circular. I am asking how the policy of the national Government changed?

The Honourable Sir George Rainy: The Honourable Member is assuming that the statement attributed to Mr. Benthall in this newspaper article is correct.

Mr. K. C. Neogy: What responsibility have the Government had in the selection of Mr. Benthall as a delegate to the Round Table Conference.

The Honourable Sir George Rainy: It has been explained many times that the selection is made by His Majesty's Government and not by the Government of India.

Mr. K. C. Neogy: Undoubtedly so, but did the Government of India have any hand whatsoever in the matter? That is my question. Did the Government of India forward his name or suggest his inclusion in the delegation?

The Honourable Sir George Rainy: The Government of India are not the constitutional advisers of His Majesty's Government in this matter. It rests entirely with the Government at home as to whom to consult and whom not to consult.

Mr. K. C. Neogy: I understand the constitutional implications of the position. My whole question is, had the Government any hand whatsoever in this matter?

The Honourable Sir George Rainy: I am speaking purely from recollection, but I do not recollect the Government of India making a single corporate recommendation.

Mr. K. C. Neogy: What does the Honourable Member mean by the expression "single corporate recommendation?"

The Honourable Sir George Rainy: I mean what I say.

Mr. K. C. Neogy: Will the Honourable Member kindly explain the expression having regard to the fact that English is not my mother tongue?

Will the Honourable Member now represent to His Majesty's Government in England that in so far as Mr. Benthall has misrepresented the objects with which the Government at home are actuated in regard to the reforms, they should consider the desirability of removing Mr. Benthall from the European delegation.

The Honourable Sir George Rainy: The Honourable Member is assuming that the Government have any knowledge whether this article correctly ascribes certain views to Mr. Benthall. The Government of India have no such knowledge.

Mr. K. C. Neogy: Will the Government be pleased to write to the Home Government and ask them to write to Mr. Benthall and find out whether this is a correct copy of the letter?

The Honourable Sir George Rainy: The Government of India see no reason for taking any such action.

Mr. K. C. Neogy: Do I take it that the answers to this question are being given by the Honourable Member without any reference to the Home Government?

The Honourable Sir George Rainy: The Honourable Member knows perfectly well that no disclosures are ever made as regards communications between the Government of India and His Majesty's Government.

Mr. K. C. Neogy: Well, I know that.

Sardar Sant Singh: Is it a fact, as stated by Mr. Benthall in this particular letter, that he consulted the best legal opinion available, of the Law officers of the Crown, of the India Office and of the Foreign Office. May I know who pays the Law Officers of the India Office—India or the British Government? If the advice was given by the India Office lawyers, was it done with the consent of the Government of India?

The Honourable Sir George Rainy: I have no information as to how it was done.

Mr. K. C. Neogy: Will the Honourable Member take steps to ascertain whether it was done or not?

The Honourable Sir George Rainy: I do not see any sufficient reason for doing so.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if the Government have consulted or inquired from Mr. Benthall as regards this article, after this short notice question was put?

The Honourable Sir George Rainy: No, Sir.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state who is this D. W. Mullick who has subscribed to this article?

The Honourable Sir George Rainy: I have no idea.

Mr. Lalchand Navalrai: This article was published first in the *Advance* of Calcutta and it was subscribed by Mr. D. W. Mullick. Has the Honourable Member made any inquiry or does he know who this Mr. Mullick is?

The Honourable Sir George Rainy: The answer is in the negative.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if, after this short notice question was put, there was any communication with the Secretary of State, and will the Honourable Member also explain why consent to this short notice question was given so late as to-day? The question was put on the 24th of this month.

The Honourable Sir George Rainy: I have already said that we do not in any circumstances disclose communications which pass between the Government of India and the Secretary of State.

Mr. Lalchand Navalrai: I only want to know a fact, whether the Secretary of State was communicated with or not?

The Honourable Sir George Rainy: I am afraid I am not prepared to satisfy the Honourable Member's curiosity.

Mr. Lalchand Navalrai: Will the Honourable Member please say why there was delay in giving his consent to this short notice question being asked?

The Honourable Sir George Rainy: Government are not bound to accept short notice.

Mr. Lalchand Navalrai: That is quite true. I am asking why there was delay in giving consent. I do not dispute the right of the Government not to accept short notice questions.

The Honourable Sir George Rainy: I do not think the Honourable Member is entitled to have a reply to that question.

Mr. Muhammad Yamin Khan: Was it not due to the Easter holidays?

Mr. C. C. Biswas: Is the Honourable Member aware that his refusal to supply answers is more eloquent than any reply that he might have given?

Mr. Gaya Prasad Singh: Is it because the surreptitious activities of Mr. Benthall are in consonance with the wishes of the Government of India that the Government of India refuse to take any steps in the matter?

The Honourable Sir George Rainy: I am not aware of any surreptitious activities of Mr. Benthall, and the Government of India have no sympathy with surreptitious activities of any one whatsoever.

Mr. N. M. Joshi: In view of the disclosures made in Mr. Benthall's letter, are the Government of India prepared to give an opportunity to this House to discuss the new facts brought to light?

The Honourable Sir George Rainy: The Honourable Member is still assuming that we have information that this is the circular issued by Mr. Benthall. We have no such information.

Mr. K. C. Neogy: May I know whether the Honourable Member has come across any contradiction that may have appeared in the Press so far from Mr. Benthall, that is to say, has he ever challenged the accuracy of the facts as published in the Press?

The Honourable Sir George Rainy: Government have no information.

Mr. K. C. Neogy: Will the Honourable Member kindly ask the Director of Public Information to go through the files of newspapers and satisfy himself as to whether such a contradiction has ever appeared in any papers?

Mr. C. C. Biswas: Will the Honourable Member kindly state why no categorical answers were given to the several parts of the question?

The Honourable Sir George Rainy: I have answered the question fully in so far as it relates to matters for which the Government are responsible.

Mr. C. C. Biswas: Will the Honourable Member kindly state, with reference to the suggestion of bad faith to which reference is made, whether that suggestion is contained in the question or in the statement attributed to Mr. Benthall—I mean, the suggestion of bad faith on the part of Government?

The Honourable Sir George Rainy: I will read my answer over again; “(b) to (k). Government are concerned with the other parts of the question only in so far as they relate to, first, the suggestion of bad faith on the part of His Majesty's Government as regards the Round Table Conference and their policy of constitutional reforms for India, and, second, the implication that action was taken against the Congress not because of their activities but as part of a preconceived plan.”

That suggestion and that implication are repudiated in my answer.

Mr. C. C. Biswas: Sir, in the latter part of his answer the Honourable Member stated that the statements to which reference was made by him contained a complete refutation of any suggestions of bad faith and so on. What I am now asking is whether the suggestions of bad faith were contained in the question of my Honourable friend, or whether the suggestions were contained in the statements which appeared in the secret circular.

The Honourable Sir George Rainy: I have given an unqualified repudiation of the suggestion and of the implication.

Mr. C. S. Ranga Iyer: Will Government be pleased to state, with reference to the statement that the Honourable the Leader of the House has made regarding the expediting of reforms, whether it is their purpose to expedite the reforms with Mahatma Gandhi in jail, or whether they propose to release Mahatma Gandhi, and thus create an atmosphere of good will, and secure his presence at the Third Round Table Conference?

The Honourable Sir George Rainy: The Government policy in that matter has I think been very clearly stated—and it is strange my Honourable friend seems not to be aware of it—not longer ago than yesterday.

Mr. C. S. Ranga Iyer: Are Government aware that the result of the Round Table Conference will be a failure till this policy of repression is reversed and those who are in jail are released and a new policy of conciliation is inaugurated?

The Honourable Sir George Rainy: That, Sir, is a matter of opinion which I think this House has debated five or six times during this session.

Some Honourable Members: Not a matter of opinion but a matter of fact.

Mr. C. S. Ranga Iyer: Will Government be pleased to state whether they propose to initiate at the proper place the starting of conversations with Mahatma Gandhi to secure his co-operation at the Third Round Table Conference, thereby following the precedent established by Lord Irwin?

The Honourable Sir George Rainy: I do not see, Sir, how that in any way arises out of the question or from the answer I have given.

Mr. C. S. Ranga Iyer: With regard to the expediting of the reforms, do the Government realize the futility of expediting the reforms, with the Congress leaders in prison?

The Honourable Sir George Rainy: Government desire, Sir, to take every step that in their view will expedite the reforms,—and obviously the Honourable Member is endeavouring to lead me on to what is essentially a question of opinion.

Mr. Lalchand Navalrai: Are the reforms contemplated going to be nominal or substantial?

Mr. B. Sitaramaraju: In view of the fact that grave allegations have been made in the Press, and in view also of the fact that the document that has come to light is in the nature of a secret document, will the Honourable the Leader of the House still rely upon His Majesty's Government's statement, or should he not, in the interest of the good name of the Government, see that this thing should be publicly repudiated by Government in a statement?

The Honourable Sir George Rainy: I have nothing to add, Sir.

Mr. B. Das: Is it not a surprising coincidence that the views of the Associated Chambers of Commerce and of the European Association regarding financial safeguards and commercial safeguards entirely agree with the views of the diehards in England like Mr. Churchill and Lord Rothermere, etc., and that they also agree with the views advocated by the Treasury Benches here?

The Honourable Sir George Rainy: I am afraid I cannot add to the very full answer I have already given.

Mr. B. Das: Does not the Honourable Member agree with me that the views of Mr. Benthall, of the Associated Chambers of Commerce and also of the diehards in England as also of the Treasury Benches here somehow or other coincide nicely?

The Honourable Sir George Rainy: Sir, I must adhere to what I have already said.

Sardar Sant Singh: May I ask the Honourable gentleman as to how this miracle has happened? Mr. Benthall says these phrases:

"On the whole, there was one policy of the British Nation and the British community in India and that was to make up our minds on a national policy and to stick to it. But as the result of the elections the policy "undoubtedly" changed. The right Wing of the Government made up its mind to break up the Conference and to fight Congress. The Muslims, who do not want responsibility at the Centre, were delighted. Government undoubtedly changed their policy and tried to get away with Provincial autonomy with a promise of Central Reforms, what line were we to take? We had made up our minds before this—that the fight with the Congress was inevitable; we felt and said the sooner it came the better but we made up our minds that for a crushing success we should have all possible friends on our side."

Now the circumstances came to turn out exactly as had been foreshadowed by Mr. Benthall. I want to know what is the reason,—the meaning of all that?

The Honourable Sir George Rainy: I cannot add to the very full answer I have already given.

Mr. C. C. Biswas: Sir, is it a fact that most of the Ordinances against the Congress had been got ready long before the end of November, i.e., long before the Second Round Table Conference dissolved? (*Some Honourable Members:* "Please answer".)

Mr. K. C. Neogy: Will the Legislative Secretary give us the answer to this particular question? He is the person who is supposed to have drafted the Ordinances. May I ask when he drafted them?

The Honourable Sir George Rainy: Sir, I have answered the question very fully and very completely already. (*Some Honourable Members:* "Not at all".)

Mr. Amar Nath Dutt: I think, Sir, we are entitled to ask these questions of the Honourable Members of the European group through their leader Mr. Arthur Moore, whose representative Mr. Benthall was in the Round Table Conference.

ELECTION TO THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

Mr. President: Order, order. I have to inform the Assembly that the following non-official Members have been elected to serve on the Standing Advisory Council for Railways, namely:

1. Sirdar Sohan Singh.
 2. Lieut.-Colonel Sir Henry Gidney.
 3. Sir Abdullah Suhrawardy.
 4. Kunwar Raghbir Singh.
 5. Pandit Satyendranath Sen.
 6. Sardar Sant Singh.
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MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly: Sir, the following Message has been received from the Secretary of the Council of State.

"I am directed to inform you that the Council of State has, at its meeting held on the 30th March, 1932, agreed without any amendment to the Bill to extend the operation of the Salt (Additional Import Duty) Act, 1931, which was passed by the Legislative Assembly at its meeting held on the 23rd March, 1932."

STATEMENTS LAID ON THE TABLE.

PERIOD OF TOUR OF THE COMMISSIONER OF INCOME-TAX, BOMBAY IN SIND.

The Honourable Sir George Rainy: Sir, in the unavoidable absence of my Honourable Colleague, the Finance Member, I lay on the table the information promised in reply to starred question No. 657 asked by Mr. Lalchand Navalrai on the 7th March, 1932, regarding the period of tour of the Commissioner of Income-tax, Bombay in Sind.

(a) The time spent by the Commissioner on visits to Sind was as follows:

1928-29, 11 days of which 6½ were spent on the journey. The tour was cut short by fever,

1929-30, 13½ days of which 7 were spent on the journey,

1930-31, The Commissioner was in Karachi on 19th and 20th hearing revision petitions. He had intended to visit Sind in March but postponed his tour because he was to accompany a Member of the Central Board of Revenue on a tour in the Presidency proper.

In the calendar year 1931, he spent 14½ days on a visit to Sind of which about 7 were spent in travelling.

(b) and (c). No, but persons or bodies who have expressed a desire to discuss matters with the Commissioner are informed direct of his visits if he considers that it would be proper for him to interview them.

The Central Board of Revenue is suggesting to the Commissioner that he should publish his tour programmes when possible.

TAXATION IN THE CAWNPORE CANTONMENT.

Mr. G. M. Young (Army Secretary): Sir, I lay on the table a statement giving the information promised in reply to starred question No. 355, asked by Sirdar Sohan Singh on the 15th February, 1932, about taxation in the Cawnpore Cantonment.

(a) and (b). Yes.

(c) Permission was at first refused but was granted later and two meetings of the Association were held in the locality mentioned.

(d) No.

THE PORT HAJ COMMITTEES BILL.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): I would beg your permission, Sir, to move the motion No. 18, which stands in my name.

Mr. President: Does the Honourable Member seek the permission of the Chair to take up item 18 on the Order Paper now?

Sir Frank Noyce: Yes, Sir. I beg to move for leave to introduce a Bill to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hejaz.

Sir, the objects of this Bill are so clearly stated in the Statement of Objects and Reasons that it is not necessary for me to say very much. This is the second of a series of Bills which are intended to implement the recommendations of the Haj Enquiry Committee. The object of the Bill I introduced the other day was to improve the conditions of pilgrims on the voyage from and to India. The object of this Bill is to improve conditions in the ports by converting the Haj Committees which already exist, and which are merely advisory and consultative, into statutory bodies with much wider powers than they have at present.

The object of the third Bill, which I shall shortly introduce, is to improve the condition of pilgrims on their way to and from the ports by controlling the activities of *muallims*, that is, professional pilgrim guides, most of whom are foreign subjects.

Sir, I move.

The motion was adopted.

Sir Frank Noyce: Sir, I introduce the Bill.

THE HEJAZ PILGRIMS (MUALLIMS) BILL.

Sir Frank Noyce: Sir, I move for leave to introduce a Bill to regulate the activities of persons in British India who offer to assist Muslim pilgrims to the Hejaz.

The motion was adopted.

Sir Frank Noyce: Sir, I introduce the Bill.

THE FOREIGN RELATIONS BILL.

Sir Evelyn Howell (Foreign Secretary): Sir, I move that the Bill to provide against the publication of statements likely to promote unfriendly relations between His Majesty's Government and the Governments of foreign States, as reported by the Select Committee, be taken into consideration.

It will be within your recollection, Sir, that in the September Session of this House it was decided not to circulate this Bill for the purpose of eliciting opinion thereon but to refer it to a Select Committee, together with the expressions of opinion which were to be obtained by executive action meanwhile. It is in accordance with customary usage, Sir, that the House as a whole by referring it to Select Committee agreed with the principle of the Bill. I do not wish to labour this point at present, but I shall, if necessary, revert to it when I come to deal with the amendment of my Honourable friend Dr. Ziauddin Ahmad. There was then in September a general consensus of opinion in the House that, in the words of my Honourable friend Sir Hari Singh Gour, "We must put down these libels upon foreign States without remorse and without compunction". Sir Hari Singh Gour himself consented to serve on the Committee, and I take this opportunity, though he is not here and I greatly regret his absence, to tender to him and to the other Members of the Committee and, above all others, to my Honourable friend Mr. Shanmukham Chetty, who served as Chairman, my most cordial thanks for the advice and the assistance which they so willingly rendered. (Applause.) The recognition of the evil, which the Bill introduced in the September Session was designed to prevent, and the determination to deal with that evil in the same way as other civilized countries have dealt with it and yet to secure adequate scope for the exercise of the rights of free speech, which is the privilege of all inheritors of the British tradition, mark in my opinion a very statesmanlike attitude on the part of the House. Upon that attitude the House is to be congratulated and I should like to express the hope that they will adhere to it.

So, then, the Bill which the House considered as too wide and consequently a faulty instrument for its declared purpose was referred to Select Committee. From that Committee it has emerged very different indeed in shape, but in principle unaltered. Like the Bill in its original form, it sets out to bring the law in this country into line with the common law of England. From the English common law model, however, the Committee permitted itself one conscious deviation, and in one respect deviated, I think unconsciously, in consequence of its desire, and in my opinion a very natural desire, to secure the rights of the subject. I will deal with the first of these deviations when I come to mention of particular alterations introduced into the Bill by the Select Committee, and with the second at a later stage when I come to move the amendment to clause 2, of which I have given notice. But before I come to particular alterations effected in Select Committee, let me repeat once more a very simple point which a large number of Members of this House still, in spite of all that I and other speakers have said, seem to have a strange difficulty in apprehending. The Bill is designed for the protection of the Rulers of foreign States. A foreign State is one thing, and an Indian State is another. As I told the House twice in my speech on the 21st

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September last, "The Bill has nothing whatever to do with the Indian States and in no way affects the publication of any statement regarding their Rulers". I now say it a third time, and I ask you, Sir, and I ask the House to believe me and, if it is still there, forthwith to expel this particular bogey from their minds.

We now come to the particular alterations effected by the Select Committee. The first point which Honourable Members will notice is that whereas, like the English common law, the Bill in its original form was universal and attempted to secure some measure of protection for all foreign Rulers alike, it has now become particular and is restricted in its scope to certain Rulers, to wit, the Rulers of States outside but adjoining India. This change introduces into the Bill the element of definition of foreign States for which some critics pressed. The application of the Bill to the Indian States was really *ab initio* impossible, but the addition of these words makes it doubly so. But, Sir, not only does this alteration emphasise the exclusion of Indian States, which exclusion was always inherent in the proposals of Government, but, as I have already stated, it also excludes a very large number, in fact, the vast majority, of foreign States from the scope of the Bill. In its present shape the Bill has no application to publications about the Ruler of any foreign State, unless that foreign State is one of these contiguous to India, that is to say, one of those which touch India's land frontiers. The States, which do so touch, are Persia, Afghanistan, China, Nepal, Tibet, Siam and perhaps also Bhutan. Personally, I think this limitation a mistake, for reasons which I should have no difficulty in explaining, though whether it would be wise to do so here and now is another matter. But the alteration found favour with the Members of the Select Committee, and the matter not being vital, I do not, on behalf of Government, think it necessary to press the point. Let the scope of the Bill be confined to these few contiguous States. This, then, is the first conscious deviation from the English common law model, to which I alluded above. In the eyes of my Muslim friends, the alteration has one advantage, as they regard it. It removes from the scope of the Bill such countries and their Rulers as the Hejaz, Iraq and Palestine, none of these being contiguous to India, to which they and their co-religionists are accustomed to go on pilgrimage.

The alterations in the Bill effected by the Select Committee introduce the element of particularity in another respect also. In its original form the Bill, in clause 2, its operative clause, ran as follows:

"Whoever makes, publishes or circulates any statement, rumour or report with intent to promote, or which is likely to promote, or whereof the making, publishing or circulating is likely to promote, unfriendly relations between His Majesty's Government and the Government of any foreign State shall be punishable with imprisonment which may extend to two years, or with fine, or with both."

In its present form the same clause of the Bill runs:

"Whoever commits any offence punishable under Chapter XXI of the Indian Penal Code against a Ruler of a State outside but adjoining India, or against a member of the family or against a Minister of such Ruler, with intent to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State, or whereby the maintenance of such relations is likely to be prejudiced, shall be punishable with imprisonment which may extend to two years, or with fine, or with both."

It will be seen that now, to come within the scope of this clause, not only must the publication be defamatory within the meaning of that word as defined in the Chapter of the Indian Penal Code quoted, but it must be defamatory of a particular person or persons belonging to a particular small group of persons, to wit, the Ruler himself, the members of his family and his Ministers—in other words the Ruler himself and those persons about him whose good name and reputation he may be supposed to regard as precious and therefore disposed to protect, or, to put it in another way, attacks on whom he might be expected to resent. I will deal with the second, and as I think unconscious, deviation from the English common law model when my amendment to clause 2 comes under discussion. It was in respect of this deviation that Sir Lancelot Graham and myself recorded our minute of dissent. Apart from that, the effect of clause 2, as it now stands, is to put the foreign Ruler, in respect of articles in the Indian Press to which he may take exception, precisely, save in one respect in the same position as any private British subject. The sole difference is that whereas private persons aggrieved by defamation have to bring their complaint before the Courts themselves, on behalf of the foreign Ruler, who cannot do that, proceedings may be initiated by the Governor General in Council.

If we now come to clause 3, we see that the Committee have restricted the cognisance of offences under the Act to the Courts of Presidency or First Class Magistrates, and the initiation of proceedings to the Governor General in Council. In practice I think that both restrictions were quite unnecessary, since there was no chance whatever of proceedings being initiated in any lower court or by any other person. However they conform to the customary rules of procedure, and on behalf of Government, I am quite prepared to accept them.

Clause 4 needs no comment.

Clause 5 is designed to relieve the Courts of the task of ascertaining who is and who is not a foreign personage, defamation of whom constitutes an offence. The Courts have no means of obtaining information on this point and the clause calls for no further comment except in one respect. I have explained above that the formula adopted is intended to confine the scope of the Bill to persons, attacks on whom the foreign Ruler might be expected to resent. I admit that the words "members of his family" are capable of wide interpretation, but I would ask the House to have confidence in the Governor General, who is usually selected for his high office because he is a statesman of conspicuous sagacity, and secondly to remember that the Governor General in Council is a responsible authority. Certain amendments have however been proposed in respect of this wording which we, probably, with some slight alterations, will be prepared to consider, so perhaps I need not go into them further at the moment.

Reverting now to the Preamble of the Bill, I draw your attention, Sir, and that of the House to the alteration in the formula used. The original Bill mentioned "statements likely to promote unfriendly relations between His Majesty's Government and the Governments of foreign States", whereas the present Bill calls them "statements likely to prejudice the

[Sir Evelyn Howell.]

maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States". This matter of phraseology is one primarily for lawyers to determine, and personally I prefer the original form. But I am satisfied with the wording of the Bill, and I would only ask the House to see that under the guise of an amendment a wording is not adopted here which will render the whole provisions of the Bill nugatory by making it impossible for any prosecution ever to succeed. We have a real danger to contend with and we cannot be content with make-believe protection against it.

I do not think, Sir, that there is any other alteration to which the attention of the House need now be drawn. But before I resume my seat, I should like to recapitulate the points which I desire to bring before the House. The main points are these. The Bill has nothing whatever to do with the Indian States. Its scope is confined to defamatory articles, within the meaning of the word defamation as defined in the Indian Penal Code, against the Rulers of a certain small number of States whose territories adjoin the land frontiers of India and to certain persons in close connection with those Rulers either as Members of their family or as principal Ministers of their Government. It places the Rulers of those States on precisely the same footing with regard to defamatory articles as private British subjects except that since those Rulers are unable to appear in Court themselves, it enables the Governor General to take action on their behalf.

In respect of penalties and procedure, the offence, with one small exception, falls within the well established canons of the Indian Penal Code and the Criminal Procedure Code. The small exception is this, that whereas in the penal section in Chapter XXI of the Code, imprisonment may only be simple imprisonment, in the Bill imprisonment of either kind is provided for. With the exceptions above noted and those deviations to which I have alluded and to which I shall revert, the Bill is in general conformity with the principles of the English common law, and statutes resembling it are in force in nearly all the civilised countries of the world. I gave a list of those countries in my earlier speech, and I need not repeat it now. In conclusion I would only remind the House that they have so far dealt with this matter in a very statesmanlike spirit. They have realised the practical difficulty, and as practical men have set out to deal with it. I earnestly adjure them to adhere to that attitude and to give to Government the support necessary to enable them to place upon the Statute-book a measure which will not restrict more than is absolutely necessary the liberties of the subject, while providing a necessary measure of protection for those foreign Rulers with whom it is of vital importance to India that friendly relations should be maintained. Let me assure the House that by so doing they are really safeguarding Indian interests against a very real and a very definite danger.

Sir, I move.

Dr. Shauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I beg to move that the Bill as reported by the Select Committee be circulated for the purpose of eliciting opinions thereon by the 1st August, 1932. Sir, I do not want at this stage to give a brief summary of the speeches delivered at the Simla Session last year, but I

should like to remind the House of one or two important points made out by my distinguished friends Sir Abdur Rahim and Sir Hari Singh Gour. Sir Abdur Rahim said in his speech :

"Look at the English law which he wanted to reproduce. I shall refer again to Stephen's 'Digest' :

'Nothing is an offence against this Article which is a fair criticism on a matter of public interest as defined in Article 392'."

Mark the words "fair criticism on a matter of public interest". Then he goes on to say :

"I will now give the gist of Article 392. It is rather long :

'The publication of a libel is not a misdemeanour if the defamatory matter consists of comments upon the persons who submit themselves or upon things submitted by their authors or owners to public criticism provided that such comments are fair.

A fair comment is a comment which is either true or which if false expresses the real opinion of its author but such opinion having been formed with a reasonable degree of care and on reasonable grounds.'

If a comment is true it is exempted. Does this Bill seek to exempt that?"

These were the remarks made by the Leader of the Independent Party, and I will now quote one passage from the speech of Sir Hari Singh Gour, the Leader of the Nationalist Party. He said :

"A fair criticism of the ruler and the ruled, a fair criticism of the oppression and tyranny of people, herein lies the birthright of every man and every citizen; and if a newspaper is to be mulcted for such criticism—whether it be of a neighbouring Indian State or of a foreigner beyond the seas is immaterial—I submit the liberties of the press in India would be seriously encroached upon and the Press would be placed in a position of great jeopardy if you were to make them the victim of the fancies and whims of foreign potentates, and it is this that the Bill proposes to do."

These are the criticisms made by the Leaders of the two parties. I should now like to examine whether in the Bill before us these things have been removed. Before I go into the detailed discussion, I should like to draw the attention of the House to the promise made by the Leader of the House (the Honourable Sir George Rainy). He said :

"What I should be prepared to say on behalf of Government is this, that if the Bill is referred to a Select Committee we should be quite prepared to circulate it by executive order, and the Committee would meet when the opinions had been received, and in the ordinary course their report would be submitted to the House next session."

So a solemn promise was given that the Bill would be circulated and on the receipt of this promise Mr. Maswood Ahmad who originally moved for circulation said :

"After the assurance given by the Honourable the Leader of the House that the Select Committee will sit in Delhi and that by executive order this Bill will be circulated, I do not want to press my motion and I beg leave of the House to withdraw the motion."

Sir, I should like to know whether the Bill was circulated. (*Several Honourable Members* : "Yes") and whether it was circulated only among the Local Governments or circulated among the public. And if it was circulated among the public, I should like to know whether the opinions received from the public were laid before the Committee, because I have got a number of opinions with me here, and I should like to know if all these opinions were considered by the Committee.

Sir Evelyn Howell: Sir, the Bill was circulated to Local Governments and High Courts and by the High Courts it was passed on to numerous Bar Associations. All the documents and all the opinions received were placed before the Committee and considered by them.

Dr. Ziauddin Ahmad: Whenever we use the word "circulation",—and I use that word in my motion,—we always mean that it will be circulated among the public and not restricted to circulation among the High Courts and Government officials, because they are part of the Government machinery with which we are not concerned. Government always get the opinions of the officials, but what we are concerned with now is whether the opinion of the public was obtained on this particular question.

An Honourable Member: Are not the Bar Associations public bodies?

Dr. Ziauddin Ahmad: They do not represent the real public who will be affected by this Bill.

Kunwar Hajee Ismail Ali Khan (Meerut Division: Muhammadan Rural): Are we not the representatives of the public here?

Dr. Ziauddin Ahmad: My Honourable friend says he is a representative of the public. He is probably unaware of the feelings in his own constituency, and I will read a passage from a resolution passed by an Association in his constituency at Muzaffarnagar. It says:

"This meeting of the Muhammadans in the district of Muzaffarnagar expresses its great condemnation of the Foreign Relations Bill which is going to be moved by the Government."

An Honourable Member: How is it an interference with religion?

Dr. Ziauddin Ahmad: There is another Resolution passed by an Association at Sitapur which says:

"This meeting of the Muhammadans of Sitapur considers that the Foreign Relations Bill is really an interference in their religion and records its strong protest."

I received similar protests from various Associations and one is from Ambala town and others from various other places. In each of these it is stated that a copy was sent to the Foreign Secretary. I should like to know whether the Foreign Office had received copies of these resolutions, and if so, whether they were placed before the Committee.

Sir Evelyn Howell: We received copies of numerous resolutions which were, as my Honourable friend has endeavoured to inform the
12 Noon. House, in the nature of protests against the Bill on the ground that it interfered in religious matters. I submit that that criticism is entirely unjust. The Bill in no form ever had anything to say about religious matters at all.

Khan Bahadur H. M. Wilayatullah (Central Provinces: Muhammadan): Is religious controversy excluded under the Bill?

Sir Evelyn Howell: I said so in my earlier speech in this House.

Dr. Ziauddin Ahmad: The first thing that I would like to emphasise is that when the promise was given to us on the floor of the House that the Bill would be circulated, we clearly understood that it would be circulated among the public and the opinions received from the public would

be considered by the Select Committee. That promise was not carried out

Sir Lancelot Graham (Secretary, Legislative Department): It was carried out to the letter.

Dr. Ziauddin Ahmad: I said it was not circulated among the public. . .

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Does the Honourable Member mean that it ought to have been sent to every one of the 350 millions of Indians?

Sir Lancelot Graham: It was circulated precisely in the same way in which Bills ordered by this House to be circulated are circulated. Precisely the same procedure was followed, except that it was sent out by the executive department concerned, instead of by the Legislative Assembly Department.

Kunwar Hajee Ismail Ali Khan: May I know from the Honourable Member why he did not raise this objection when the Bill was referred to Select Committee?

Dr. Ziauddin Ahmad: I opposed it then, I oppose it now and I will oppose it in future. Whenever a Bill has to be circulated, I understand that it is published in the Government Gazette; the opinions of the public should be invited and the opinions received should be laid before the Committee and should be considered by them

Sir Lancelot Graham: That is exactly what was done here.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I think the Honourable Member should proceed with his observations: Explanation has been given that the procedure followed in the matter of circulation was identical with what is done on the vote of the Assembly. If the Honourable Member wishes to challenge that explanation, he is entitled to do so, but if he does not challenge that statement, he should proceed on the basis that the circulation did take place in the usual manner.

Dr. Ziauddin Ahmad: Sir, I understand that all the opinions received from the public were laid before the Select Committee and were considered by them. There is no indication in the report that this was carried out, but still I take their word that all these opinions were considered by the members of the Committee.

Sir Lancelot Graham: We cannot give a promise that all the members of the Committee read all the opinions.

Dr. Ziauddin Ahmad: That is a different matter; but if it was circulated among them, my object is fulfilled; but if it is only shown in a bundle to them, I do not think the terms of the circulation were carried out.

Sir Evelyn Howell: They had ample opportunity to study the whole matter.

Dr. Ziauddin Ahmad: Then that is all right.

Mr. President: Order, order: the Honourable Member should proceed.

Dr. Ziauddin Ahmad: I come now to the subject matter of the Bill itself. In the first place the word "adjoining", as it is defined here, is not very clear to me. I should like to know whether in this sense France is adjoining England. Will it be called adjoining or will it not be called adjoining, as there is a sea between the two countries? That point is not very clear to me. If that is the case, if the intervention of the sea between the two countries will not preclude them from adjoining. . . .

Sir Evelyn Howell: I said clearly adjoining the land frontiers of India.

Dr. Ziauddin Ahmad: Then this will practically exclude all those countries which are separated by sea. The second thing is that India itself is not defined. I should like to know for instance whether Aden forms part of India. . . .

Sir Lancelot Graham: India is defined in the General Clauses Act.

Dr. Ziauddin Ahmad: Does Aden form part of India?

An Honourable Member: It forms part. . . .

Sir Lancelot Graham: The Honourable Member knows perfectly well that Aden forms part of India under the General Clauses Act.

Dr. Ziauddin Ahmad: So I understand that all the countries adjoining Aden will come under the clauses of this Bill. . . .

Sir Evelyn Howell: The Honourable Member can draw his own conclusions.

Dr. Ziauddin Ahmad: Another thing which is not very clear to me is this, whether a place like Pondicherry or Goa, which is really adjoining the land frontier of India, will be included here. . . .

Sir Evelyn Howell: No, Sir; it will not.

Dr. Ziauddin Ahmad: He says that it is not adjoining the land frontier of India; this is really an interpretation

Sir Evelyn Howell: I should like it to be understood that I am not a legal expert; I am advised that Pondicherry for the purposes of this Bill is excluded as also other possessions of foreign powers which are commonly described as being in India.

Dr. Ziauddin Ahmad: This is the explanation which is given by the Foreign Secretary, that the countries like Pondicherry, Goa, etc., are excluded from the border of India; but we know that the statement of the Foreign Secretary is not enough. This thing ought to form part of the Bill. Therefore this particular thing, that is, whether foreign possessions in India are foreign powers adjoining the land frontier of India or not . . .

(Mr. N. N. Anklesaria interrupted.)

Mr. President: Let the Honourable Member go on with his observations.

Dr. Ziauddin Ahmad: Leaving that question aside, I shall take up one or two particular cases. Suppose a foreign Ruler adjoining India acted against the interests of the Muslim religion, demolished shrines or really did an act which was against the canons of Islamic law, and supposing there is criticism of that action, will it or will it not come under this Bill? The Foreign Secretary may say it will not, but his mere statement will not be enough; it must be definitely stated that this thing will not come under this particular clause. This is really a point on which Muslims are particularly interested. There may be action taken by the King of Persia or even by any other king against the Islamic law or against Islamic shrines; and if there is criticism of his action, then will it come under this Bill or not? I understand that, according to the Bill now before us, a person who makes a criticism of that kind can be prosecuted under clause 2 of this Bill and sent to rigorous imprisonment for two years; and unless there is a clause definitely excluding any criticism on matters of religion on the action taken by the King or his Ministers or any other person against the Islamic canons, from this Bill, I am afraid the mere statement of the Foreign Secretary will not satisfy the Mussalmans, as we all know very well that statements of Members during the debate on a Bill are not sufficient guarantee for not giving effect to sections of the Bill.

The Foreign Secretary said in his first speech at Simla, and repeated it today, that his fundamental object is to bring the Indian to the level of civilised countries. I do not see much force in this, because, after all, it is a very unimportant point; there are many things in which we are behind the British law; and in this particular case if we remain behind the English law, I do not think any serious harm is going to be done, as we all know that this particular law has been very rarely applied, and I believe that the last case which occurred was about 200 years ago. Therefore it is not necessary for us to copy a law which is practically obsolete in England itself. The real object which is at the back of the mind of the Foreign Secretary is really to provide some kind of consolation to the present Ruler of Afghanistan

Sir Evelyn Howell: I would be obliged if the Honourable Member will not mention foreign countries by name.

Dr. Ziauddin Ahmad: Thank you, I shall not mention any particular country, Sir. Now, in reply to one question we were told that there have been only six cases under the Ordinances which were really the predecessor of this particular Bill. Two of these articles were written by the *Zemindar*, and I had a talk with the editor of the *Zemindar*, and I can stand surety, Sir, that he will not write any article on this particular topic. So, if this is the only thing which could save us the odium of this particular Bill, then I stand here and give security for this particular. . . .

Sir Evelyn Howell: May I interrupt the Honourable Member for a moment? I submit, Sir, if my assurances are not going to be accepted by this House, there is no reason why the assurances given by the Honourable Member should be accepted by this House. (Laughter.)

Dr. Ziauddin Ahmad: Sir, this is really a matter in which the decision of the High Court has been given. They have said that the speeches delivered in this House could not really alter the meaning of the law, but the assurances I am giving.

Mr. S. C. Mitra: There may be a change of editor tomorrow.

Dr. Ziauddin Ahmad: The assurances I am giving are assurances from one individual to another individual. My friend just said that there might be a change of editors, and if such a thing happens, and if really an article is written on this topic, then action can certainly be taken against him; but I assure him that there is no desire on the part of any one in India to interfere with the internal affairs of any State. The choice of a Ruler and the settlement of internal affairs are matters for the people of the States concerned and they should decide for themselves, and we are not concerned with those things, and I may assure my Honourable friend that the people in India take absolutely no interest whatsoever in the internal affairs of any of these adjoining States.

No doubt, the Bill has been very much modified and a good deal of its poisonous effect has been removed, but the fact remains that a Bill of this kind is uncalled for at this stage. It unnecessarily creates excitement among the people without sufficient justification; it is quite unnecessary to bring in a Bill of this kind at this juncture when people are sleeping and are not taking any interest in these matters. By trying to enact a law of this kind you will create a feeling in the public mind that the Government have got some sinister motives behind it and they want to gag the mouths of the people and the Press beforehand. If feelings of this kind exist in the country, I can quite understand your taking action to meet the situation, but when there is no excitement, when there is no emergency of any kind, if you take action of the kind you now propose, then you create an impression in the public mind that you have an ulterior motive behind you. I do not know what the foreign policy of the adjoining districts is likely to be tomorrow, and this Bill is only to prevent something which Government have in their mind. But as I said it is quite wrong, it is quite undesirable, it is quite unjustifiable to create such an impression in the public mind, particularly at this time when we have got so many other things to look to. Therefore, I would ask the Government Panches, and particularly the Foreign Secretary, who really has got the interests not only of the adjoining territories but also of India at heart, to consider what impression his action would produce in the public mind if this legislation is enacted at this time. I would therefore request him once more that he should circulate the Bill to elicit public opinion and this measure should not be pushed through in this session, as it will create unnecessary apprehension in the public mind. One definite complaint was brought to my notice last night, and it was perhaps also the subject matter of a resolution passed in one of the big conferences in Lahore, and it is this, that this measure if passed into law will seriously affect the religious liberty of the Mussalmans of India and especially of the Shia Community. They say if any action is taken by any Minister, Ruler or any member of the family of the Ruler against any of the tenets of Islam and there is *bona fide* and genuine criticism against such action, there will be trouble. Therefore, Sir, on the ground that this measure is quite unjustifiable, uncalled for and unnecessary, I once more appeal to my Honourable friend to accept the circulation of the Bill for eliciting public opinion.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, I support this amendment, and I submit that there are very strong reasons why consideration of this Bill should not be proceeded with now. Sir, we have noticed a tendency on the part of the Government to bring before the House very important measures at the fag end of the

session, with the result that with the official block at their command and a few non-official Members who generally support them, they are able to carry through any measure, however opposed to public opinion in the country. Sir, this Bill creates a new offence unknown to the Penal Code, and creation of a new offence is a serious matter indeed. A new offence ought not to be created unless the matter has been fully canvassed by public opinion. Sir, it has been said that the Bill had been circulated to certain bodies, High Courts and Bar Associations and others, and the opinions received from these bodies were placed before the Select Committee. I do not dispute that, but there is this cardinal fact to be borne in mind, that this Bill, as it has emerged from the Select Committee, is a different Bill altogether. It is not the same Bill. The scope of the former Bill was that if any person by his writing or speech does anything likely to prejudice foreign relations, then he would be liable to certain penalties. That is something on the lines of what is called sedition in this country,—something which prejudices relations between the Government of the country and some foreign Government. Further, be it noted, in the original Bill the wording was “foreign Government” and not “Government of States adjoining India”. There is the Honourable the Law Member,—I am glad to find him in his seat today,—and he will confirm me that an offence of defamation is altogether different from what was intended to be covered by the original Bill. Defamation is a personal wrong against certain individuals, be they Rulers or Ministers or private individuals. Now, by this Bill a man will be punished if a defamatory charge is made, if a defamation is published by him against a Ruler or a Minister or a member of the family of a Ruler, and if it is likely to prejudice our relations with that State. Is not that a wholly different measure from the original Bill that was circulated for public opinion, at least to some sections of the public or to some associations? But this is a different measure altogether. They had not before them any public body such as the High Court had before it a Bill limited in scope to defamation. We contended, and strongly contended, at that time that you must limit the scope of your Bill to the cases of defamation as in the English law,—the antiquated, obsolete English law. We said that if they wanted to have a Bill at all of this character, they must limit it to cases of defamation as is the case in the English law. Government saw that it was not possible for them, or that it was not advisable to carry through the original measure. Therefore, they have dropped it. They have initiated a new measure of a different character having accepted the suggestion of the Select Committee. Then what follows? Is it not the rule, is it not the procedure of the House, that when a Select Committee alters a Bill in such a way as to make it a different Bill altogether, then it must be re-circulated for public opinion? If that is so, then I say that there is a very good case now for re-circulation of this Bill, because it is a Bill with a different scope, with a different objective, and it creates a different offence. The creation of a new offence, as I have said, is a serious matter. This Bill proposes what the wisdom of Lord Macaulay and others who framed the Penal Code deliberately omitted to enact—I take it they deliberately omitted it because this old antiquated law of defamation against foreign Princes was in existence in those days, and they refrained from enacting any such law here. Why? Did not foreign States, or rather foreign States contiguous to India exist at that time? The Penal Code is comprehensive, it is so wide, and it is so well drafted, that it has received encomiums from almost all parts of the world, the juristic part of the world, and I say therefore that the framers of the Indian Penal Code

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deliberately refrained from enacting any such law as is now proposed to be put on the Statute-book. That being so, I say it is a serious concern of the public that an offence like this should be created now, without the public being given full opportunity to consider the position and express its opinion thereon.

Now, what is the scope of this Bill? This is another fetter on the liberty of the Press. Can there be any doubt about it? It comes to this, the Press of this country is not to discuss foreign relations, a most vital matter for the country. Discussing foreign relations is a most important duty of the Press. It is a duty which is fully recognised by the civilised Governments throughout the world. The provisions of the Bill are so wide that the Political Department can obtain a conviction on almost anything, because under the system of Government which now prevails here the Political Department is a reserved subject. They will claim, and claim rightly too, that they are the only people who know anything about the foreign relations of India with other countries. If they say, if they give evidence,—as it is proposed to do—that foreign relations will be prejudiced, who is to say no to that? The result will be that they will be the sole judge of whether a writing in the Press is defamatory, or rather, if defamatory, whether it is likely to prejudice foreign relations. And look at the scope of it,—likely to prejudice foreign relations! You could not use language wider than that. You may call it a law, but it lacks the very elementary requisite of law,—that is, definiteness. The court must find it very difficult to give effect to language of that kind. The result must naturally be that if the Secretary of the Foreign Department gives evidence before the Court that in their opinion—because it is a matter of opinion—the foreign relations are likely to be prejudiced, there is an end of the matter. I say the Court will find it impossible to go behind that opinion. I am absolutely sure, my Honourable friend Sir Evelyn Howell knows fully well that that will be the result of a proceeding in Court at the instance of the Foreign Department. I take it that evidence will be given according to the ordinary procedure and the requirements of the Evidence Act. Once that evidence is given, whether the defamation charged is likely to prejudice foreign relations—that will depend entirely upon the evidence of the Foreign Department. The Court will be helpless, will be entirely at the mercy of the official witness.

Look at another provision of the Bill. Any member of the family of a Ruler—has any attempt been made to define that? So far as I remember, the General Clauses Act does not attempt to define any such thing. I do not know of any Act which defines the member of a family, especially of a Ruler, an Oriental Ruler. I think Sir Evelyn Howell will find it very difficult to define the members of the families of certain rulers adjoining India. (Laughter.) A pitfall of this character should not be allowed to creep into any statute passed by this Assembly. My Honourable friend Dr. Ziauddin Ahmad has pointed out other difficulties too. My Honourable friend Sir Evelyn Howell has assured the House that Arabia, Iraq and all those places would be excluded, but there is another legal difficulty which arises in this connection. If Aden is part of India, then Arabia is contiguous to India.

Sir Evelyn Howell: Not the whole of Arabia, Sir.

Sir Abdur Rahim: Part of independent Arabia would be included.

Sir Evelyn Howell: The Hejaz would not, I submit.

Sir Abdur Rahim: It may be possible to try some such distinction, and I know my Honourable friend Sir Evelyn Howell is acute enough to draw such distinctions, but it will be very difficult for a court of law to define what is or what is not included within the definition given in the Bill. There is the case also of places like Pondicherry, Goa, Chandernagore. It will, therefore, not only be very difficult to say with respect to anything which is written in the Press or uttered from the platform and which may be considered by any of the representatives of foreign powers or their Ministers as defamatory—whether or not foreign relations are endangered or prejudiced thereby, and that there are the other questions which will raise further difficulties. I do not want to deal with all those questions at present. My main point is that this Bill as it has emerged from the Select Committee creates a new offence. I do not say that the Select Committee was not well advised in narrowing down the Bill to cases of defamation as in the old English law. That may be so. It is in fact what we demanded, but Government having dropped their original idea and having accepted the view of the Select Committee of this House to bring in a Bill with a much narrower scope and of a different character altogether, it now becomes necessary to re-circulate the Bill for public opinion according to the ordinary procedure of Select Committees. The Committee itself ought to have reported that the Bill is so altered as to require re-circulation. I do not know if any stronger case could be made out for re-circulation. It may be said that the first Bill was of a wider scope, but my point is that although the present Bill is of a narrower scope, it creates a different offence. It is a different measure, and therefore it ought to be re-circulated. There is one other point. I do not know if Dr. Ziauddin intended to raise it, but from the way he dealt with this question it suggested itself to the House that this Bill particularly affected the Mussalmans, but that is not so. On the other hand it might very well be argued that some of the adjoining States being Mussalman States, it affects the non-Muslim inhabitants of the country more than the Mussalmans. At any rate that is not the point. The whole point now is whether the Bill ought not to be re-circulated as it creates a different offence to the one in the original Bill. The Honourable Member in charge of the Bill has alluded to the fact that in other countries some provision or other of this nature exists. It is perfectly true, but we have got to see whether there is really a good case for re-enacting them here. The conditions of India are very different from the conditions in Brazil and places like that. We know in European countries, whether the law is there or not, criticism of foreign policy is a matter of every day occurrence and is a most vital part of a nation's interest and are we going to stifle such criticisms in this country? As a matter of fact in England, as the Honourable the Law Member will admit, the law in this respect has been obsolete. It is more than 100 years, I believe, since there was a prosecution. I pointed this out in my last speech. I did listen very carefully to what Sir Evelyn Howell had to say on this point on the previous occasion, and I must say that neither I nor most Members on this side of the House were convinced of the necessity for such a measure. Anyway even if there be a necessity, I think we must consult

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public opinion on the Bill as it has been reported on by the Select Committee, and that is the question now before the House. I do hope that Government will consider this point seriously, and I am sure that Members on this side of the House will consider it necessary and vital that a measure of this importance should receive in its present form that judgment of public opinion which its importance deserves.

Diwan Bahadur Harbilas Sarda (Ajmer Merwara: General): I rise just to say a word in support of the amendment proposed by Dr. Ziauddin. The question before us is nothing more than that the Bill should be re-circulated instead of being taken into consideration on the ground that the Select Committee appointed to consider it has materially altered it. If there has been a material alteration in the Bill, and this, I think, has been fully proved by my Honourable friend Sir Abdur Rahim, it is not only proper but incumbent that the Bill should be circulated to elicit public opinion. From an offence of the nature of sedition to an offence of the nature of defamation and libel, one has to travel very far in fact from one place to another. They are two different and two distinct kinds of offences. One is entirely personal. The other is with regard to the State. The object of the Bill evidently is that nothing should be done to prejudice relations between the Government of India and another State. That being so, if we find that the offence which was made punishable by the original Bill has been changed, it is very necessary that the matter should go again before public opinion, and Government should know what public opinion in the matter is. As it is, I think the scope of the Bill, by including Ministers and members of the family of Rulers of adjoining States, has been made very wide. It is very difficult to define or determine for the purposes of the Bill who the members of the family of a particular Ruler are. As, however, I do not want to go into the merits of the thing, I support the amendment on the ground that as there has been a material change in the Bill it should be re-circulated for eliciting public opinion.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, the Bill has been very much modified by the Select Committee, but notwithstanding that fact, the Bill is neither fish, nor flesh nor good red herring. If my objection had been only to the language and the terms in which the provisions are drafted, I could have moved amendments and taken my chance. As it is, the Bill has been materially altered, as pointed out by the leader of our group, and a good case has been made out for sending it out for eliciting public opinion. Sir, both when he introduced this Bill as well as on the present occasion, the Foreign Secretary stated that this Bill was intended to bring the law into line with the English law on the subject, and further he said that this Bill purports to embody the principles and practice of the English law. Both the propositions are incorrect and can be disputed. This Bill as it stands is neither justified by doctrines of international law, nor is it in accordance with the practice of civilized nations. The object underlying the Bill appears to be based on a political necessity rather than on a legal necessity. Sir, the Foreign Secretary's statement that, "It is a recognized principle of international law that the States, in their relations with other States, are responsible for acts committed by persons within

their jurisdiction" is incorrect in theory and at variance with international usages and practice. The modern theory and practice of international law on the subject has been recently summarized as follows by an able writer :

"An individual may violate international law and thereby occasion injury to foreign States or its nationals, but his acts need not necessarily be attributed to the State within which he is found nor engage the responsibility of the State. The State is never responsible for the act of an individual as such. It cannot be regarded as an absolute guarantor of the proper conduct of all persons within its bounds. Before its responsibility can be engaged, it is necessary to show that it has violated an international duty recognized by the customary and positive law of nations in a clear and definite form."

These duties are summarised as follows :

(1) The individual may do harm either to a foreign State itself or to an alien. In the former case a public claim is constituted, i.e., a claim by the foreign State in its own behalf. This includes attacks and insults directed against the head of that State or its flag.

(2) Protection to diplomatic agents. Failure would entail reparation.

(3) Injurious acts from individuals within its jurisdiction, such as raids on their territories.

(4) Libel on Sovereigns or violation of their ambassadors' privileges punishable under the criminal law of the land, for which generally exemplary punishments are meted out.

It will thus be seen that the responsibilities of the States in respect of activities of individuals are not as wide as they are now sought to be made out. They are restricted (1) by considerations that a State is not responsible for the activities of individuals as such but only for its failure to fulfil certain international duties imposed upon it by the law of nations. (2) These duties do not include the prevention of any and every act of individuals that a foreign State may consider injurious to its interests as the elaborate explanation of the Foreign Secretary would have it but only the prevention and bringing to justice of actual acts of injury done to a foreign power by individuals by the commission of injurious acts recognized as international injuries by international law. These acts are :

(1) Aggression on the territory of a foreign State.

(2) Injury to property and life of its nationals.

(3) Libel on its head.

With regard to the question of State regulations and domestic laws as are said to be obtaining in every modern State, I would like to take the case of Great Britain first. In Great Britain there is no specific law on the subject, except the Foreign Enlistments Act, to enforce international obligations. But the Foreign Enlistments Act applies principally to the case of war and acts of aggression and is primarily directed against mercenary soldiers. In peace, the liberty of the Press and opinion is restricted only by the English law of libels. This gives protection not only to British subjects against one another but to heads of States and ambassadors. This is all the law in England on this subject. To say that this Bill is intended to bring the law into line with the English law is palpably inaccurate and absurd. This is nothing but an encroachment of the executive in this country. For instance, even with the wording of clause 2 amended, as now, it can have only one effect, the suppression of all expressions of opinion on the foreign policy of the British Empire in India, so far as regards those States in particular to which this Bill is sought

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to be now applied, excepting those expressions of opinion as may be permitted by the Government of India. There is no proper judicial control. Moreover, once a complaint is lodged, justifiably or unjustifiably, there is absolutely no criterion left to the Judge whether a person is guilty or not. The question whether a particular statement is likely to promote unfriendly relations between His Majesty's Government and the Government of a foreign State is a question of fact. It must necessarily vary according to the circumstances of the case. A statement which may promote unfriendly relations with one State may not do so with another. Whether it will do so in a particular case will depend upon an infinite variety of circumstances, including the domestic political situation of a foreign State of which the Judge can take no cognizance at all. This difficulty was pointed out in one of the opinions gathered on this Bill from the Judges of our High Courts. The measure will thus have the effect of subordinating the domestic government of one country to the necessities of the domestic situation in another. Such a law, so far from being in conformity with international law, is absolutely at variance with the fundamental principle of a full national sovereignty. (Hear, hear.)

The Foreign Secretary has further stated, Sir, that it is intended to bring this law into conformity with the practice and procedure obtaining in England on this subject. In this connection I would like to read a few cases from which it will be seen that whatever may have been the law in England in ages gone by, so far as the present period is concerned, England has no such law as is now intended to be introduced here. Here is an important case:

'The German navy, which was one of the main factors of the growing hostility between Great Britain and Germany towards the beginning of the present century, was the subject of much pointed attention on the part of the British Press. In 1904 a British paper suggested that the British navy should fall upon the German fleet before it had grown too strong and destroy it just as it had destroyed the Danish fleet in 1807. Sir Frank Lascelles, the British Ambassador, had a talk on this subject with Prince von Bulow, the Imperial Chancellor, and reported to the Foreign Office on December 28, 1904:

'.....the constant attacks in the English Press, which had met with no official disapproval, and the new scheme for the reorganization of the Navy had given rise to the belief, which had become very prevalent in Germany, that England had the intention of attacking her.....'

Count Metternich's statement had given great satisfaction to the Emperor, who had become suspicious in consequence of his attention having been drawn to a recent article in the *Army and Navy Gazette* and a suggestion in *Vanity Fair* that England should treat the German fleet in 1904 as she treated the Danish fleet in 1808. (sic.) I said that the two papers he mentioned were without any practical importance and I thought it a pity that the Emperor should have paid any attention to them. About same time the British Ambassador in Berlin had a long discussion with Herr von Holstein of the German Foreign Office about the tone of the British Press, and he wrote to Lord Lansdowne on December 30, 1904: This subject again came up for discussion between the two Governments about six months later. While giving an account of a conversation he had had with the Imperial Chancellor, Sir Frank Lascelles wrote to Lord Lansdowne on June 12, 1905:

'He (von Bulow) regretted that this state of things should exist and that the English Press should continue the hostility against Germany. I was aware of the sensitiveness of the Emperor to English opinion, and hardly a day passed without His Majesty's sending him (Bulow) a sheaf of English papers to read.'

Lord Lansdowne also wrote to Sir Frank Lascelles on the subject. He stated:

'So far as I was able to follow the argument of these personages, the strained relations which were believed to exist between Great Britain and Germany were due, in the first place, to the attitude of the English Press, and in the second.....'

With regard to the attitude of the Press, His Excellency (Count Metternich, the German Ambassador in London) who knew this country so well, must I thought be well aware that His Majesty's Government was in no way answerable for the language of our newspapers.'

At the time of the Basanian Crisis of 1908, the British Press generally took up a very strong anti-Austrian attitude. This led to very strong diplomatic representations on the part of the Austro-Hungarian Government to the British Government. On November 5, 1908, we find Sir W. E. Goschen writing to Sir Edward Grey,—"His Majesty's Government regret as much as any one that the newspaper Press, should at times be utilized as the vehicle for international recriminations. But even if they had the power to interfere—which it is of course will known they have not. . . ."

Here it is specifically admitted, Sir, that they have no power to control the Press. There is also another case. It is the case on which the Marquess of Salisbury expressed the opinion that the Press is not under control:

"In March, 1900, extremely provocative articles were published in *The Times* regarding Germany. Sir F. Lascelles, the British Ambassador in Berlin, sent the following telegram to the Marquess of Salisbury on this subject on March 16."

To this telegram, complaining about the conduct of the British Press, Lord Salisbury sent the following reply:

"I approve of your language to the Emperor which if necessary you can repeat from me. The incidents referred to are most unfortunate but the vagaries of the newspapers are entirely beyond my control."

Then, Sir, you will find a number of other instances where even British Ministers and Statesmen have repeatedly stated that, whatever may be the English law on the subject years ago, at the present moment, or even at the time of 1900, there was no such law in existence which could control the Press. In this connection, I would like to draw the attention of the House to one particular opinion expressed by one of the most brilliant I.C.S. men of the province of Madras, Mr. Galletti. This is what he says:

"The Bill gives power not only to the Government of India but even a local Government to prosecute for anything likely to promote unfriendly relations between His Majesty's Government that, is His Majesty's Government in England, and the Government of any State in the world; and power to any magistrate to award punishment.

2. In practice both under the present constitution and the federal constitution it will be the Viceroy who will decide on prosecution, and conviction will follow as a matter of course. It is a power I would not entrust to any one man except on one condition, that in the particular circumstances he will be subject to the control of public opinion."

I find from the report of the Select Committee that no distinction has been made between the expressions of opinion in religious matters and political matters. Be that as it may, I would like to read this passage in the very language which this European civilian has used:

"No Viceroy will dare to prosecute for expressions of opinion, however strong, that a neighbouring State is not governed in accordance with the principles of the Koran or that one pretender to the throne is a better Muhammadan than another. I would confine the Bill, like section 125 I. P. C. to Asiatic States."

That of course is done to a certain extent. However, jurisdiction should be given only to Session Courts. Mr. Galletti states:

"I would give jurisdiction only to Sessions Courts sitting with jurors."

That is a point which was not accepted by the Select Committee and I find that there is an amendment standing in the name of Mr. Maswood Ahmad to that effect. Mr. Galletti further says:

"I would not have a separate Act. I would add a section to the Indian Penal Code after section 125, which would be merely a logical corollary to that section."

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There is also another opinion, as has been pointed out by Sir Abdur Rahim, which would have this treated in the same way as defamation is treated. Further on Mr. Galletti says:

"The objection to the Bill in its present form is obvious to any man of liberal mind. Everyone has his preferences and his prejudices. Queen Victoria resented attacks on her fellow potentates and had the will but not the power to prosecute any one who attacked them. The parallel with England would only hold if the Sovereign in England exercised that power as the Viceroy would have whether under the present or the future constitution. The power is exercised by the Government in England and the Government in England is under control. Napoleon III demanded the punishment of Englishmen who libelled him, but public opinion prevented the Government giving his satisfaction. A Government that intercepted Mazzini's letters was promptly brought to hell in parliament and in press. Mr. Gladstone was never in danger of prosecution for calling the Government of Naples the negation of God or for campaigns against Turkish atrocities. Even in the war no one was in danger of prosecution for attacking Signor Giolitti or President Wilson or King Constantine though these attacks fell under the mischief of the present Bill. Libels on President Kruger were allowed although they led to the Boer war. King Leopold of Belgium was freely libelled for alleged atrocities in the Congo Free State. Attacks on the Soviet and Fascist Governments and on the personal character of Stalin, and Mussolini are made daily in England. France allows a virulent and vulgar Anti-Fascist paper full of scurrilous attacks on Mussolini, to be printed in Paris. Public opinion in England and France will not permit the Government to prosecute. The objection to giving power to the Viceroy to prosecute is that public opinion here is not strong enough to check the Viceroy. A further objection is that it is unnecessary to defend non-Asiatic Governments."

Sir, these are the opinions expressed by a European Civilian serving in the Presidency of Madras. I would also like to give the words of another European Civilian, who is the District Magistrate of Kurnool. With reference to the remarks made by the Honourable the Mover of this motion, he states as follows:

"If the Foreign and Political Department wants legislation it should not camouflage it. The Honourable Mover's speech was so elaborately camouflaged as to be almost irrelevant in parts."

Sir, from my own province several opinions have been received which are against this Bill. I would also quote the opinion of the Chief Presidency Magistrate of Madras. This is what he says:

"I find it somewhat difficult to support the measure that has been proposed. In a country like India having a population of 72 million Muhammadans in close neighbourhood of Muhammadan States the prevention of all criticism of the acts of the neighbouring rulers—in matters affecting their co-religionists is liable to be considerably resented. The Bill makes no distinction of the criticism of these rulers in matters of religion as distinguished from temporal affairs. It is so wide that it includes both; and both the criticism and the consequential resentment is likely to be much greater in these matters than in purely temporal affairs. I am not aware of any law anywhere in the world which in the slightest degree prevents the members of a particular sect from criticising the conduct of heads of states in reference to their conduct in matters of religion. This is very different from preventing libels against rulers of Foreign States, because an attack on the character of a ruler may now be necessary for criticising his conduct with reference to his religion. Knowing how zealously Muhammadans in any part of the world watch the interests of their co-religionists abroad, and that India has perhaps the largest Muhammadan population, I think the Bill is particularly unsuitable to the conditions in this country."

Sir, the opinions that I have read out so far are entirely against this Bill, but I am sure it will be said that the Assembly has already accepted the principle of the Bill. Sir, we have never accepted the principle of the Bill. We have been fighting from the beginning, and we even went into the lobby against it. However that be as the very wording of clause 2,

even as amended, shows, it is a Bill which cannot be accepted. The Bill as it has emerged from the Select Committee is altogether different from the previous one, and it is absolutely necessary that we must have the opinion of the country on it before we proceed with it. It was stated by a writer of great reputation that the Foreign Relations Bill was justified neither by doctrines of international law nor by the practice of civilised nations. Its springs, he said, are in fact not legal but political, and it is rendered imperative by circumstances peculiar to India. British

foreign policy, so far as it concerns India, has of necessity to recognise the fact that there is a potential threat to the unity of the Empire in the nationalist aspirations of India. Its efforts therefore to a partial extent at any rate are directed to counterbalancing those aspirations, or at least towards seeing that no foreign influence complicates the internal situation. It is therefore a measure directed against the whole country and against all classes so much so that it cannot afford to have freedom of opinion about the foreign relations of the country. It is not correct to state that it is a Muslim affair. It is an Indian affair, and as such I lodge my emphatic protest and support the motion for circulation.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I am sorry that the discussion, of course inevitably, has been widened in its scope instead of being confined purely to the amendment of my Honourable friend Dr. Ziauddin Ahmad. At the present stage, I deliberately propose to abstain from offering any remarks on the Foreign Relations Bill or its consideration, and would like to concentrate my own argument on the question of circulation. My opinion on this question is exactly the same as my opinion was during the last Simla Session when a friend of mine and a respected Member of my party brought forward the motion that the Press Bill be re-circulated for opinion. I opposed the re-circulation on principle. In that particular case, I was a Member of the Select Committee, and as a Member of the Select Committee, I felt obliged, even though the Bill was shaped beyond recognition by the Select Committee, to support where the Select Committee supported the Bill and to get it changed on the floor of the House where the minority in the Select Committee differed from that Bill. That is exactly the position that I propose to adopt in regard to this measure, though I am in a better position in this case because I have not been a Member of the Select Committee. Sir, the argument that the Honourable the Leader of the Independent Party addressed to this House was chiefly this. He said that when a Bill emerged from the Select Committee changed beyond recognition, then the Bill should be re-circulated for opinion because it is a new Bill. I beg to differ from him. If a Bill emerges from the Select Committee in an aggravated form with objectionable features increased, it becomes necessary to circulate the Bill for public opinion. But if a Bill emerges from the Select Committee in an improved form—and I believe the Honourable the Leader of the Independent Party has not stated that the Bill has emerged in an aggravated form with increased objectionable features

Sir Abdur Rahim: I said it was a different Bill, a different measure.

Mr. C. S. Ranga Iyer: He said it was not the same Bill. As I said in Simla in regard to the Press Bill, even though one of my friends belonging to my party contended at the time that the Bill was very different

[Mr. C. S. Ranga Iyer.]

from what it was when it went to the Select Committee, I held at the time that it was a Bill which had come in an improved form even though some of its principles had been vitally shaken and some of the clauses had been wholly changed. I said as it had come in an improved form, it was for us to discuss it on the floor of the House and reject it if we did not think it acceptable to us, or amend it in whatever form it should be amended. I am at present not uttering one word on the merits of the Bill because I think there will be ample opportunity during the progress of the Bill, if Dr. Ziauddin Ahmad's amendment does not prove acceptable to this House, to express my opinion on that matter. At present, as amply illustrated by quotations made by the Whip of the Independent Party, there has been a good deal of opinion against the Bill which was circulated and this is more or less the same Bill. I do not for a moment think the object of the Bill is different. I do not believe that the principle of the Bill has been altered; the purpose of the Bill continues to be the same, only it has been improved, but perhaps that is a matter which will have to be discussed at a later stage. It has been improved perhaps in certain aspects, and on that matter I should like to hear Members of my party who have served on the Select Committee, and I believe they have yet to speak on that, but until they have spoken I would leave the question open. My party has not made this a party question. My party has left the doors open. So far as the question of re-circulation is concerned, in the light of certain observations made by Mr. Raju, who quoted abundantly the opinion expressed in the country when it was first circulated for opinion, I conclude that re-circulation is only a superfluity to which I am unwilling to commit my party. At the same time, I may say that when the Bill comes up for discussion on the floor of the House, Members of my party will be free to discuss the matter exactly as they choose.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): The objection which was taken to this Bill at the Simla Session was mostly one objection, that it affected religious performances of Muslims, and it debarred the Muslims from making fair criticism of the actions of those Rulers where the Muslims, on account of their religious performances, have to go. That was the objection strongly taken by my Honourable friend, Sir Abdur Rahim, that he did not like the Bill to be sent to the Select Committee, and when the House voted in favour of the Bill being referred to the Select Committee on the assurance given by the Leader of the House that, before it went to the Select Committee, it would be circulated for public opinion by executive order, when this was done and the Bill referred to the Select Committee, the Honourable the Leader of the Independent Party not only himself refused to serve on the Committee but stopped every Member of his party from serving on the Committee. The result was that every one dropped out.

Sir Abdur Rahim: That was not so.

Mr. Muhammad Yamin Khan: One by one every one whose name was proposed for the Select Committee withdrew his name.

Khan Bahadur H. M. Wilayatullah: Because I was opposed to the principle of the Bill.

Mr. Muhammad Yamin Khan: Once the House having voted for referring the Bill to Select Committee, they refused to serve on the Committee and thus deprived the Select Committee greatly of the benefit which the Committee could have derived from the wise counsels which are tendered to-day.

Sir Abdur Rahim: What about the Honourable Member himself?

Mr. Muhammad Yamin Khan: After saying that one is not willing to serve on the Select Committee, it is not fair for one to come and criticise the particular actions taken by the Select Committee. One objection had been taken that public opinion had not been consulted and if opinions had been received they had not been properly considered by the Select Committee. But I beg to differ from this. There were two kinds of opinions received, one was opinion which was real opinion, and those people pointed out the difficulties in the Bill and made certain suggestions as to how to improve the Bill. There were other kinds of opinions which were not opinions at all. Those opinions were that the Bill affected the religious freedom and therefore the Bill should not be enacted. With all humility, I beg to differ from those opinions and also differ from those Honourable Members who call this opinion. I think this could not be the opinion because these people did not study the Bill at all, and this kind of opinion, which neither suggests any remedy, nor points out any difficulty, could be hardly called any opinion. And due weight was given to all those opinions which fell under the first category.

Now, Sir, the chief point which was made by my Honourable and learned friend the Leader of the Independent Party and certain other Muslim Members and also supported by some Governments, especially the U. P. Government, was that an unnecessary legislation, which might create a kind of agitation by affecting certain rights of Muslims, should not be undertaken. That being the case, due regard was paid to this question. It was considered that the principal countries in which Muslims were concerned on account of their religious performances were Arabia, Mesopotamia and Palestine. And it was decided by the Select Committee that these places should be excluded from the scope of the Bill because no criticism of a fair kind should be allowed to come within the scope of the Bill where they are really and vitally concerned. So the Select Committee chose to limit the scope of the Bill, although it was not really warranted. But it was thought that the Government's object could be gained if the scope was narrowed down, and with this narrowing down, the objection which was taken by the Muslims was absolutely taken away. It has been narrowed down to the States which border on India, or are contiguous to the shores of India, and no religious objection can be taken now to the present Bill as it has come out. This Bill affects Hindus, Christians, Sikhs, etc., as much as it affects Mussalmans, and due consideration was given to the fact that no interference with religious performances should be permitted in this Bill.

Another objection is that the Bill, as it has come out of the Select Committee, is totally different from the original Bill. I quite agree in that. The first Bill said that any statement which tended to create unfriendly relations was punishable. It was found by the Select Committee that the scope of the Bill was very wide and they said that a statement which was in the nature of defamation of a Prince would be punishable—defamation as defined in the Indian Penal Code. The Prince or Ruler defamed cannot

[Mr. Muhammad Yamin Khan.]

appear in the courts of British India and in order to give him protection it was laid down that the Governor General in Council should be authorised to lodge a complaint before the court and prove that it was a libellous statement. In addition to that, they have also to prove a second fact, that it also creates unfriendly relations. So in order to have a conviction, these two things will have to be proved by the Governor General in Council.

So the scope has been narrowed down and it has emerged from the Committee in a much better form. The Committee considered whether the court should be the judge as regards the likelihood of unfriendly relations being created, or whether it should be left to the Governor General in Council, and the majority of the Committee came to the conclusion that the court should be the judge and this should form part of the Bill. So with these two things, it is very difficult for the Governor General in Council to launch a prosecution unless they are absolutely sure that they can secure a conviction. They will probably in many cases choose not to prosecute owing to the difficulty of proving that there will be unfriendly relations, because it will have to be proved in court by some officer of Government who will have to disclose the commission and evidence in their possession. Sir, I think the Bill goes beyond the limits that would be required for giving real protection to the rulers of neighbouring States.

One point which struck me during the debate and which was pointed out by my Honourable friend, Dr. Ziauddin Ahmad, escaped the notice and attention of the Select Committee, and I feel sorry that he did not sit on that Committee; if he had been there and if he had pointed it out, the Committee would have been wiser. It was about Aden. Of course if India includes Aden for the purposes of this Bill, then it touches certain States; but the intention of the Select Committee was never to include them in the scope of the Bill. But I feel doubtful whether the word "India" will include Aden, because it is British India which includes Aden, and the word used is not British India, but only India, and therefore I thought that when my Honourable friend was talking about Pondicherry and Goa and other settlements of foreign powers in India, whether they are bordering on India or not, I thought that the word used was not British India, and that anything which stands outside India will be considered to be outside India, as India stands on the map, and not India which may be called British India, which is a totally different thing. Geographical India includes Pondicherry and Chandernagore and Goa, and other places also. But if my friends think that the scope of the Bill, as it stands today, includes those states, which was not the intention of the Select Committee, of course an easy amendment can be made in the shape of an explanation added to clause 2, by which we can say that for the purposes of this Bill, Aden will not be considered as part of India. Then no prosecution will be launched in respect of defamation as far as those territories which are bordering the small colony of Aden in Arabia are concerned. I would not like that, for this little thing, this Bill should be re-circulated again for obtaining the kind of opinions that have been read out by the Honourable gentleman. I do not think any case has been made out for re-circulation.

Another point which has been touched by my Honourable friend Sir Abdur Rahim is this, that the framers of the Indian Penal Code have

deliberately abstained from putting down this offence in the Indian Penal Code. I beg to differ from this; they did not deliberately abstain from putting this down. Political circumstances in 1861 were not the same as the political circumstances are today. India did not stand in the same need in 1861 as she stands today . . .

An Honourable Member: Are we in a worse position?

Mr. Muhammad Yamin Khan: The political circumstances have changed. The Amir of Afghanistan was not then considered an independent ruler in those days; but he is an independent ruler to-day. The position of other contiguous states is absolutely changed. The circumstances are changing, and for this purpose, every day as the necessity arises, the law has to be changed. The law can never be the same, and it will have to be changed as the circumstances change, and we find today that certain conditions and certain statements appear in the Press, which make it obligatory that protection should be given to our neighbours so that the relations between India and those States may remain solid, and may not be jeopardised by the man who writes in the Press simply for his own sake. I think that the Bill should be considered now and there is no necessity for re-circulation.

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

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

Maulvi Sayyid Murtuza Sahib Bahadur (South Madras : Muhammadan): Mr. President, I support the amendment moved by my Honourable friend, Dr. Ziauddin Ahmad. So far as the legal aspect of the Bill is concerned, it has been fully dealt with by the Honourable the Leader of my Party and also by my Honourable friend, Mr. Sitaramaraju. As a layman, I will try to convince the House of the necessity of circulating this Bill for eliciting public opinion. The contention of the Government is that it has been circulated, but circulation by means of an executive order is no circulation at all according to our view. It will be circulated to Local Governments, to High Courts and to Bar Associations, but there are so many important associations run by the public and they are of all-India reputation, and this Bill has not been circulated to them. So far as I know, Sir, the All-India Muslim League has not been consulted on this important question, nor has the Muslim Conference been consulted. The All-India Khilafat Committee, the Jamiatul-Ulema-i-Hind, Delhi, Jamiatul-Ulema of Cawnpore, have been totally ignored, the Anjuman-i-Islam of Lahore has not been consulted; in fact not even a single public association has been consulted; nor have the Government consulted any Hindu, Sikh, Christian or Parsi Association on this important matter. So, Sir, the Mover of this amendment was cautious enough in using the word "circulating" this Bill and not "re-circulating" as has been put down by my Honourable friend, Mr. Maswood Ahmad.

[Maulvi Sayyid Murtuza Sahib Bahadur.]

We do not recognise this circulation by virtue of an executive order. The whip of our party, as has been pointed out, is not in favour of that kind of circulation of a Bill of this important character. My friend Mr. Yamin Khan, who is absent now, laid strong stress on the point that we did not signify our willingness to serve on the Select Committee when our names were proposed, and in that connection he went to the length of saying that the leader of our party prevailed upon us not to serve on the Select Committee, which is not at all a fact. We have got our own independent view; we can use our discretion as to on what committees we should serve and with what committees we should not be associated. **The House is fully alive to the fact that all members of our party were opposed to the very principle of the Bill, and therefore we were not willing to serve on the Select Committee.** This point has been made much of by my Honourable friend Mr. Yamin Khan, who said that inasmuch as we have not served on the Select Committee, there is no justification to criticise the Government now. In his enthusiasm to support this Bill, he has ignored even the opinion of some Muslim Associations who have sent a copy of the Resolution passed by them to the Muslim Members here. The House may be aware of the fact, and particularly my friend the Foreign Secretary, that Shias as a whole have raised a hue and cry against this Bill. Lucknow, which happens to be their centre, held many a meeting and they have passed Resolutions, copies of which have been forwarded to Government and also to the Press. Such being the case, it is quite necessary that this Bill should be circulated for eliciting public opinion. As regards the Bill as a whole, Sir, there is some erroneous impression in the minds of some of my non-Muslim friends that this measure will affect Muslims and Muslims alone and so some non-Muslims may keep themselves aloof from this. (*An Honourable Member*: "Who says so?") I know there are some Members who think like that.

Mr. S. C. Mitra: Yes, there are some Members who think like that, I know.

Maulvi Sayyid Murtuza Saheb Bahadur: Here is my Honourable friend to support me. But the question is this, Sir. The liberty of the Press has already been curtailed, and this Bill is surely calculated to curtail its liberty to the highest possible degree. There is no sense or justification in saying that Government will avail themselves of reasonable opportunities, and that they will not sanction prosecution unwarrantedly and unreasonably. What may seem reasonable to the Government may be quite unreasonable to us. After all, we know, Sir, how the Governor General in Council acts in matters like this. I do not mean any disrespect to the Members of the Executive Council,—the Governor General in Council have to rely on the opinion of the Foreign Secretary, on one solitary individual, so far as matters like these are concerned. The Governor General in Council don't generally say "No" to what he says. So, Sir, there is great danger in undertaking legislation of this character. So far as my constituency is concerned, I consulted many gentlemen of eminence in my province, and they are all against this. If my friend Mr. Yamin and Members of his way of thinking are of opinion that the modifications that have been made now have to a great extent met the objections of the community, then they are entirely mistaken. I would

therefore strongly urge that this Bill should be circulated for eliciting public opinion in its true sense, which is very very important in matters of this kind.

As for the Deputy Leader of the Nationalist Party, I am glad that he gave vent only to his personal opinion. I was afraid that he would even go to the extent of committing his own party against this motion, but he has not done so. He has found it impossible for him to agree with my Honourable friend and Leader Sir Abdur Rahim in one important fact. Sir Abdur Rahim has proved to the hilt that by legislation of this kind a new offence will be created which will not be either in the interests of the Government or the governed. Sir, I hold, that all Indian communities will be affected by legislation of this nature. So, I hope that my Honourable friend Mr. Ranga Iyer who, though a Northern Indian now, is a Madrassi . . . (*An Honourable Member*: "Is that a fault?") No, Sir. On the other hand, I feel proud of him.

Mr. C. S. Ranga Iyer: I am unwilling to interrupt my Honourable friend, but what I stated was this. I was saying that my Party had left it as an open question. And there are Members in my Party who are both for and against. As for the merits of the question, that is a larger issue; I did not go into it.

Maulvi Sayyid Murtuza Saheb Bahadur: So, I express my joy over that expression that without committing his party in favour of or against the motion, he gave his personal view, and I now request him to change his personal view also, because it has been proved by so eminent a lawyer as the Leader of our Party that legislation of this kind is quite uncalled for and unnecessary, especially as it creates a new offence which is sure to prove detrimental not only to the interests of the Government but also to those of all other communities alike.

Mr. N. N. Anklesaria: The Honourable the Mover of this amendment brought forward a similar motion when the Bill was before the House in the last Simla Session, and the grounds which he urged in support of that motion were as flimsy and as untenable as those which he has urged to-day.

Sir, the law of England punishes defamatory statements against foreigners outside the dominions of the King only when such defamatory statements endanger or tend to endanger peaceful relations between the Government of His Majesty and the foreign country concerned. That is what is called the law of seditious libel in England, and the two essential ingredients of that offence are that the statement must be defamatory and that the defamatory statement should tend to bring about unfriendly relations. As the Bill which was brought forward at the last Simla Session stood, it lacked the ingredient of the statement being defamatory, and so far as I could understand, the principal desire of the eminent speakers who spoke on the other side was that the law sought to be propounded in the Bill should be made conformable to the English law by adding that ingredient of defamatory statement in the law. As it is in accordance with the wishes of the Opposition that the Select Committee has added that ingredient and has made the law conformable to the English law, one would have thought that the Opposition would have agreed to pass

[Mr. N. N. Anklesaria.]

the Bill as recommended by the Select Committee. But as some of my Honourable friends on the other side said the other day, the business of the Opposition is to oppose, and they have been following that maxim to-day

Dr. Ziauddin Ahmad: Not to oppose everything.

Mr. N. N. Anklesaria: The Honourable the Mover of the amendment in support of his motion for re-circulation relied on the arguments advanced by the Honourable the Leader of the Independent Party at Simla. The main ground which Sir Abdur Rahim urged at Simla was that the English law, as found in Stephen's Digest, provided for fair criticism and the Bill as then brought forward did not make any such provision. Whatever justification there might have been for the complaint as regards the Bill brought forward in the last Simla Session, that complaint has absolutely no justification as regards the Bill which is before the House to-day. The law of defamation having been embodied in the present Bill, all the ten exceptions mentioned in section 499 are open to an accused person. (*An Honourable Member:* "How?") An Honourable Member asks how. Section 499 does provide, he will admit, ten exceptions to the definition of the offence of defamation as defined there, and clause 2 of the Bill, by embodying the law of defamation in the present Bill, also embodies all those ten exceptions, and in order to show how far they guard the rights and privileges of newspaper writers and other writers, I propose to read a paragraph or two from Ratanlal on Crimes. At page 1185 the book says :

"Every writer has a right to comment on those acts of public men which concern him as a subject of the realm, if he does not make his commentary a cloak for malice and slander. A writer in a public paper has the same right as any other person, and it is his privilege, if indeed it is not his duty, to comment on the acts of public men which concern not himself only but which concern the public, and the discussion of which is for the public good. And where a person makes the public conduct of a public man the subject of comment and it is for the public good, he is not liable to an action if the comments are made honestly, and he honestly believes the facts to be as he states them, and there is no wilful misrepresentation of fact or any misstatement which he must have known to be a misstatement if he had exercised ordinary care."

Then again :

"A newspaper has a public duty to ventilate abuses and if an official fails in his duty, a newspaper, is absolutely within its rights in publishing facts derogatory to such official and making fair comment on them, but it must get hold of provable facts. The editor, however, should be most watchful not to publish defamatory attacks upon individuals unless he first takes reasonable pains to ascertain that there are strong and cogent grounds for believing the information which is sent to him to be true—that proof is readily available and that in the particular circumstances his duty to the public requires him to make the facts known."

Sir, similar comments are found on the other exceptions in the Penal Code. Then it was urged by the Honourable the Mover that the Bill was not circulated among the people most concerned. I quite agree that the Bill was not sent round to the 350 millions of the population of India, but it was sent to people most competent to give their opinions on it and the very fact that my Honourable friend the Mover has cited before the House protests from several associations shows that there is absolutely no justification for his complaints on this score.

Then my Honourable friend said that the Bill is likely to affect the religious susceptibilities of the Mussalman section of the Indian population. This was the very ground which was urged in Simla and the Select Committee has taken care to see that no such ground exists in the present Bill by eliminating all countries from the purview of this Bill in which Mussalman shrines are situated and comments as regards which country may affect the religious susceptibilities of Muhammadans.

Sir, my Honourable friend on the other side said that the Bill is so very much altered that it should be re-circulated. As the Honourable the Leader of the Nationalist Party pointed out, what reason can there be for circulation of a measure which has been altered in the sense of improvement in the direction of popular wishes. Sir, so far as I am concerned, I see no sense absolutely in such a demand. I can quite understand it if the Bill had been made more reactionary and oppressive but looking at the Bill as it has emerged from the Select Committee, I see no ground for complaint on this particular head also, more especially as the Select Committee themselves say in their report that the Bill has not been so altered as to require re-publication and that the Bill be passed as now amended. On that Select Committee was the Leader of the Nationalist Party, who spoke at very great length against the Bill in this

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House at the Simla Session. My Honourable friend Dr. Ziauddin relied on arguments of his learned leader, Sir Abdur Rahim, in support of his proposition that the Bill should be circulated. I have read the arguments put forward by Sir Abdur Rahim at the Simla Session, and I find that as regards the most important argument advanced by him, namely, the argument based on the English law, Sir Abdur Rahim's remarks are a tissue of unmitigated inaccuracy. Those remarks are found on page 950 of the debates.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): He is not in his seat to answer you.

Mr. N. N. Anklesaria: I am sorry he is not here. He ought to be here. His lieutenants are here. He says:

"Will my Honourable friend the Law Member point out any English law which has a provision to that effect. What is this English law. It is an old obsolete thing. The last prosecution was in 1803 and so far as I can find, there have been only four cases, one in 1764, one in 1778, of another I forget the exact date and the last one was in 1803."

As I said, this statement is a tissue of unmitigated inaccuracy. The law is not obsolete in England. The last prosecution as shown by Antonelle's case was as recently as 1905.

Mr. B. Sitaramaraju: The Honourable gentleman has not told us what is the English law?

Mr. N. N. Anklesaria: I have already stated what the law of England is. The English law is that a defamatory statement about a person outside the King's dominions is not punishable by the law of England unless and until that defamatory statement also tends to prejudice peaceful relations of His Majesty's Government with the foreign country concerned.

Mr. B. Sitaramaraju: What is the inaccuracy you are talking about?

Mr. N. N. Anklesaria: The inaccuracy is that the law is obsolete and the last prosecution was not in 1803 but in 1905.

Dr. Ziauddin Ahmad: Give some details.

Mr. S. C. Mitra: The examples quoted are a quarter of a century old at least.

Mr. N. N. Anklesaria: Then, Sir, the Honourable the Leader of the Independent Party, when speaking about the statement of law made on the floor of this House by the Honourable the then Law Member, Sir C. P. Ramaswami Ayyar, said that the law of seditious libel was not as propounded by the Honourable the Law Member, even though the Honourable the Law Member had actually cited the very words of Bishop's "Criminal Law" and said that the American law was exactly similar to the English law,—and it may be noted, the present legislation seeks, as explained in the Statement of Objects and Reasons and the Report of the Select Committee, to embody the principles of the English law. I submit, therefore, Sir, that, in citing the authority of the Leader of the Independent Party, my Honourable friend Dr. Ziauddin Ahmad has not much advanced his case for circulation. With these words, I submit that this motion should be rejected.

Mr. Gaya Prasad Singh (*Muzaffarpur cum Champaran: Non-Muham-madan*): Sir, as a member of the Select Committee, I should like to say just a few words on this motion. I am free to confess that when the Bill was first introduced into this House it had many objectionable features; and those Honourable Members who thought it fit to oppose the Bill at that stage were in my opinion perfectly justified in doing so. But the House by a majority accepted the principle of the Bill and referred it to a Select Committee. The Select Committee, as will be seen, has improved this Bill to a very great extent; and I note that my Honourable friend Dr. Ziauddin Ahmad also has admitted in the course of his speech that the most objectionable features of the Bill have been removed by the Select Committee, or at least very greatly modified. Sir, the Bill when it was originally introduced was very wide and comprehensive. It embraced within its scope all foreign countries, but the Select Committee has restricted it to only those countries which were outside India but adjoining India. (*Mr. B. Sitaramaraju*: "You call that an improvement?") It was done on the ground that statements which may be published in this country would not be likely to have any serious effect on those countries which are very far from India. For instance, a statement which might appear in the Indian Press attacking the Head of the Brazilian Government, or any other Government very far from India, is not likely to lead to any serious complications or to endanger or prejudicially affect the relations between India and that far off foreign territory.

An Honourable Member: What about the State of Arabia?

Mr. Gaya Prasad Singh: It was in that view of the matter that this Bill was restricted in its scope. Now if this modification, which was made by the Select Committee, is open to any objection, it is quite up to Honourable Members to discuss it on the floor of this House; and if a

suitable amendment is tabled on that particular point, Honourable Members may either accept or reject that amendment on the merits as they like. This in itself is not a ground for re-circulating the Bill.

Then another improvement effected by the Select Committee is that the responsibility of adjudicating whether a writing is of such a nature as to prejudice the friendly relations between this Government and the foreign State concerned is cast by the Select Committee on the court. The provision of the Bill as originally introduced was that the Governor General or the Government was the sole judge in deciding whether a particular writing was likely to be prejudicial to the maintenance of friendly relations, but the Select Committee has made an improvement and thrown the responsibility of deciding that particular question upon the court concerned. I find, Sir, in his minute of dissent my Honourable friend Sir Evelyn Howell and my Honourable friend Sir Lancelot Graham have pointed out this difference and disagreed with the improvement. With regard to the motion for re-circulation, I have to point out that the Members of the Select Committee unanimously held that the Bill had not been so altered as to require re-publication, not to speak of re-circulation. There were both Hindu and Muhammadan Members on the Select Committee, but not a single member has recommended re-circulation. With regard to the provisions of the Bill, I may state that there is a distinct improvement with regard to clause 2, which after all is the main and operative portion of the Bill. The Bill as originally introduced embraced within its scope all writings which were likely to promote unfriendly relations between His Majesty's Government and the Government of any foreign State. But the Bill as it has emerged out of the Select Committee is restricted in its scope, and is limited only to offences of defamation "with intent to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State, or whereby the maintenance of such relations is likely to be prejudiced". I am not speaking about the merits of the Bill. If the Select Committee have made mistakes, let us all discuss the Bill on the floor of the House; and if I have made any mistake in putting my signature on the Select Committee's report, it should be quite open to me to revise my views if I am convinced; but no case has been made out for re-circulation. This Bill was circulated for the purpose of eliciting opinion in the country in the same way as other Bills in the past have been circulated. Those opinions so far as they are reflected in the papers before the House were before the Select Committee also; and I think they are available to all Members of this House. The motion for re-circulation is a dilatory motion. I am not giving at this stage my opinion on other provisions of the Bill. I shall be free to express my opinion if necessary one way or the other, on the merits of the amendments that may be moved. But so far as the question of the re-circulation of the Bill is concerned, I am unwilling to agree to it.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): Sir, the Bill is a very useful one, and I think that in some quarters its real object has not been properly understood. It is based on a very common sense and daily-life practice, as every one of us wishes to be very friendly with his neighbours. So, it is the duty of the Government of India to be very friendly with their neighbours. Just as it is the bounden duty of the Government to maintain peace, law and order within India, so it is the bounden duty of the Government of India to have very friendly relations with the adjoining Rulers who are also very friendly with us. The object

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of the Bill is not to interfere with the religion of any community because the policy of non-interference in religious matters by the British Government is too well known, nor it is the object of the Bill to deprive the Press of its liberty because if the Press is abusing its liberty, we have for that purpose other laws and other regulations. I myself complained about some of the articles published in the newspapers in Northern India last year when I was in London. At that time we were surprised that the Government were not taking proper action against those articles which were malicious and were written simply as propaganda work by one party living in a foreign but adjoining State, and bribing the newspapers in British India and using those articles as party politics against our very friendly Rulers. We were feeling that it was the duty of the Government that when the other Rulers were so friendly with us, we ought to have regard for their respect, especially when we knew very well that those articles and accusations were not in the interests of any religion either in the other countries or in India. That propaganda was going on simply by the force of money. Is it not the duty of the Legislature and of the Government to keep very friendly relations with our neighbouring States? If it is our bounden duty to keep peace and to have every regard for various communities and for the freedom and liberty of individuals in India, is it not also our duty to pay our full attention to the friendly relations with the neighbouring States who are very friendly with us and who give us all possible help and in whose countries there is no propaganda against us? The object of the Bill is only this, so far as I can understand it. If the Bill had been properly understood, I do not think there would have been the least objection in any quarter of the House (*Mr. S. C. Mitra*: "And yet there is objection to it from every quarter of the House".) The Muslim institutions or Anjumans which have objected to the Bill have misunderstood the aim and object of it. They thought, according to their different religious opinions, that perhaps in some far off places, beyond Aden and other places, the Bill was going to be affected and would have some interference with their religion. But the Honourable Sir Evelyn Howell has explained the Bill so clearly that there is no scope for the interference with different religious ideas of the Shias and the Sunnis or of any other religion. It is purely for the purpose of keeping under our thumbs that malicious propaganda which is sometimes started by those parties who wish to create some trouble in the neighbouring States and who are sheltered and harboured here with the aid of money. Articles are written simply to create ill feelings between the two neighbouring countries. Sir, the mischief-makers in India are trying their best to bribe the vernacular Press mostly to create such troubles. (*Mr. B. Das*: "What are those newspapers? Will you kindly mention their names?") Some people who are living in the North-West Frontier Province would very much like to create trouble there. If once trouble is created there, those who live in the Frontier can understand what calamities and troubles they will lead to if there are no friendly relations with the neighbouring State. I must take this opportunity, Sir, of thanking the other side of the Frontier for their very just, neutral and friendly attitude; otherwise even if they had the slightest idea of creating the slightest trouble, it would have cost us, as I said the other day in my speech in this House, thousands and thousands of lives and millions and millions of pounds. It is most important on the part of the Government of India to keep very friendly relations with

the neighbouring States for the good of India itself and also for the good of her people. Many of us do not realise the situation and the position in which the Government of India are placed. If for a moment we place ourselves in the position of the Foreign Office and of the Government of India, we will soon realise that our first duty is to have a full regard for the safety of India by maintaining the friendly relations with the neighbouring States.

The second duty would be to have a full regard for the internal safety and for the internal management of the country. Sir, it is very easy for a man to manage his house according to his position or power, but it is not so very easy for him to manage the affairs with his neighbours. People, as a rule, have more regard for their neighbours than for those who live actually with them. The aim and object of the Bill is only this and nothing else. Its aim is not to interfere with the religion of any community or with the freedom and liberty of the Press, or to stop and muzzle those people who are very fond of writing articles and discussing foreign and political affairs. I think that if we all look into the real aim and object of the Bill, there will be no objection to it in its original form as it was moved by the Honourable Sir Evelyn Howell.

As for the technical side of the question whether it should be according to the English common law or whether that law is obsolete or dead, all these things are irrelevant in my opinion to the aim and object of the Bill. I will leave it to the Honourable lawyers to struggle and fight and show their ability on those points. So far as the real object of the Bill is concerned I as one coming from the N. W. F. P. should like to have a plain talk and go straight to the point. Sir, the Bill is very useful and necessary and all those Honourable Members who generally wish that the relations of the Government of India should be friendly with their neighbours both in and out of India should give their support to the Bill.

Mr. Lalchand Navalrai: I feel fortunate that I have to speak on this Bill at this early stage. I was one of the Members of the Select Committee and therefore there is a justification for me to place the facts and the law before this House in order that they may come to a fair judgment on the Bill as well as on this dilatory proposition. To begin with, I may say in one word that this Bill aims at protection to the foreign rulers and the scope of such rulers has now been restricted to which I will refer shortly. The Bill gives protection to foreign rulers against any scurrilous statements that are made against them in India. Such statements will be an offence under this Bill if the intention is to create unfriendly relations between the British Government and the ruler of the foreign State. That being the object, I submit when this question came before the Select Committee, several objections were raised and some of those objections were actually such that the Select Committee accepted them. But still there are some other objections which the House has yet to decide upon. I may say at this stage that I am one of the dissenting Members of the Select Committee so far as certain objections are concerned.

Now it will be clear to the House that the original Bill which was presented to the House and which went to the Select Committee provided in clause 2 that if any one "makes, publishes or circulates any statement, rumour or report with intent to promote, etc.", then it would be an offence.

[Mr. Lalchand Navalrai.]

This was a very wide scope and it was considered by the Members of the Select Committee that it should be curtailed, as otherwise it was too wide to include any sort of flimsy statement or report or even unfounded rumour for which a man could be put to trouble. Therefore this was conceded by the Select Committee, especially in virtue of certain remarks that were expressed by the Government of the United Provinces at page 26 of the report of opinions which say :

"There is a general feeling among Muslims that the definition of the offence given in clause 2 of the Bill is too wide in its scope. Fears have been expressed that as this clause stands at present it might be held to be an offence under this Bill to criticise matters affecting Islam such as the administration of the places in the Hejaz in which Indian Muslims have a vital interest. The Local Government considers that it is impolitic to cause genuine apprehension to any large section in India by passing a measure intended to avoid the susceptibilities of neighbours who as a rule are very far from being equally scrupulous in regard to attacks on the British Government."

Sir, in view of this opinion and several other opinions which were considered by the Select Committee, it was decided that so far as the first portion of clause 2 was concerned, it should be changed. Then it was changed in this manner. The Bill which has issued out of the Select Committee reads thus :

"Whoever commits any offence punishable under Chapter XXI of the Indian Penal Code against a Ruler of a State outside but adjoining India"

Now, there were two objections, one was such as I just read out to the House. The other was that this Bill would apply to any foreign State and it was not advisable that it should be passed in a way which would affect Indians' expressing their opinion with regard to every foreign State. Therefore the Bill was curtailed and the words now used are "a Ruler of a State outside but adjoining India". Now this Bill would certainly apply actually to those States which are very adjoining, not such of the States as are far away. Therefore, I do not think there is any fear on that score, especially as the Honourable the Foreign Secretary has also said that the intention is no other. I do not think there is any other view of the Treasury Benches on this point. With regard to these too wide words the Select Committee searched for some precedent and found out words which were already used in a Statute under which people are being punished. Therefore instead of these wide expressions they changed those words into such statements as come under the definition of defamation as provided in the Indian Penal Code. This Chapter XXI used in clause 2 relates to defamation. The House knows what defamation is, but in order to remove certain impressions of the House that the objections raised have not been met by the Select Committee, it becomes necessary for me to say something with regard to this offence and the definition of defamation together with the safeguards under it. Section 499 of the Indian Penal Code defines defamation as under :

"Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person."

Now, Sir, this is a definition which is applied here in India. Any man who makes an imputation of this character will come under section 499 I. P. C.

and be punished. There may be a certain fear in the minds of the Honourable Members that any fair criticism or fair comment which is made in good faith will also be covered by this and a man will be punished for it as well, but I want to remove that misunderstanding because section 400 I. P. C. is subject to certain exceptions.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I hope the Honourable Member is not going to repeat what Mr. Anklesaria has already stated to the House. The exceptions to section 400 were read out and commented upon by Mr. Anklesaria.

Mr. Lalchand Navarai: I am not going to repeat them. I am only referring to them to remind the House that there are safeguards provided. What I particularly want to draw attention to, without reading these exceptions, is to refer to three exceptions only showing that these three are pertinent to this question. They are exceptions Nos. 1, 3 and 9. So my humble submission is that there are safeguards which have been provided and therefore there is no fear that any fair comment or any comment which is harmless will make anybody punishable.

Then, Sir, proceeding further I find that there are certain objections which from my point of view have not been accepted by the Select Committee. With regard to those I submit that the first comes under this clause 2, and it says that an imputation against the Ruler of a State or against a member of his family or against a Minister of such Ruler shall be punishable. I object to this on the ground that 'family' and 'minister' were not included in the original Bill. The original Bill referred only to the Ruler, and we do not find that there is any precedent even in the English law and English countries where any other person but the Ruler of a State is so protected. On this point my view is that it is not necessary or proper to extend any protection with regard to any libel respecting any member of the family of the foreign Ruler. If the intention is to bring the Indian law on this subject into conformity with the English law, there is no such provision in the English law, making libel on the members of the family of foreign Sovereigns amenable under such special laws. The expression "member of his family" is very wide and elastic, and may include even a remote kinsman of the Ruler. The dictionary meaning of the word "family" is a body of servants or survivors of a house or the retinue or following of a person of estate or authority. Even the narrower meaning includes those descended really and putatively from a common progenitor. The modern meaning too would include a group comprising immediate kindred. These are my submissions with regard to this point. The word "family" is very wide, and that is one of the objections which this House has to consider.

Then, Sir, further on we find that the words are "with intent to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State". I take objection to the words "friendly relations". My humble submission is that the object of the Bill is not that there should be protection against unfriendly relations, but that there should be protection against the creation of enmity and hostility between two Rulers. Therefore so far as these words are concerned, namely, to create unfriendly relations, they will be distorted and misinterpreted. On this point my view is that from the political point

[Mr. Lalchand Navalrai.]

of view, the idea underlying the Bill is to prevent the dissemination of defamatory statements against foreign Rulers, made with intent to create enmity or hostility between the two Governments, and not only with an intent to cause unkind or unfavourable relations between them, or such as may merely tend to displease the Ruler. The word "friendly" means kind or favourable. The use of such an expression will go a great way to put too much restraint on the freedom of speech and the privilege of the Press. I submit, therefore, that the words "with intent to create enmity" may be more appropriate and this is what I am asking the House to consider.

Then, Sir, so far as the other portions of the Bill are concerned, they will also be considered at the time when amendments are moved, but I will make one remark so far as the courts are concerned. There was a difference of opinion in the Select Committee as to which courts should try these cases. Some of the Members were of the view that it must be the Sessions Court to try such an offender and that also should be considered by the House for this is a graver defamation than defamation against a particular man who can be tried in India by a First Class Magistrate or a Presidency Magistrate. But in these cases where there will be many legal points to decide, I submit that the trial must be in a Sessions Court.

Now, Sir, with regard to this amendment for re-circulation of the Bill, I submit that it is true that the opinions that were promised by the Government have been obtained. Government made only a promise that the opinions would be sought through Government agency and opinions have been got from their officers. But to be fair to the other side also, I would say that I have got those opinions in my hand and I find that excepting one or two opinions of the Bar Associations the opinions are of Government officials. I submit it will not be correct to say that many Bar Associations have given their opinion. On the contrary I find that at page 4 there is an opinion sent by the Chief Commissioner of Ajmer-Merwara of a Government pleader and not of the Bar Association. I also find elsewhere an opinion of another Government pleader—Malik Khuda Buksh, Public Prosecutor in Derajat. At the end I find on page 25 a letter from the Secretary, Bar Association, Madras, and there is also another secured by the High Court from a Government advocate. So far as this question is concerned, my view is this: it is true that opinions have been sought, but the opinions have not been sought from the public. The Government opinions are there and the opinions of certain bar associations are also there; that is all. Therefore it is for the House, after I have placed all these views before it, to decide whether it is necessary that this Bill should be re-circulated.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): I move that the question be now put.

Shaikh Sadiq Hasan (East Central Punjab: Muhammadan): Sir, I feel it my duty to say a few words about this Bill. Unfortunately the British Government are becoming more irresponsible every day; and we find that their only aim and object is to make such laws and Ordinances as are distasteful to the people. As a matter of fact they are getting very desirous of curtailing the liberties of the people, and for this reason they always

want to put forward such Bills as are absurd and very harmful to the country. The Bill which we have got before us does not protect the potentates only; it tries to protect their families as well.

Mr. S. O. Mitra: Family does not include wives according to Mr. Lal Chand's interpretation. Do you include wives?

Shaikh Sadiq Hasan: My friend, Mr. Mitra, asks, do I include their wives? It is not only a question of their wives; if they happen to be Hindus who believe in a joint family system, it may protect their collaterals to the tenth degree; and in the case of Muhammadans, if they have got more than one wife, it protects their brothers-in-law and perhaps the sons and daughters of those brothers-in-law as well. It is only possible to bring such an absurd Bill before the House because the best elements of the country are non-co-operating with the Government and they have not come into the Assembly

An Honourable Member: Are we not here in a representative capacity?

Shaikh Sadiq Hasan: Yes; the gentlemen who have signed the report on this Bill no doubt have come in their representative capacity; but if they had been fighting against those radicals, I am very sure that most of them would not have been able to come here

An Honourable Member: Question.

Shaikh Sadiq Hasan: And if they had come, they would have such a restraining influence over them that they would not have dared to place such silly things before us. (Interruption.)

Now I want to take another point. It is said here "with intent to prejudice the maintenance of friendly relations between His Majesty's Government," etc. Now, Governments generally have not got a very high morality. Governments always judge according to their friendship with the States. If the British Government happens to be very friendly with a foreign State, they will consider any act as prejudicial to that Ruler; but if on the other hand they were unfriendly, as they were in the case of Amanullah Khan, they would allow full latitude to people to criticise him.

Mr. Muhammad Yamin Khan: The Bill says "prejudice the maintenance of friendly relations". If a man is unfriendly, there is no question of prejudicing those relations: it is only those who are friendly who are sought to be protected.

Shaikh Sadiq Hasan: I have only one more word to say and it is this: that foreign relations in the past even in England have caused great troubles. Take the case of Queen Mary: there was a civil war over there because she had a soft corner in her heart for the King of Spain. In the same way later on in the days of King James, a great man of whom the English are proud, Sir Walter Raleigh, was executed because the King of Spain wanted it to be done. Even in the time of Charles the First, civil war in England was due, I think, to some extent because he favoured the Spanish very much. What I have to say is this: this Bill is not so

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innocuous, and is not so harmless as it appears; but it may have serious consequences in time to come. It may appear at the present moment of no consequence, and we may pass it very lightly in this House, but we cannot say how it will result in the future; and I consider that in the interests of the country and in the interests of future generations of India, the Bill should be re-circulated.

Dr. R. D. Dalal (Nominated Non-Official): Sir, I move that the question be now put.

Mr. President: I accept closure: the question is that the question be now put.

The motion was adopted.

Sir Evelyn Howell: Sir, as my friend, Mr. Ranga Iyer, with his usual acuteness reminded the House, the actual issue under discussion is a narrow one. Should this Bill be circulated for further opinion or should it not? On that point he gave a clear expression of his own opinion. My friend, Mr. Yamin Khan and other speakers have touched on the same point and have shown that so far as technical and constitutional reasons go, there is no ground whatever for eliciting further opinions. We have obtained large numbers of opinions, some favourable and some unfavourable; extracts from them have been read to the House, and they show that the question has been considered by most people who are in a position to offer an opinion of any value; and those opinions had to be consulted and have been consulted by the Select Committee. Many speakers, however, have by no means confined themselves to this narrow issue, but wandered off into other aspects and topics and questions connected with the Bill, and into those fields I am afraid it will be necessary for me, though I hope not at very great length, to attempt to follow them. The first point is . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to inform the Honourable Member that the discussion has proceeded on his motion as well as on the amendment for circulation, and therefore all the speeches made were perfectly relevant and in order. The Honourable Member can deal with the whole subject now.

Sir Evelyn Howell: Thank you, Sir. I never meant to imply for a moment that they were not relevant.

Mr. President: The Chair thought that the Honourable Member was speaking under a misapprehension.

Sir Evelyn Howell: I have dealt with the question of necessity for collecting further opinions. There is another and a practical side of the question. Is the Bill of a nature which we can afford to have deferred? A number of Honourable Members have said—my friend, Dr. Ziauddin amongst them—that there is no situation now, therefore why not leave things quiet and in effect why should we put the lock upon the stable door until the steed has been stolen? I submit, as I have said before, that the danger is real and practical, and we do not wish to have the mischief done.

before we can take any steps to prevent it. I think that perhaps to emphasise this point I had better tell the House what happened last year. Early in March of last year a certain newspaper in Lahore,—it is no secret that it was the *Zamindar*—started a series of most malicious and defamatory attacks on the Ruler of an adjoining and friendly country, and followed them up by publishing a violent and inflammatory appeal from a dynastic rival of that Ruler, who had shortly before been driven from the throne of his country by the force of public opinion amongst his subjects. These publications produced a great deal of excitement both in this country and outside it. They could not in any way be dealt with under the ordinary law, and consequently early in April of last year the Foreign Relations Ordinance was issued. Still the stream of vituperation continued, and action consequently had to be taken under the Ordinance. During the six months for which that Ordinance was in force, from April to October of last year, six prosecutions in all were sanctioned under it. Three of these were brought against the *Zamindar* in respect of six articles published on various dates between the 18th April and the 2nd June. Two different editors were prosecuted and all three cases resulted in conviction. Each of the editors was sentenced to one year's rigorous imprisonment. In addition to these prosecutions against the *Zamindar*, three other newspapers, all published in Lahore, the *Afghanistan*, the *Kesari* and the *People*, were also prosecuted. In one case, that against the *Kesari* the editor apologised and the case was dropped. In another case, brought against the newspaper, the *People* in respect of a defamatory article about the Persian Government, conviction was followed by a sentence of imprisonment until the rising of the Court, and a fine of Rs. 200. In the third case, the editor of the *Afghanistan* was sentenced to one year's rigorous imprisonment. It will be remembered, Sir, that last year in September I stated on behalf of Government that if the publication of further articles of this nature compelled Government to take further action, there would be no hesitation in promulgating a second Ordinance. I have reason to believe that a good many Members of this House thought that perfectly reasonable, and that had that action been necessary, it would have been supported by a strong section of public opinion. Those organs of the Press, however, whose conduct had compelled the issue of the Ordinance, have, since its lapse, I admit, been quiescent, and attempts have therefore been made to argue that, because this is so, the need for the Bill has been removed. What are called in England "white glove assizes" frequently occur. But no one has so far suggested that murder and other crimes should cease to be punishable on that account. So here, no one can doubt that one of the main reasons why that campaign came to an end was the action taken by Government under the Ordinance and its expressed determination to do the same again should necessity arise. Nor can it be doubted that when the same inducements are once more forthcoming, if there is no statutory bar, the same consequences will once more ensue, and it is the absolute duty of Government and of this House to guard against that danger.

I have dealt with the points in so far as they have penetrated my intellect which were pushed at us by my friend Dr. Ziauddin Ahmad. I now come to the arguments advanced by Sir Abdur Rahim. He said that this Bill created a new offence. I submit, Sir, that that is not so. This Bill does nothing but make a slight alteration in procedure, whereby a person hitherto debarred from access to our Courts, if he is aggrieved by a defamatory article, can have the remedy which the law

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provides for all and sundry. Then, Sir, the same speaker urged us to note the differences between the Bill as it would be if it came into effect in the

4 P. M. form reported by the Select Committee and the English common law. I admit, Sir, that there were two points on which our Bill deviated from the English common law model, but I submit that the English common law is not a fetish to be slavishly worshipped, or copied and adopted in every respect. The English common law is a practical thing. It is the outcome of practical necessity, and we here have to do the same. If there is a slight difference between the English common law, and our law, I do not think that it matters much. The point is, is the spirit of it in accordance with that? Is it fair? That is what we have to look to. A third point which Sir Abdur Rahim made was that Aden is included in British India, and therefore if the Bill came into force, certain potentates whose domains might be supposed to adjoin the hinterland of Aden would come within the scope of this measure. I used the luncheon interval, Sir, to consult the map, and I see that, as I said in this House it is correct that the so-called Protectorate of Aden and the Hejaz do nowhere touch, and therefore, the Hejaz, as I said, remains excluded from the scope of the Bill. A Potentate known as the Imam of Sana has his territories adjoining the Aden hinterland and he would no doubt, I suppose, if what Sir Abdur Rahim said is correct, be one of those who might desire a complaint to be made and a prosecution to be launched on his behalf. But the danger is very remote.

An Honourable Member: What about Iraq?

Sir Evelyn Howell: Iraq is excluded from the scope of the Bill entirely. The other people adjoining Aden are certain obscure chiefs in a country called the Hadramaut about which no one knows very much or cares more than he knows. But if any Honourable Member thinks it necessary to table an amendment to the effect that for the purposes of this Bill India should be understood as not including Aden, I think that we could undertake to accept it.

I now come to what my friend Mr. Sitaramaraju said. He quoted at considerable length from certain papers relating to attacks in the English Press against the German Emperor in the year 1904, and in the course of his remarks he quoted a despatch from Lord Salisbury who was then Secretary of State for Foreign Affairs in England which ran—"The instances are most unfortunate". I think, Sir, that the same might have been said of the instances which Mr. Raju quoted in this House. Because as he said, some obscure writer in an English paper in the year 1904 made a perfectly preposterous suggestion that the British fleet should attack the German fleet before it grew too powerful, this offended the German Emperor and no action was taken against the writer in England, and from that moment relations between the two countries grew steadily worse, with the result that 10 years later the Great War followed. I submit, Sir, that if that writer had been muzzled from talking about a subject of which he obviously understood nothing the Great War might perhaps have been deferred.

Then, Sir, Mr. Raju also quoted from various opinions which were before the Select Committee. One of these was from a gentleman, whom he described with a great deal of eulogy, which he no doubt deserves as

a very brilliant Civilian. and he proceeded to read extracts from that gentleman's opinions. But he always stopped at every point where the gentleman expressed any opinion contrary to the view Mr. Raju was advancing. Had he gone on a little further in one of his readings he would have read as follows:—"Libels on President Kruger were allowed, although they led to the Boer War". Sir, which is the greater evil—to have an unnecessary war or to muzzle an ill-informed journalist for writing on a subject which does not concern him?—I ask the House.

Another opinion cited by my friend was that of the Chief Presidency Magistrate in Madras. I submit, Sir, that if the opinion from which I have just been quoting and that of the Chief Presidency Magistrate of Madras are both read as a whole, it must be apparent that they were both in favour of some measure for dealing with the evil of which I have spoken so often, although like this House they thought that the Bill then before the House was too wide, and I submit that the alterations which have been introduced by the Committee go a very long way towards meeting the objections which both those gentlemen recorded in the expression of their opinions.

I now come to my Honourable friend, Maulvi Sayyid Murtuza Sahab Bahadur, who complained that no heed had been paid to the opinions expressed by various Shia associations in the United Provinces. I submit, Sir, that again is covered by the alterations made in Committee. If I am not mistaken, the representations made by those associations of Shia Muslims were on account of acts alleged to have been committed in the Hejaz. The Hejaz has been removed from the scope of the Bill and whether the Bill passes or not, it makes no differences to anybody who wishes to write about things that happen in the Hejaz.

Next came my Honourable friend Mr. Lalechand Navalrai. I must confess that I found myself in some difficulty in knowing which way he was speaking. He gave a very elaborate defence of what had been done in the Committee, and then said that he was a perfectly unprejudiced man, and quite ready to make up his mind all over again and in the opposite direction at a moment's notice. (Laughter.) However, one of the amendments tabled by him in pursuit of this amiable intention is to substitute the words "to create enmity" instead of "to prejudice the maintenance of friendly relations" in the appropriate sections of the Bill. I submit that diplomacy like other professions is entitled to its own language. We have our conventions in this House here. We talk about so and so as "my Honourable friend" although perhaps he may be personally almost unknown to us. We refer to other gentlemen as "the Honourable and gallant So and So", just as they do in the House of Commons, although we have no reason to suppose that any particular gentleman, because he has served in the Army, is more or less gallant than any other member. So, in the world of diplomacy, relations between the Powers are always friendly, until unfortunately sometimes they break down and then relations cease. As long as they are relations, they are friendly relations, and when you have certain classes of Powers to deal with, who, I must confess, are perhaps not so far advanced as some other countries, you have to look out what you are doing, because you have to take care not to offend them. They may take offence reasonably or unreasonably, but I submit that the mischief which they are in a position to cause by taking offence is so great and the evil of just being able to put a check on the unrestrained enthusiasm

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of a newspaper or two here and there so small, that it really is necessary to disregard the lesser evil for the sake of preventing the greater.

Finally, there come this question about families and Ministers and what not, and the insinuations that the Governor General in Council may at some future date sanction prosecution because somebody had said something offensive about remote descendants or distant collaterals of some foreign Ruler. Well, Sir, the Governor General in Council is aware, just as well as the rest of us, that foreign Rulers are very human beings after all and do not very much care what is said about their third or fourth cousins or probably do not set any very great store by imputations against the reputation of their minor officials. The point is that those attacks which the foreign Ruler is likely to resent may have consequences,—may even have consequences as dangerous and as deplorable as war. But whether they have those very serious consequences or not, they may have minor unpleasant consequences. The sort of thing I have in mind is this, that some illogical foreign Ruler might be attacked in the Indian Press. He might cause representations to be made and he might be told that the Governor General in Council had no means of dealing with this sort of thing and nothing could be done. "Very well," he would say to himself, "I will see about that. I will just see that any Indians who may come to my country in future do not have too comfortable a time while they are here." I submit that that is a possibility: It cannot be entirely discounted. But if the Government of India are in a position to say, "We have done all we can; we are slaves to law in this country; we cannot go outside it, but such law as we have we have put in motion," the objections which any foreign Ruler might have to any article that appeared in the Press would be to a great extent met.

Sir, I have I think dealt, so far as I can, with all the really relevant criticisms that have been advanced, and I hope that the amendment of my Honourable friend Dr. Ziauddin Ahmad for circulation will be rejected. (Applause.)

Mr. President: The question is:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon by the 1st August, 1932."

The motion was negatived.

Mr. President: The question is:

"That the Bill to provide against the publication of statements likely to promote unfriendly relations between His Majesty's Government and the Governments of foreign states, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. President: The question is that clause 2 of the Bill stand part of the Bill.

Sir Evelyn Howell: I beg to move the amendment which stands in my name relating to clause 2, the operative clause of the Bill.

The House has before it the Bill, as reported by the Select Committee, and Honourable Members will have noticed

Mr. President: The Honourable Member should read his amendment.

Sir Evelyn Howell: Very well, Sir. The amendment is as follows:

"That for clause 2 the following be substituted:

<p>Power of Governor General in Council to prosecute in cases of defamation which prejudice the maintenance of friendly relations with certain foreign States.</p>	<p>2. Where an offence falling under Chapter XXI of the Indian Penal Code is committed against a Ruler of a State outside but adjoining India, or against any member of the family or against any Minister of such Ruler, and, in the opinion of the Governor General in Council, the maintenance of friendly relations between His Majesty's Government and the Government of such State may thereby be prejudiced, the Governor General in Council may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, 1898, any Court competent in other respects to take cognizance of such offence, may take cognizance thereof on such complaint."</p>
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Sir, this amendment was foreshadowed by the minute of dissent which Sir Lancelot Graham and myself submitted. In that minute of dissent it was pointed out that whether any given statement was likely or was not likely to prejudice the maintenance of friendly relations between the Government of India and any of the neighbours of India was a very highly specialised and technical matter. The Government of India could indeed send myself or some officer of my department to give evidence in court on the subject, but that would give the defence an opportunity to make further statements and insinuations which would have a far worse effect on foreign relations than the original article which *ex hypothesi* was forming the subject of the prosecution. Moreover if the expert witness who came before the court stated that any particular article had tended to prejudice those relations, the court would practically be bound to accept his statement. If therefore the burden is to fall on the expert, on whom it should fall, why should it not be there *ab initio*? Another possibility before the court would be to attempt to summon some representative of that foreign State in this country. That again would lead to exceedingly unhappy consequences. The representatives of foreign countries are, though not by right yet in practice, as far as possible exempted from attendance in the courts, and if any such representative were summoned, he would no doubt be most reluctant to come and would very likely on arrival in court say that he—according to the technical position at the moment—being a consular representative, had no knowledge of these diplomatic matters. So the court would not get very much further. Then again if it sought for further evidence, it might require documents to be produced, and documents in such a case would almost inevitably be of such a nature as could not be produced in court or subjected to public scrutiny. The point then of this amendment is to relieve the prosecution of the double burden which the Bill as reported by the Select Committee seeks to lay upon it, and here again, although I said just now that we do not want to copy too slavishly the English common law, I do submit that this is a point in which we need not go beyond the provisions of that common law. In England all that has to be done is for the prosecution to prove a libel against the head of a foreign State, and certain other persons—but for the moment I confine myself to a libel against the head of a foreign State. If it has done that, it has discharged all that it is required to do. Here in this country why should it not only be required to do that, which is the burden that has been just laid upon the court by requiring defamation within the meaning of Chapter XXI of the Indian Penal Code to be proved, but also to go into further fields where the court can have no

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means of forming an opinion except by expert evidence, which is the same authority that has in the beginning decided whether or not a prosecution should be launched?

The House may reasonably object and say, "If this contention" (in support of which I am now arguing) "is so reasonable and so easy, why did you not urge it before the Select Committee?" To that I reply that we did our best, but the Committee decided against us. I might, Sir, in this connection, quote the famous saying of the Irish jurymen who, when asked why the jury had taken so long over such a simple case, said, "I never met in my life eleven such obstinate men". Sir, I move the amendment that stands in my name.

Mr. President: I have received notice of an amendment to this amendment by Mr. Maswood Ahmad. I see he is not present here.

Mr. Muhammad Yamin Khan: There are two clauses, one as it is in the Bill and another as proposed in the form of an amendment. Both are very nearly the same, except in one principle, and that is a very vital principle. We had discussed at great length in the Select Committee whether it should be left to the Court to judge that unfriendly relations have been created or are going to be created by certain articles which appear in the Press, or whether the sole judge should be the Governor General in Council. That was the real difference of principle. It was suggested that although the article may amount to libel on the Prince it should be a libel of this nature as to create unfriendly relations. If that is left to the Court, then necessarily some kind of evidence has to be produced before the Court and the Court cannot make up its mind unless it is proved to the satisfaction of the Court that the tendency of that article was to promote unfriendly relations, which means in other words that a certain amount of resentment might have been shown by the Prince concerned. When this question came up, the majority thought that if any private person was defamed he could go to the Court and get a conviction merely on account of proving that a particular statement is libellous, but in the case of the Prince who cannot appear himself personally before the Court, the Governor General in Council take upon themselves the responsibility of launching a prosecution, and they could not get a conviction unless they prove more than what a private individual would have to prove—that the statement is libellous and at the same time is a libel of such a nature as to create unfriendly relations between the Indian Government and the Prince concerned. When this point came up, it was really the intention of the majority of the Select Committee that protection to a Prince should not be more than what is enjoyed by an ordinary person in the country, and because he cannot appear himself personally, therefore this responsibility may be left to the Governor General in Council to protect the interests of the person who, on account of his position and status, cannot come to an Indian Court. I confess very frankly that this point came up so suddenly that we could not give very serious thought as to what it would amount to, and it was not known at that time that there was this last ingredient. As it happens, one thing that the present section refers to is, "with intent to prejudice the maintenance of friendly relations", which means, the Court has to judge whether it is going to create unfriendly relations or not.

Now what my Honourable friend, Sir Evelyn Howell, proposes is that in the opinion of the Governor General in Council if it is so, then that will determine the point. Now he takes the responsibility upon himself to be the sole judge as to whether unfriendly relations are being created or not. The real objection to the proposed section as it stands in the Select Committee's Report, as has been pointed out, is that, although the intention of the Legislature may be to keep up friendly relations, the bare fact that it has to be proved in an open Court that some kind of unfriendly relations are going to be promoted, the very nature of the evidence which will be tendered before the Court, if there were not such bad unfriendly relations already created, will tend to create unnecessarily the unfriendly relations which it has been the intention to avoid. A prosecution may be launched for the purpose that the friendly relations may continue, but when the Foreign Secretary or his subordinate comes before the Court and says that there is a tendency to create unfriendly relations, and with an unlimited number of questions put by the counsel in the cross-examination that might lead to such a result that the Foreign Secretary might be obliged to ask for the protection of the Court in disallowing those questions, but the Court might force him to answer all those questions which might be put by counsel in order to prove the justification of the charge or otherwise. That kind of question which may come before the Court, that by itself may create a tendency to ill-feeling which may be resented by the Prince concerned more than if there had been no prosecution at all. Well that is the tendency which it was thought fit to avoid, and the two Honourable gentlemen who have put in their minutes of dissent have urged that point. But unfortunately we could not see eye to eye with them at that time. But now, Sir, I must frankly admit that, after all, knowing one's own mistake, there is no mistake in having that corrected later on, and I think I must say now that a good deal of case has now been made out for their view. I agree that if it goes to the Court, it will be more harmful and more injurious than if there had been no prosecution at all. There might be cases of a very delicate nature, and the disclosure of the facts concerning them before an open Court, and with moreover the Press finding a good opportunity in that to magnify these things in their publications, might create still greater hostility between the two countries, and for this purpose and after all, there can be no other evidence except oral evidence and the written representation of the Prince concerned, and the oral evidence of the Foreign Secretary tending to show that that writing has created or tended to create unfriendly relations,—beyond that they can produce no other evidence, because the nature of the documents may be so confidential that they could not be produced before the Court. So I think when the Court has to decide or to rely mostly upon the evidence of the Foreign Secretary, it is much better to leave the matter to the judgment of the Governor General in Council than on mere oral testimony which might lead to the prejudicing of relations which we intend to keep very friendly. So I think this amendment is one to which I must after due thought accord my support, and I support it.

Dr. Ziauddin Ahmad: Sir, my Honourable friend, Sir Evelyn Howell, the Foreign Secretary, is establishing his position as a good research worker in this House. He has given one piece of research work in history. He maintained on the floor of this House that if in 1904 Lord Salisbury,

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the then Foreign Minister, had taken timely action against a certain paper, then the Great War would have been avoided.

Sir Evelyn Howell: I said, Sir, not that it *would* have been, but that it *might* have been, avoided.

Dr. Ziauddin Ahmad: Sir, I happened to be present in Germany at that time, and I followed the whole thing very clearly, and the causes of the war were quite different from what the Foreign Secretary is assuming them to be. Now he is making another research into Indian jurisprudence. We have always considered that, before any person is punished, all the evidence must be studied and examined openly in a court, with a right of appeal to the High Court. After deliberating a good deal over this question during the last four days, we now find here that in this Bill also he is taking away this power, and it is declared that the mere statement of the Governor General in Council through the agency concerned would practically be considered to be sufficient proof for the prosecution.

Mr. Muhammad Yamin Khan: No, no. Libel must be there.

Dr. Ziauddin Ahmad: But what about the proof of the libel?

Mr. Muhammad Yamin Khan: Libel must be proved.

Dr. Ziauddin Ahmad: It means that the Governor General in Council's word is the final word to indicate that this thing has created unfriendly relations? Tell me which Magistrate will go against it.

Mr. Muhammad Yamin Khan: No, no—it must be under the Indian Penal Code, Chapter XXI.

Dr. Ziauddin Ahmad: Then the statement of one of the persons appointed by the Governor General is to be considered sufficient for the purposes of law and all the procedure that is now laid down in the Criminal Procedure Code is to be set aside.

Mr. Muhammad Yamin Khan: No, no.

Dr. Ziauddin Ahmad: In practice, if not in words.

Mr. President: Will the Honourable Member please go on.

Dr. Ziauddin Ahmad: According to the recommendations of the Foreign Secretary. Sir, the point now before us was fought out in the Select Committee, and it was carried by the unanimous opinion of non-official Members that this clause should not find a place in the Bill; but the two official Members still press this question, and I am at a loss to understand why my friend, Mr. Yamin Khan, who expressed one opinion on the Committee, has now changed his mind on further consideration. (Mr. S. C. Mitra: "That is not surprising at all.") When I moved this motion for circulation I had in my mind this amendment of the Foreign Secretary and I knew that on account of the fog end of the session and the thinness of the Opposition, any motion of the Government would be accepted by the majority, especially when we had some non-official Members amongst us who considered themselves to be more representative of the Government than representatives of their own constituencies. (Laughter.) Sir, it was pointed out that the opinions which were worth having were carefully considered. There are two kinds of opinions. There

is a legal opinion for which we want a legal phraseology in order to find out that the words do not connote more than what we intend them to imply. The second category of opinion is the opinion of the people who are affected by the law. This opinion is also equally important. The Select Committee, to my mind, did not pay sufficient attention to the opinions expressed by various Associations and by the representatives of the people who will be affected by this particular law.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is again discussing his own amendment. The question of opinions is no longer relevant to the present issue. The present issue is whether the clause, as submitted by the Select Committee, should be amended as proposed by the Honourable Member Sir Evelyn Howell or not. The question of opinions is no longer relevant.

Dr. Ziauddin Ahmad: My argument against the present motion is that the opinions expressed by various Associations are opposed to this particular clause and that is the point which I am bringing in proof of my opposition.

Mr. President: Does the Honourable Member oppose both the clause and the amendment?

Dr. Ziauddin Ahmad: I oppose this particular clause as it stands.

Mr. President: We are discussing clause 2 with the amendment proposed by Sir Evelyn Howell. Is the Honourable Member opposing both?

Dr. Ziauddin Ahmad: I am opposing both. In the first place, my reason for opposing it is, as I pointed out last time, that in this clause the word "family" is still there. I do not want to repeat the arguments again, but there is no doubt that the word "family" is a very wide word, and in certain countries it may really cover half the people. My second objection is that the word "Minister" is also a very wide word. Any person who may be asked to carry on the work may be called a Minister. The connotation of these two words is very wide and it is very desirable that they should be narrowed down. The other point of my opposition is "adjoining India". As has been pointed out already, India includes Aden as well. And I was rather surprised by the argument of my friend Mr. Yamin Khan when he said that the connotation of India is smaller and the connotation of British India is larger. I thought that if you qualify the word, you always diminish the sphere of that particular thing. India is certainly a much wider term than British India, and unless this particular clause is modified in a manner so as to exclude Aden, I am afraid that it will be interpreted to mean Aden and the adjoining territories.

Sir, I repeat very briefly what I said before, that there is really no occasion for bringing in a clause like this. The Honourable Sir Evelyn Howell himself pointed out in his speech that since the lapse of the Ordinances no case has arisen. And if no case has occurred in the country after the lapse of the Ordinances and if nobody is taking any interest in it, may I ask if it is wise to remind the people and to tell them that a thing of this kind they could do and ought to do? It is not wise really to legislate on a measure which really has got no definite application. No doubt, it is necessary to keep friendly relations with our neighbouring countries, but is it wise if, in order to please the neighbouring countries, we displease our own people? Therefore, with these remarks I oppose this particular clause as it is amended and the original clause as it stands in the Bill.

Mr. N. N. Anklesaria: Sir, I support this amendment with the full conviction that if the motion is passed, all possible objections that can be urged against the original Bill will be met. The Honourable the last speaker seems to consider that the Indian Penal Code and the Criminal Procedure Code are one and the same thing. The amendment proposed by the Honourable the Mover is an amendment of the Criminal Procedure Code. It therefore does not and cannot create any new offence. Therefore all the ground that could have been for the objection that the proposed Bill created a new offence disappears absolutely. (Interruption by Mr. K. Ahmed.) The Criminal Procedure Code does not and cannot create any offence. My Honourable friend is a Barrister and he ought to know it.

Mr. K. Ahmed: If you had practised yourself, you too would have known it. What is section 110?

Mr. N. N. Anklesaria: Sir, the attempts of the legal experts of the Government of India to frame a measure to deal with libellous attacks on foreign potentates have been, to say the least of it, very unfortunate. The matter has been on their minds for the last more than three years, and during all that long period, we have been finding them groping in the vast realms of English, Continental and American jurisprudence. The result of all that groping has been what my friend Sir Hari Singh Gour characterised as "a mouse after the mountain has laboured." Sir, there are plenty of laws in *pari materia* in the different countries of the world and nothing could have been easier than to have copied, say, for instance, the law of France on the subject, which simply provides that attacks on foreign potentates are defamation punishable with a certain period of imprisonment and with a fine of a certain amount. We have already got the law of defamation in our Statute-book and no person in his senses could then have been able to say that a Bill which was reproducing section 499 of the Indian Penal Code should be circulated for opinion. No person in his senses would then have been able to urge that section 499 of the Indian Penal Code could possibly affect the susceptibilities of my Muslim friends, but unfortunately our own Statute-book was the very last thing which suggested itself to the minds of the legal experts of the Government of India. The discovery was made only a few days ago, on the day when the amendment No. 5 standing in the name of the Honourable Member, Sir Evelyn Howell, was given notice of.

Sir, I do not propose to go into the verbal amendments proposed in the language of clause 2 as regards certain words and phrases. But if this amendment is acceded to by the House, then I say there is absolutely no scope for any of the amendments as regards those words and phrases. As I said, no new offence would be created, only the law of defamation would have been amended on its procedural side. At present on account of section 198 of the Criminal Procedure Code no one except the aggrieved party can prosecute for defamation. The simplest thing therefore would be to remove that bar from the way of the foreign potentates, who, under the existing law, if they choose to resort to our law courts as complainants, are perfectly entitled to pursue the remedy given to them under our law in the same manner and to the same extent as the meanest subject of His Majesty in India. This amendment simply seeks to avoid that bar, and I fail to understand how any reasonable man could possibly object to it. I therefore support this amendment on these grounds.

The Assembly then adjourned till Eleven of the Clock on Friday, the 1st April, 1932.