

9th April, 1934

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

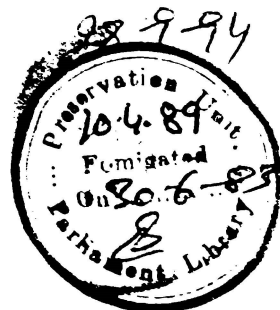
Volume IV, 1934

(2nd April to 14th April, 1934)

SEVENTH SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1934**



NEW DELHI
GOVERNMENT OF INDIA PRESS
1934

Legislative Assembly.

President:

THE HONOURABLE SIR SHANMUKHAM CHETTY, K.C.I.E.

Deputy President:

MR. ABDUL MATIN CHAUDHURY, M.L.A.

Panel of Chairmen:

SIR ABDUR RAHIM, K.C.S.I., KT., M.L.A.

MR. K. C. NEOGY, M.L.A.

SIR LESLIE HUDSON, KT., M.L.A.

MR. N. M. JOSHI, M.L.A.

Secretary:

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary:

RAI BAHADUR D. DUTT.

Marshal:

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Public Petitions:

MR. ABDUL MATIN CHAUDHURY, M.L.A., *Chairman.*

MR. K. C. NEOGY, M.L.A.

SIR HARI SINGH GOUR, KT., M.L.A.

MR. T. R. PHOOKUN, M.L.A.

MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

CONTENTS.

VOLUME IV.—2nd April to 14th April, 1934.

| | PAGES. | | PAGES. |
|--|-----------|---|-----------|
| MONDAY, 2ND APRIL, 1934— | | FRIDAY, 6TH APRIL, 1934— | |
| Members Sworn | 3005 | Resolution <i>re</i> Committee of Enquiry on Agricultural Distress—Withdrawn | 3293—3342 |
| Statements laid on the Table | 3005—09 | Resolution <i>re</i> Constitution of Malabar into a Separate Province—Discussion not concluded | 3342—51 |
| Election of the Standing Committee on Emigration | 3009—10 | Statement of Business | 3351—52 |
| The Indian Tariff (Textile Protection) Amendment Bill—Presentation of the Report of the Select Committee | 3010 | SATURDAY, 7TH APRIL, 1934— | |
| The Sugar (Excise Duty) Bill—Discussion on the motions to refer to Select Committee and to circulate not concluded | 3010—68 | Questions and Answers | 3353—69 |
| TUESDAY, 3RD APRIL, 1934— | | Unstarred Questions and Answers | 3369—80 |
| Questions and Answers | 3069—90 | Statements laid on the Table | 3380—86 |
| Unstarred Questions and Answers | 3091—3108 | Election of Members for the Central Advisory Council for Railways | 3396—92 |
| Statements laid on the table | 3109—12 | The Indian States (Protection) Bill—Discussion on the consideration of clauses not concluded | 3392—3415 |
| Election of the Standing Finance Committee for Railways | 3113 | MONDAY, 9TH APRIL, 1934— | |
| The Sugar (Excise Duty) Bill—Referred to Select Committee | 3113—56 | Election of the Standing Finance Committee for Railways | 3417 |
| The Matches (Excise Duty) Bill—Discussion on the motion to refer to Select Committee not concluded | 3156—62 | Election of the Standing Committee on Emigration | 3417 |
| WEDNESDAY, 4TH APRIL, 1934— | | The Hindu Temple Entry Disabilities Removal Bill—Petitions laid on the Table | 3418—20 |
| Questions and Answers | 3163—79 | Statements laid on the Table | 3420—22 |
| Unstarred Questions and Answers | 3179—85 | Election of Members to the Court of the University of Delhi | 3422—23 |
| The Matches (Excise Duty) Bill—Referred to Select Committee | 3185—3207 | Point of Order <i>re</i> the Honourable the President of the Legislative Assembly taking his Seat without the usual Wig | 3423 |
| The Indian States (Protection) Bill—Discussion on the motion to consider not concluded | 3208—37 | The Indian States (Protection) Bill—Discussion on the consideration of clauses not concluded | 3423—78 |
| THURSDAY, 5TH APRIL, 1934— | | TUESDAY, 10TH APRIL, 1934— | |
| The Indian States (Protection) Bill—Motion to consider adopted | 3239—92 | Questions and Answers | 3479—92 |
| | | Unstarred Questions and Answers | 3492— |

| | PAGES. | | PAGES. |
|---|-----------|--|--------------------|
| TUESDAY, 10TH APRIL, 1934—contd. | | THURSDAY, 12TH APRIL, 1934—contd. | |
| The Sugar (Excise Duty) Bill—Presentation of the Report of the Select Committee | 3495 | Statements laid on the Table | 3625—29 |
| Practice of sending in notices of amendments and notes of dissent, etc., written in pencil on scraps of paper | 3495 | The Indian Tariff (Textile Protection) Amendment Bill—Discussion on the consideration of clauses not concluded | 3630—96 |
| The Indian States (Protection) Bill—Discussion on the consideration of clauses not concluded | 3495—3551 | SATURDAY, 14TH APRIL, 1934— | |
| WEDNESDAY, 11TH APRIL, 1934— | | Member Sworn | 3697 |
| Questions and Answers | 3553—57 | Questions and Answers | 3697—3717 |
| The Matches (Excise Duty) Bill—Extension of the Time for the Presentation of the Report of the Select Committee | 3557 | Short Notice Question and Answer | 3717 |
| Business to be concluded during the Session | 3557—59 | Unstarred Questions and Answers | 3718—25 |
| Practice of sending in Notices of Amendments and Notes of Dissent, etc., written in Pencil on Scraps of Paper | 3559—60 | Statements laid on the Table | 3725—30 |
| The Indian States (Protection) Bill—Passed as amended | 3560—3623 | Bill passed by the Council of State laid on the Table | 3730 |
| THURSDAY, 12TH APRIL, 1934— | | Certain Report of the Proceedings of the Legislative Assembly issued by the Associated Press | 3730—31 |
| Member Sworn | 3625 | Election of the Ottawa Trade Agreement Committee | 3731—35 |
| Election of the Central Advisory Council for Railways | 3625 | The Indian Tariff (Textile Protection) Amendment Bill—Discussion on the consideration of clauses not concluded | 3736—58 3760—96 |
| Election of Members to the Court of the University of Delhi | 3625 | The Matches (Excise Duty) Bill—Presentation of the Report of the Select Committee | 3759 |
| | | Statement of Business | 3796—97 |

LEGISLATIVE ASSEMBLY.

Monday, 9th April, 1934.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Shanmukham Chetty) in the Chair.

ELECTION OF THE STANDING FINANCE COMMITTEE FOR RAILWAYS.

Mr. President (The Honourable Sir Shanmukham Chetty): I have to inform the Assembly that the following Members have been elected to the Standing Finance Committee for Railways:

- (1) Mr. D. K. Lahiri Chaudhury,
- (2) Mr. Amar Nath Dutt,
- (3) Mr. R. S. Sarma,
- (4) Haji Chaudhury Muhammad Ismail Khan,
- (5) Nawab Major Malik Talib Mehdi Khan,
- (6) Mr. Bhuput Sing,
- (7) Sir Leslie Hudson,
- (8) Maulvi Sayyid Murtuza Sahib Bahadur,
- (9) Sardar Nihal Singh,
- (10) Mr. Muhammad Yamin Khan, and
- (11) Mr. A. Das.

ELECTION OF THE STANDING COMMITTEE ON EMIGRATION.

Mr. President (The Honourable Sir Shanmukham Chetty): I have also to inform the House that upto 12 Noon on Saturday, the 7th April, 1934, the time fixed for receiving nominations for the Standing Committee on Emigration, eight nominations were received. As the number of candidates is equal to the number of vacancies, I declare the following to be duly elected:

- (1) Captain Sher Muhammad Khan Gakhar,
- (2) Rao Bahadur M. C. Rajah,
- (3) Mr. N. M. Joshi,
- (4) Mr. S. G. Jog,
- (5) Mr. F. E. James,
- (6) Mr. B. V. Jadhav,
- (7) Mr. Muhammad Muazzam Sahib Bahadur, and
- (8) Mr. Badri Lal Rastogi.

THE HINDU TEMPLE ENTRY DISABILITIES REMOVAL BILL.

PETITIONS LAID ON THE TABLE.

Secretary of the Assembly: Sir, under Standing Order 78, I have to report that 286 petitions, as per statement laid on the table, have been received relating to the Bill to remove the disabilities of the so-called Depressed Classes in regard to entry into Hindu temples, which was introduced in the Legislative Assembly on the 24th March, 1933, by Mr. C. S. Ranga Iyer.

Petition relating to the Bill to remove the disabilities of the so-called Depressed Classes in regard to entry into Hindu temples, which was introduced in the Legislative Assembly on the 24th March, 1933.

| Number of Signatories. | District or Town. | Province. | Number of Signatories. | District or Town. | Province. |
|------------------------|-------------------|-----------|------------------------|-------------------|-----------|
| 8 | Guntur | Madras. | 4 | Guntur | Madras. |
| 13 | Do. | Do. | 5 | Do. | Do. |
| 5 | Do. | Do. | 4 | Do. | Do. |
| 5 | Do. | Do. | 6 | Do. | Do. |
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| 4 | Do. | Do. | 8 | Do. | Do. |
| 12 | Do. | Do. | 6 | Do. | Do. |
| 5 | Do. | Do. | 23 | Do. | Do. |
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| 9 | Do. | Do. | 9 | Do. | Do. |
| 8 | Do. | Do. | 8 | Do. | Do. |
| 33 | Do. | Do. | 5 | Do. | Do. |
| 7 | Do. | Do. | 5 | Do. | Do. |
| 11 | Do. | Do. | 5 | Do. | Do. |
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| 11 | Do. | Do. | 6 | Do. | Do. |
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| Number of signatories. | District or Town. | Province. | Number of signatories. | District or Town. | Province. |
|------------------------|-------------------|-----------|------------------------|-------------------|-----------|
| 8 | Guntur | Madras. | 23 | Guntur | Madras. |
| 6 | Do. | Do. | 5 | Do. | Do. |
| 3 | Do. | Do. | 11 | Do. | Do. |
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| 7 | Do. | Do. | 6 | Do. | Do. |
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| 7 | Do. | Do. | 11 | Do. | Do. |
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| 4 | Do. | Do. | 5 | Do. | Do. |
| 4 | Do. | Do. | 8 | Do. | Do. |
| 6 | Do. | Do. | 6 | Do. | Do. |
| 6 | Do. | Do. | 3 | Do. | Do. |
| 6 | Do. | Do. | 6 | Do. | Do. |
| 6 | Do. | Do. | 8 | Do. | Do. |
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| 4 | Do. | Do. | 3 | Do. | Do. |
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| 14 | Do. | Do. | 7 | Do. | Do. |
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| 12 | Do. | Do. | 14 | Do. | Do. |
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| 8 | Do. | Do. | 7 | Do. | Do. |
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| 11 | Do. | Do. | 4 | Do. | Do. |
| 8 | Do. | Do. | 4 | Do. | Do. |
| 4 | Do. | Do. | 6 | Do. | Do. |
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| 5 | Do. | Do. | 6 | Do. | Do. |
| 4 | Do. | Do. | 6 | Do. | Do. |
| 6 | Do. | Do. | 8 | Do. | Do. |
| 4 | Do. | Do. | 4 | Do. | Do. |
| 6 | Do. | Do. | 8 | Do. | Do. |
| 6 | Do. | Do. | 5 | Do. | Do. |
| 6 | Do. | Do. | 14 | Do. | Do. |
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| 5 | Do. | Do. | 7 | Do. | Do. |
| 5 | Do. | Do. | 12 | Do. | Do. |
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| 6 | Do. | Do. | 4 | Do. | Do. |
| 8 | Do. | Do. | 2 | Do. | Do. |
| 6 | Do. | Do. | 8 | Do. | Do. |

| Number of signatories. | District or Town. | Province. | Number of signatories. | District or Town. | Province. |
|------------------------|-------------------|-----------|------------------------|-------------------|-----------|
| 12 | Guntur. | Madras. | 14 | Guntur . | Madras. |
| 5 | Do. | Do. | 6 | Do. | Do. |
| 9 | Do. | Do. | 7 | Do. | Do. |
| 5 | Do. | Do. | 6 | Do. | Do. |
| 6 | Do. | Do. | 10 | Do. | Do. |
| 3 | Do. | Do. | 5 | Do. | Do. |
| 7 | Do. | Do. | 35 | Do. | Do. |
| 6 | Do. | Do. | 7 | Do. | Do. |
| 6 | Do. | Do. | 6 | Do. | Do. |
| 7 | Do. | Do. | 42 | Do. | Do. |
| 7 | Do. | Do. | 9 | Do. | Do. |
| 4 | Do. | Do. | 6 | Do. | Do. |
| 4 | Do. | Do. | 6 | Do. | Do. |
| 3 | Do. | Do. | 4 | Do. | Do. |
| 3 | Do. | Do. | 8 | Do. | Do. |
| 3 | Do. | Do. | 6 | Do. | Do. |
| 3 | Do. | Do. | 5 | Do. | Do. |
| 1 | Do. | Do. | 7 | Do. | Do. |
| 3 | Do. | Do. | 15 | Do. | Do. |
| 7 | Do. | Do. | 12 | Do. | Do. |
| 7 | Do. | Do. | 193 | Singbhum | Bihar. |
| 2 | Do. | Do. | 52 | Trichinopoly | Madras. |
| 2 | Do. | Do. | 122 | .. | Do |
| 2 | Do. | Do. | 106 | .. | Do. |
| 4 | Do. | Do. | 65 | Noakhali | Bengal. |
| 3 | Do. | Do. | 114 | .. | Madras, |
| 11 | Do. | Do. | 113 | .. | Do. |
| 6 | Do. | Do. | 172 | .. | Do. |
| 3 | Do. | Do. | 11 | .. | Do. |
| 4 | Do. | Do. | 27 | .. | Do. |
| 4 | Do. | Do. | 37 | .. | Do. |
| 7 | Do. | Do. | 68 | .. | .. |
| 8 | Do. | Do. | 400 | Larkana | Bombay. |
| 9 | Do. | Do. | 874 | .. | U. P. |
| 5 | Do. | Do. | | | |
| 8 | Do. | Do. | 4,243 | | |
| 7 | Do. | Do. | | | |
| 11 | Do. | Do. | | | |

STATEMENTS LAID ON THE TABLE.

The Honourable Sir George Schuster (Finance Member): Sir, I lay on the table the information promised in reply to part (f) of starred question No. 419 asked by Mr. Jagan Nath Aggarwal on the 9th March, 1934.

STANDARD OF AUDIT IN MILITARY ACCOUNTS DEPARTMENT.

*419. Copy of Northern Command Order No. 468, dated the 23rd August, 1929, which was issued at the instance of the Controller of Military Accounts, Rawalpindi.

468. Correspondence.—It has recently been brought to the notice of the Controller of Military Accounts, Northern Command, that his office when auditing bills sometimes

raise objections thereon and on receipt of the reply to such objections, raise further objections which should have been evident to the auditors from the beginning, thus causing not only delay in payment but extra clerical work for all concerned.

This is most undesirable and the Controller of Military Accounts, Northern Command, wishes officers commanding units etc., to bring to his notice any cases of delay caused by incomplete original audit on the part of his office. Such communications should be addressed to the Controller of Military Accounts, Northern Command, Rawalpindi, by name.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table the information promised in reply to starred question No. 409 asked by Mr. Gaya Prasad Singh on the 7th March, 1934.

DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

*409. The orders of the Government of India on Recommendation III are perfectly clear and are being acted upon to their full extent. The first paragraph of the orders makes it obvious that Government do not recognize a right of appeal when, as in the two cases quoted, it is directed against the professional and duly confirmed finding of a medical board as to the existence or degree of an alleged disability.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to parts (b) to (f) of starred question No. 155 asked by Mr. S. G. Jog on the 16th February, 1934; and
- (ii) the information promised in reply to starred question No. 274 asked by Mr. K. P. Thampan on the 26th February, 1934.

TRAVELLING WITHOUT TICKET ON RAILWAYS.

*155 The Agent, East Indian Railway reports as follows:

(b) No. It is true that the total pay and allowances of the ticket checking system, in 1933, was Rs. 12,74,918 and the total excess fare earnings was Rs. 7,67,565, but it cannot be said that the difference represents a loss, for the cost covers the performance of many other duties in addition to the collection of excess fares, which are not directly remunerative to the Administration. A Ticket Collector's duties are mainly preventive in diverting outgoing ticketless passengers to the Booking Office where the fares are merged in the general Coaching earnings, and the cash value of a ticket collector's services in this respect cannot be estimated. The number of incoming passengers detected without tickets at gates is negligible as they have mostly been previously detected and excessed on the train by the Travelling Ticket Examiners whose main duty is detection.

(c) Here again, as in the reply to (b) above, it is impossible to reduce the result of working to terms of profit and loss. It is a fact that the Travelling Ticket Inspectors collected, in excess fares, more than their pay and allowances amounted to, and the present Travelling Ticket Examiners collect less, but this was due to their duties being purely detective, and their inspection spasmodic and concentrated. The Travelling Ticket Examiners combine prevention with detection, and also travel on the train throughout its run performing other services to the public. Though their individual collections are less than those of the former Travelling Ticket Inspectors, the total collections in 1933, were greater by approximately Rs. 2,34,605. It was due to the notorious prevalence of illicit travelling under the previous system that the present system was introduced, and which has most certainly effected an improvement.

(d) No. The basic figures are correct but false conclusions have been drawn from them. It is misleading to compare the entire cost of the Moody-Ward system with the cost of the Travelling Ticket Inspectors only, and to effect a comparison between the costs of the two systems it would be necessary to include with the latter the cost of all the old Ticket Collectors formerly employed at stations. The actual cost of the present Travelling Ticket Examiners compared with the former Travelling Ticket Inspectors is as under :—

| | Cost. Pay and Allowances. | Collection. | Difference plus or minus. |
|--|---------------------------------|-------------|---------------------------------|
| | Rs. | Rs. | Rs. |
| Travelling Ticket Inspectors | 2,54,634 | 3,26,458 | +71,824 |
| Travelling Ticket Examiners | 6,50,768 | 5,60,063 | —90,705 |

(e) The actual facts are that the efficacy of a ticket checking system cannot be judged by a comparison of costs and excess fare earnings. The more efficient the preventive service, the less will be the earnings of the detective service. But each service is complementary to, and not independent of the other, and vigilance in neither service can be relaxed. The only test of efficiency is the prevention of illicit travelling.

(f) Does not arise.

INJURY TO A LADY PASSENGER BETWEEN SALEM JUNCTION AND SALEM.

*274. Government understand that a claim for compensation on behalf of the lady, who was injured in the accident referred to, has been preferred on the South Indian Railway Administration and that the case may eventually be taken to Court. In the circumstances, Government regret they are unable to furnish any information until the case is finally disposed of.

ELECTION OF MEMBERS TO THE COURT OF THE UNIVERSITY OF DELHI.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I beg to move:

“That the elected Members, of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, four persons from among their own numbers to be members of the Court of the University of Delhi in pursuance of sub-clause (5) of clause 2 of the First Statutes of the University set out in the Schedule to the Delhi University Act, 1922. (Act VIII of 1922).”

Mr. President (The Honourable Sir Shanmukham Chetty): The question is:

“That the elected Members, of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, four persons from among their own numbers to be members of the Court of the University of Delhi in pursuance of sub-clause (5) of clause 2 of the First Statutes of the University set out in the Schedule to the Delhi University Act, 1922 (Act VIII of 1922).”

The motion was adopted.

Mr. President (The Honourable Sir Shanmukham Chetty): I may inform Honourable Members that for the purpose of election of Members to the Court of the University of Delhi, the Assembly Office will be open to receive nominations upto 12 Noon on Wednesday, the 11th April, and that the election, if necessary, will, as usual, be held in the Secretary's Room on Saturday, the 14th April, 1934. The election will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

POINT OF ORDER *RE* THE HONOURABLE THE PRESIDENT OF THE LEGISLATIVE ASSEMBLY TAKING HIS SEAT WITHOUT THE USUAL WIG.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): On a point of order, Sir. I should like to draw the attention of the Chair to the President taking his seat without the usual wig. I should like to know whether the President is setting up a precedent or following the practice of the Irish Free State where the Speaker does not wear a wig.

Mr. President (The Honourable Sir Shanmukham Chetty): The proceedings of the House are in order so long as the President keeps the head; the wig is only a subsidiary matter. (Applause.)

THE INDIAN STATES (PROTECTION) BILL.

Mr. President (The Honourable Sir Shanmukham Chetty): The House will now resume consideration of the Indian States (Protection) Bill.

The Chair would like to draw the attention of the House to the practice followed by certain Honourable Members and the way in which they send notice of amendments to the Assembly Office. This is a typical example of the way in which notice is given to the Assembly Department. (At this stage, Mr. President showed several small pieces of paper.) Apart from the fact that it is impossible for the Assembly Office to decide whether the amendment of which the Honourable Member gives notice is on this side or the other side of the page, it is very discourteous to the Assembly itself to be so careless in the matter of giving notice. There is certainly no objection for Honourable Members just to save time and energy if they wish to cut out the amendments that have been printed, but they must at least take the trouble of pasting them on a foolscap paper. I hope Honourable Members will give notice of their amendments and of other notices which they give to the Assembly Office in a proper manner.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I rise on a personal explanation. This reference has been made to me. The House knows that on Saturday we were busy with the very popular and very entertaining amusement or rather delightful lunch, and we left the hotel so late that I thought that the Assembly Office was going to be closed and there was hardly time for writing and then coming to the office

[Mr. Lalchand Navalrai.]

to give the notice there. I had, therefore, to cut the portions of amendments already printed and sent them in a very great haste. I had to call for a special messenger and paid him his charges for going to the Assembly Office. It was only in these pressing circumstances that this was done. I cut the printed amendments and wrote on the other side of the paper that these were my amendments. I did not mean the least discourtesy to the Assembly and it was only under those exceptional circumstances that I had to do it.

Mr. President (The Honourable Sir Shanmukham Chetty): The question is:

“That clause 3 stand part of the Bill.”

Rao Bahadur B. L. Patil (Bombay Southern Division: Non-Muhammadan Rural): Sir, I beg to move:

“That clause 3 of the Bill be omitted, and the subsequent clauses be re-numbered accordingly.”

Sir, one principal objection taken against this Bill is this clause. It has been very severely criticised from this side of the House and it has been said that its provisions are fit to be called in only when an exceptionally grave emergency exists in the country,—and we are not wanting in instances.

The Honourable Sir Brojendra Mitter (Law Member): Will the Honourable Member kindly raise his voice?

Rao Bahadur B. L. Patil: So far as I remember, there were three occasions on which the Government of India decided that this country was landed in a state of emergency. The first was after the Mutiny of 1857. The history of Press legislation in India shows that at that time the Government of India had to tighten the rigours of law so far as the Press provisions were concerned. After that we know, about 1910, when there was the agitation against the Partition of Bengal which threatened Government, several important and severe clauses were enacted against the Press and inserted in the Statute-book. The third occasion was the Ordinance regime in connection with the recent Civil Disobedience Movement. So far as the arguments of Government go in this connection, we may agree for a moment that if there is such a serious emergency in the country, we may allow such provisions to be placed on the Statute-book for a short period. But I ask the Government, what is the emergency at the moment existing in this country, so far as the Indian States are concerned? After hearing the Honourable the Home Member on two or three occasions, I am not convinced of the existence of any emergency to justify the placing of such provisions on the Statute-book. Then, about the necessity I may state at once that the number of papers indulging in such alarming and false criticisms of the Indian States is so small that it would be wise to ignore them rather than to enact such a severe measure for the entire Press in general. It is also important in my opinion to look to the circulation of such newspapers. If a proper census is taken of these papers, I am sure, the Government will be convinced not only that they are very few in number, but their circulation is negligible. What

would be the practical effect if this clause is passed into law? The Government might say "We have added an *Explanation 5* which would make it possible for the Press to print or to circulate or publish mere statements of facts. If there is no intention or attempt to excite hatred or contempt or disaffection, they can very well carry on their legitimate duties". But what manner of printing and publishing amounts to disaffection and contempt always depends upon the individual who administers the law. What Press would take the risk of even publishing mere statements of facts when the burden of proof is upon them if hauled up in a Court of law. It is really a great risk to undertake to publish such matters. Now, the only means which the States people have to ventilate their grievances will be lost to them and, it would be absolutely impossible to bring their grievances to the public notice through the Press in an Indian State. Before I close, may I bring to the notice of Government that the Bill, though amended to this slight extent in the Select Committee, does not escape the severe criticism levelled by responsible officers of Government. On page 5 of the summaries of opinions, it is stated that the Judicial Commissioner and the Additional Judicial Commissioner, Mr. Pollock, of the Central Provinces, doubt the expediency of this clause. Mr. Niyogi, the Additional Judicial Commissioner, is also not in favour of clause 4. Coming to the opinion of Bombay, Mr. Aston, the Additional Judicial Commissioner of Sind, considers the clause as premature. The District Magistrate, Ahmednagar, suggests that instead of "administration of any States in India", the words "any legal or constitutional Acts of any State in India" be substituted. There are opinions almost from all Provinces which point out the inexpediency of these provisions and they say that these provisions will work a great hardship upon the poor Indian States subjects.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): What is the opinion of Madras?

Rao Bahadur B. L. Patil: The Madras opinion is, I believe, against this provision. They say they are surrounded by peaceful Indian States.

Mr. C. S. Ranga Iyer: They say, I speak subject to correction, that in the light of the Federation that is coming, the new Bill is necessary.

Rao Bahadur B. L. Patil: Whatever may be their opinion about Federation, I submit they are right in saying that, because they are surrounded by peaceful and well-administered Indian States, they are not competent to give their opinion.

One argument urged by Government is that so far as these provisions are concerned, they are not new. They have not brought forward anything new. All these provisions existed already and they have been simply applying them in the case of Indian States in a special form. If we turn our attention to Act I of 1910, we see in section 4(1)(c):

"to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any Native Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty etc., etc."

[Rao Bahadur B. L. Patil.]

This makes clear that though it was made punishable when the writing was of an incriminating nature as against the Indian prince or Chief under the suzerainty of His Majesty, under that Act any *bonâ fide* criticism against the administration of a State was expressly excluded. That you will find in *Explanation II*.

"Comments expressing disapproval of the measure of Government or of any such Native Prince or Chief as aforesaid with a view to obtain their alteration by lawful means or of the administrative or other action of the Government or of any such Native Prince or Chief or of the administration of justice in British India without exciting or attempting to excite hatred, contempt or disaffection do not come within the scope of clause (c)."

Sir, the *Explanation* shows that even if the writing referred to the prince or, the Chief and commented upon him, still if it amounted to *bonâ fide* comments on the administration, the writing was exempted from punishment. But if we look to the provisions of the present Bill, what we see is that not only *bonâ fide* comments on administrations are brought within the purview of the provisions, but even as to statements of facts, wherever there appears to be the slightest intention or attempt to excite disaffection, hatred or contempt, it is made punishable. Therefore, I beg to submit that the present provisions are very severe and will fully choke up the ventilation of grievances of the people of the Indian States. Sir, I move.

Mr. President (The Honourable Sir Shanmukham Chetty): Amendment moved:

"That clause 3 of the Bill be omitted and the subsequent clauses be re-numbered accordingly."

Raja Sir Vasudeva Rajah (Madras: Landholders): Sir, I rise to oppose the amendment moved by my Honourable friend, Rao Bahadur Patil. In doing this, I should like to point out to the Honourable Members that this clause is the most important one in the Bill, and that, if it is either omitted or substantially altered, there is absolutely no use in proceeding further with the Bill. Most of the objections of my Honourable friends are directed against this clause, and they are, I am afraid, due to certain misapprehensions. Some of them are under the impression that there is no necessity for a Bill of this kind and that there is also no demand for it from the princes themselves. From my personal knowledge of the Indian States, both in Southern India and in the North, I can positively say that there is not only real necessity for the measure and that there is a real demand for it, but that the necessity is both great and urgent.

It was very pleasing to me to hear from some of the prominent Honourable Members of this House, such as my friend, Mr. Neogy, the Leader of the Democratic Party, that they have nothing but high tribute to pay to the administration of the South Indian States. They would even go to the length of desiring to be the subjects of those States in preference to British India. It is certainly a very high compliment to the South Indian States, and, from my intimate knowledge of those States, I can bear out that those tributes are fully deserved and that they have not erred in any way on the side of exaggeration.

But, Sir, I am afraid, my Honourable friends are not aware of the kind of agitation that has now sprung up even in these two well administered States and that the necessity to counteract their pernicious and

poisonous influences is being increasingly felt even there. They are persistently being exposed to mischievous attacks and they feel the urgent necessity for a measure of this kind in order to stop them, as they are intended and calculated to bring the administration of these States into hatred or contempt or to excite disaffection. Numerous instances have come to my notice, within the last few months, and I have had opportunities of knowing what the rulers and many of their loyal subjects themselves feel in this matter. I think my Honourable friend, Mr. Thampan, who ought to know something of what is going on there, will bear me out in this respect. Papers had been started for the sole purpose of creating trouble by bringing communal differences into prominence and for discrediting the administration for their own ends. The vulgar and obscene language indulged in by them will shock any one, and they are a disgrace to the country. This kind of agitation has been, for some months past, going on even in these States and the want of proper Press regulation is taken advantage of by that section of the Press. Recently we have had several instances of this kind both in Travancore and Cochin.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhammadan Urban): But are these papers published in British India or are they published in the States?

Raja Sir Vasudeva Rajah: They are published both in British India and in the States. They are started in British India and they exist only for a month or two.

In Travancore, the Press Regulation is somewhat more effective than in Cochin. The method adopted by the agitators in Travancore was to cross over to the neighbouring Cochin State or to British India and to start a paper there with the sole object of abusing the administration and to circulate free copies in thousands to avoid the risk of being proceeded against them by the Travancore Government. They were started with this set purpose and copies were circulated in large numbers free of cost. This was resented by the people and the Government of Cochin, even though the attacks were against a neighbouring State, and the Legislative Council felt justified in taking measures to checkmate this evil. The Government of Cochin, I know, even thought of issuing a Royal Proclamation to deal with the situation to save time, but I think subsequently they took to legislation and passed some preventive measures and more are under consideration. I remember that some of the Members during the discussion characterised this section of the Press as gutter Press and were ready to assist Government in arming them with the necessary powers. If you look at the proceedings of the Cochin Legislative Council you will find that they are second to none in their independence and watchfulness in guarding their own rights and the rights of the Press. Such a Council has felt it necessary to place in their statute-book adequate measures to prevent unconstitutional agitation directed against themselves or against the neighbouring State. With the example and experience before them, our Government will be failing in their duty if they do not take the necessary steps to protect the States from malicious attacks and unconstitutional agitation from outside. If the necessity has been felt both by the rulers and the officers of such States as Cochin and Travancore, one can imagine how much more would the necessity be felt by the other Indian States! As a matter of fact, I know that many of them consider a measure of this sort a long felt want and the delay in bringing

[Raja Sir Vasudeva Rajah.]

this is due to the Government's slowness in moving. This Government is never a day too soon in bringing up such measures for legislation, and when it does, it is only after a great deal of mischief has been done.

Some point was made that there has been no demand from the Indian States for protection of this kind. This remark, I am sure, is due to the absolute ignorance of the state of affairs in Indian States. There is an impartial British officer of the Political Department, acting as Agent to the Governor General, in every State or in group of small States. He is there with his eyes and ears open to see and to hear what is going on in those States. He is not usually influenced either by the ruler or by any one else but forms his own judgment concerning the States after due investigation and reports on the result of his personal knowledge to the Political Department of the Government of India and through it to His Excellency the Viceroy. There is, therefore, no need for a ruler either to petition or to memorialise the Government for protection because the Agent is there already seeing what is going on around him and the Government is kept informed of the needs of the situation. If he fails to take note of what is going on he fails in his duty both to the Government and to the ruler. I am sure, Government have brought forward this legislation from first-hand knowledge of what is going on in and outside the Indian States. I myself know personally that even in the best administered States like Cochin and Travancore, there is a strong case for protection and I also know that the Dewans of those States who are now tried British officers and the Agent realise it as well as I do. The Bill is certainly not intended to prevent any legitimate criticism of the administration of the Indian States but only criticisms of a subversive character. I am sure nobody in this House will countenance agitations of that character when they realise the purpose with which it is conducted. I also hope that I have been able to convince the House of the real necessity for adequate protection and I trust they will support the clause as it stands and throw out the amendment. Whether Federation or no Federation, I feel that it is imperatively wanted and the sooner we pass this, the better it will be for the administration of those States.

Mr. Muhammad Muazzam Sahib Bahadur (North Madras: Muhammadan): Sir, I rise to oppose this amendment. During the course of the debate on the Bill before us, Sir Abdur Rahim, the Leader of the Independent Party, brought the point home to us that the Bill was directed more towards us, the British Indian subjects, than towards the Indian States. I think he is perfectly right. He pointed out that we have to look at this Bill from the point of view of the British Indian subjects, and not from the point of view of the States; and he said that clause 3 of the Bill sought to substitute executive action for judicial procedure. I really think that far from substituting executive action, it supplements the existing law by adding to it a machinery which, while, on the one hand it protects the rights of British Indian subjects by virtue of *Explanation 5*, which I find at the end of that clause, on the other seeks to keep the Press within legitimate bounds.

Looking into the minutes of dissent signed by several Honourable Members who served on the Select Committee, of whom Sir Abdur Rahim was one, I find that they are all agreed that there should be protection for the Indian States. That is unanimously conceded. How far that

protection should go is a matter on which they express certain doubts. They feel inclined to believe that if the provisions of this Bill are restricted to the formation of the assemblies referred to in clause 4 of the Bill, the purpose of the enactment would be very usefully served, and that the necessity has not arisen in the present situation for enacting clause 3 which will derogate from the rights and liberties of the Press. I may mention here that I happened to be for a few days in Lahore at a time when there was very serious agitation against a State bordering on the Punjab; and let me tell my friends here that from my experience of two or three days—and unfortunately for me I happened to be the guest of one who is the editor of an Urdu newspaper—the attitude that the Urdu Press took up in that agitation was extremely distasteful; and it appeared to me that, unfortunately for us, because of the fact that the vernacular Press, such as exists in the Punjab, in the main uses the Urdu language, a spirit of communalism is engendered as a necessary evil of a common language and so is harmful to the interests of the British Indians themselves. Apart from any considerations of Federation and apart from any considerations of the protection of the States, it struck me that a measure of this kind was a matter of paramount necessity. In Southern India, the position is entirely different. In the Deccan, we have States, some of them big ones and with a better administration than most of the smaller States. It is the case both of the Government and of Honourable Members that it is the smaller States who are guilty of maladministration mostly. In Southern India, you have not got that necessary evil, if I may say so, of a common language employed in the daily Press. A Tamil or Telugu paper has something to say in favour of a Hindu State; a Muslim paper takes up the opposite view and it carries on agitation against the Hindu State in Urdu; but, fortunately for Southern India, what the Hindu Press is indulging in is not known to the Urdu Press, and what the Urdu Press has in its columns is not known to the Tamil or Telugu Press, and that is why communalism there does not spread as a result of such propaganda in the Press. The condition of affairs in Northern India is something entirely different. The vernacular Press is almost wholly Urdu. In Delhi, for instance, and in Lahore, most of the vernacular newspapers are in Urdu, and what one newspaper writes against certain Indian States is known at once to the newspaper which is in favour of that State, so that, as I said, the evil of a common language, which perhaps is unavoidable, was fully manifest during the days when there was very high tension at Lahore. The charge against the States is that they have not kept pace with British Indian conditions. These States, particularly those which are small, have very small resources, and especially in these times of depression; they have not got the extensive machinery which, for instance, is available to the Government of India for the levy of taxes in the shape of customs and income-tax. They have to be content with the resources they have and they have to meet their budget with the resources at their disposal, and it is a hard job for these States to carry on their administrations according to the strict wishes of the people. As I said the other day, the States occupy a peculiarly unfortunate position so far as their subjects are concerned.

Sir, I have observed during the course of the debate one Honourable Member after another has turned to Southern India for a precedent which might help him to strengthen the position as regards the views of certain

[Mr. Muhammad Muazzam Sahib Bahadur.]

officials on this Bill, but I may dismiss that attitude at once by saying that one has to learn a lot from Northern Indian States so far as the Indian States are concerned, and not from Southern States, where such contingencies never arise. As I have already said, whether Federation is set up during the next three or four years or not, whether Federation is set up at all, whether we have to protect the Indian States or not, quite apart from all those questions, I think the main question is that we have to view this Bill from the standpoint of British Indian subjects. That is the main consideration, and, viewing it from that standpoint, I am of the confirmed opinion that this Bill has been long overdue and that clause 3 of the Bill must be there.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I rise to support the motion moved by my friend Rao Bahadur Patil. I was surprised and amused to hear the two speakers who preceded me from the Madras Presidency and who opposed my friend

Mr. B. Sitaramaraju: (Gunjam *cum* Vizagapatam: Non-Muhammadan Rural): Don't mention Madras Presidency.

Mr. B. Das: I said two speakers from the Madras Presidency. I listened to their speeches and I felt that, while paying compliments the other day to some of the States in Southern India, we went rather too far to eulogise them and they did not deserve our compliments, because the Raja of Kollengode pointed out that States like Travancore and Cochin were attacked very much by the Indian Press. This was news to me, and I do not think the Honourable the Political Secretary will say that he has received any representations from the Cochin or Travancore States that such a Bill should be enacted. We meet very often men from Cochin and Travancore States in British India

Mr. C. S. Ranga Iyer: I think I may tell my friend, Mr. B. Das, who thinks that the Raja Saheb of Kollengode has not received any representations in the matter, that the Raja Saheb of Kollengode has received authoritative representations in this matter from the Cochin State.

Mr. B. Das: I am glad to hear the explanation from my friend, Mr. Ranga Iyer. I see that the Raja Saheb is here, and I wish he had

Mr. C. S. Ranga Iyer: He had told me about it. I have seen the letters. He is a member of my Party, and hence I intervened.

Mr. B. Das: My friend, Mr. Ranga Iyer, is going to make a speech supporting me, because he is the President of the Upper India Journalists Association. He is the great representative of the Press in this House, as I also happen to be one in my humble way, and so when my friends support me, he will agree with most of my friends who hail from the Madras Presidency,—and the Raja Saheb hails from the Madras Presidency,—and they might be knowing the difficulties of Cochin and Travancore, if the allegations are true, but then I would ask my friends on this side of the House not to pay such high compliments as we did the other day to States like Cochin and Travancore.

Now, Sir, how can British Indians cause "disaffection" against a State? These Princes are British subjects, so are we. I cannot cause "disaffection" against my friend, Mr. Mitra or Mr. Neogy. I can cause disaffection against the Government established by law in British India. I am not a lawyer, as I confessed the other day, although I make here law, that lawyers and High Courts administer and interpret. But how can we cause disaffection against another British subject? This is beyond my comprehension. I wish some lawyer gentleman, when he rises to speak or my friend, Mr. Ranga Iyer, when he rises, will explain the position, because he is the only representative of the big Press here, and so he will enlighten us on this particular aspect of the question which I am raising, because today the whole of the Indian national Press is looking to Mr. Ranga Iyer for his support in this matter, and when he made his speech at Simla he did express the view that the Press clause of the Bill he will examine with a critical eye at this stage of the discussion. I, however, find that he did not sign the minute of dissent which has been signed by my friends, Sir Abdur Rahim, Mr. Jagan Nath Aggarwal, Mr. Neogy and Rao Bahadur Patil. and I was pained not to find Mr. Ranga Iyer's name there, because, Sir, when I was not a Member of this House, when I was flirting with the Swaraj Party to become a Swarajist and my friend was travelling with the late Mr. C. R. Das all over India, and by his classical eloquence he had convinced the country that non-co-operation was not good and the nationalist leaders must come on the floor of the House and fight the Government, from that day I was struck with admiration at my friend, Mr. Ranga Iyer's admirable advocacy for the national cause. We know he had been the editor of half a dozen daily papers, and very particularly of the *Independent* that unfurled the banner of independence under the ægis of Pandit Motilal Nehru, and Mr. Ranga Iyer was the life and soul of that paper. So I would like to know if the *Independent* was alive today, and if my friend, Mr. Ranga Iyer, was editing it at Allahabad, what would he say? Well, of course, we will soon hear . . .

Raja Sir Vasudeva Rajah: It is not that kind of Press against which this measure is directed. The Press that you are speaking of is quite different from the kind of newspapers that are now appearing.

Mr. B. Das: I wish I could only be convinced of it, although my Honourable friend, the Political Secretary, tried to convince us, and also my friend, Mr. Dumasia, who lent his support from the *Times of India* on the floor of this House to the Government Benches, but I don't feel convinced that this legislation is meant only to attack some tuppenny happenny papers that attack a few *diwans* or princes to exact money or to blackmail them. I am not satisfied.

Mr. B. Sitaramaraju: If they are clean themselves, why should they be afraid of the Press?

Mr. B. Das: As my friend says, if they are clean themselves, why should they be afraid? Let us fight fairly and squarely. Let my Honourable friend, Mr. Glancy, read out the opinions of *diwans* who are respected all over India. There are some *diwans* in Indian States, like Mr. V. T. Krishnamachariar, Sir Mirza Mohammad Ismail,—these men

[Mr. B. Das.]

carry great respect, and we respect them as much as they are respected by the Political Department and by the Indian States, and so I would like to know what are the views of these able administrators, whether they really want this measure, and what are their views about this emergency legislation?

It is known to everybody that the Indian Press Emergency Act was an emergency measure, and if one article written in a paper is going to damage the reputation of a State, there must be something very wrong, very rotten in that State. No emergency has been established. I would like to have a little elucidation as to how Government will know that a certain paper has caused disaffection. During the general discussion on this Bill, it was pointed out—I am not referring to that particular State of Travancore or Cochin, I thought they were all admirable States, but I look upon them now with a little bit of suspicion after the speech of my Honourable friend, the Raja of Kollengode—that means that the *Diwan* of Cochin or Travancore will lodge a complaint with the Political Secretary. Here I appreciate very much the conciliatory attitude of my Honourable friend, Sir Harry Haig, when he accepted the amendment moved by my Leader, Mr. Neogy, that the Local Government or the Government of India must sanction the prosecution. That means that the complaints from the administrators of India States will be made available to the prosecuting Magistrate, and that prosecuting Magistrate, when he wants to prosecute a fortunate or unfortunate editor like Mr. Ranga Iyer or even myself, will forward those allegations by the administrators of those States. And yet when the case is to be tried, those Indian States will not be present on the plea and pretext that they are not British Indian subjects and that they cannot appear before British Courts of Justice. Thereby British Indians are placed at a disadvantage. There is that hidden enemy—the Indian prince—who wants to prosecute, and who wants to encroach upon the rights and liberties of British Indians, and yet the British Indian editor will not be allowed to face that enemy. That enemy will be concealed under the apron strings of my Honourable friend, the Political Secretary. It may also be that my Honourable friend, the Political Secretary, will mark the complaints as confidential to the Governor General in Council and the Governor General in Council will not divulge those complaints before the law Court. The other day,—no, it was last Saturday,—I complained that if there was a conspiracy, it was from the Indian States against the Indian Press. The conspiracy does not exist among the British Indian Press against Indian States, and I would say that when a Press criticises the States, it is with an honest purpose to improve the administration of those States. I put a question on the 3rd April, 1933, on the prosecution of Sardar Diwan Singh Maftoon by the Bhopal State :

“Has the attention of Government been drawn to the judgment of Mr. Isar, Additional District Magistrate, Delhi, dated the 5th September, 1932, whereby Sardar Diwan Singh was acquitted and the judgment recorded :

‘Such are the prosecution witnesses and such is their evidence and it seems to me if there was any conspiracy in this case it was on the part of the Bhopal Police the object being to incriminate Diwan Singh and to cripple the *Riyasat*.’”

I quote that particular passage to show, as I mentioned last Saturday, that there is conspiracy in Indian States against British Indians and also that there is conspiracy in Indian States by the States police, not only against particular editors, but also to cripple the Press. Tomorrow, after

this Bill is passed, there will be conspiracy against the British Indian Press, so that they may be silenced and they may not criticise the mal-administration of the States. I will quote another line from another question of mine. It is at page 3159 of the Official Debates, dated the 5th April, 1938.

“With reference to the prosecution sanctioned by the Government to the Bhopal Durbar against the *Riyasat* and the judgment of the Magistrate, Mr. Isar, on the case, has the attention of Government been drawn to the following passage :

‘It is the State Police that carried on the investigation in Delhi and other places in British India without the assistance even of the local police. It is the State that has paid all expenses.’”

I quote this latter sentence, because my Honourable friend, Mr. Mitra, wanted to know whether there had been such a case.

When I mentioned that, Sir Muhammad Yakub became fluttered in his seat,—I do not see him in his seat now,—but here is a judgment of a British Court of Justice, it is not an editor, or a nationalist editor who writes these things against any particular State. Here is a particular case instituted against a particular editor, which proves that there has been a conspiracy against the British Indian Press, not only that, but also there has been an encroachment of the rights and liberties of the Government of India for which the Treasury Benches stand there.

Mr. O. S. Ranga Iyer: If I may interrupt my Honourable friend, therefore, assuming that his present statements are correct, because he reads them from a judgment, why should he not make all those things impossible by supporting this Bill which will override the past Protection Act with all its anomalies to which he gave expression?

Mr. B. Das: I am glad my Honourable friend, Mr. Ranga Iyer, has put me that question. Unfortunately my Honourable friend was too busy on Saturday and did not hear the speech that I delivered then, where I dealt with this aspect of the question elaborately. Why should I enact measures to give protection to inefficiency and inaptitude? The proper solution is, why do not the Government of India and the British Government pension off these princes and make all State territories British Indian? (*A Voice:* “Why go to this extent?”) My Honourable friend, Thakore Gaya Prasad Singh, who, I believe, has many friends amongst these princes, says, why go to this extent? For the good relationship of the Britishers with us I make this suggestion. Let the Government of India revise their views and not create a second line of obstacle to the freedom of India by puffing and putting up these princes against us and by creating them into Suzerain Rulers and Paramount Rulers, and let the Government pension them off. I do not see my Honourable friend, Major Nawab Ahmad Nawaz Khan, in his seat, he is also a Government pensioner. The British Indian Government pay him, because he ran away from the State of Afghanistan. The pension is paid by us though it is a non-voted subject, and my Honourable friend, Mr. Glancy, will see to it that it remains a non-voted subject. I am agreeable to pension off every ruler who is at present

Mr. President (The Honourable Sir Shanmukham Chetty): The Honourable Member must confine himself to the present amendment.

Mr. B. Das: That was a mere explanation to my Honourable friend, Mr. Ranga Iyer. As I said, I was wonderstruck my Honourable friend, Mr. Ranga Iyer, had not signed this minute of dissent. He should have signed it.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muham-madan Rural): He was absent for some reason; otherwise he would have signed it.

Mr. B. Das: Honourable Members must abide by the minute of dissent so cogently and nicely drawn up by my revered friend, Sir Abdur Rahim, and my Leader, Mr. Neogy,—four eminent lawyers have drafted that. They say:

“Regarding the British Indian Press, we are not satisfied that the need has arisen in any way justifying a departure from the normal procedure of a judicial trial.”

They further say:

“We are not satisfied that there is a sufficiently widespread demand by the States Administrations for drastic and summary action of the kind contemplated.”

Before that, your ruling on the presentation of Reports of Select Committees was not given. I think that whatever opinions and materials were placed before the Select Committee should form appendices to the Select Committee's Report. I hope, when the members of the Select Committee speak, they will let us know what opinions were placed before the Select Committee, and I would like particularly to hear from Sir Abdur Rahim and Mr. K. C. Neogy as to why they gave this reasoning and what were their grounds for this opinion. Government must have placed certain materials before these members, and those materials did not satisfy such an eminent *ex-judge* like Sir Abdur Rahim or an eminent constitutionalist like Mr. K. C. Neogy. I would only say this. I stated on Saturday that I was agreeable to give my support to clause 4 that the *jathas* should be prohibited. I have come to that decision after going through the Select Committee's Report, but I do feel that Government ought not to take further powers to harass and prosecute the Indian Press under the guise of protection to the Indian States administration, and I do appeal particularly to my Honourable friend, Sir Harry Haig, who is in such close touch with the Indian Press. Already signs of goodwill and conciliation have come from that great man, Mahatma Gandhi. The Congress is in a mood to respond. Is this the spirit in which the Government are responding that, after passing the Emergency Act of 1932, they must put further fetters and shackles round the Indian Press.—it may be under the guise that it is only a few minor papers that are blackmailing and they must be controlled. Who will be the judge of that? Who will recollect all the assurances and pledges given? My Honourable friend will not be here next year. He will be somewhere else as “His Excellency” and some of the other Members of the Treasury Benches will not be here. These Statements of Objects and Reasons and these minutes of dissent do not lead us anywhere.

Sir, here I should like to draw your attention to an important matter. There is no procedure in our Assembly proceedings to publish the Reports of the Select Committees. These are published in the Gazette of India.

It is very difficult to get hold of the Gazette of India in order to see a particular Select Committee's Report. As the Select Committee Reports are laid on the table, I do appeal to you, Sir, to order that the Select Committee's Reports should in future form part of the proceedings of the Assembly Debates, so that in future if we wish to refer to this minute of dissent, particularly, this able minute of dissent by my friends which I have quoted and the able minutes of dissent that were written in 1932, it will be within easy reach for reference. Sir, I do not ask you to give a ruling now, but I do hope that this suggestion will be taken into consideration by the Chair to facilitate legislative work on the floor of the House.

I was concluding my speech by appealing to the Honourable the Home Member. He wants to see goodwill generated in the country, he wants to see the Civil Disobedience Movement called off. He wants to see in our heart a spirit of response. For the last three or four days, the Indian Press is giving expression to those opinions and there is a spirit of response and goodwill from the all highest in the Congress and from his colleagues, and, at this time, to fetter the Press, as is proposed to be done by clause 3, will be disastrous to the spirit of friendship that Indian leaders are showing and trying to generate. The Indian Press not only ventilates the view point of the Government of India, but at the same time it ventilates the point of view of national leaders, as at one time Mr. Ranga Iyer did to reconcile the two view points, so that a friendly spirit may be generated in the country, and I do hope that my Honourable friend, in view of the general goodwill that is going to prevail and pervade in the country, will withdraw this particular clause, and I do hope that my friend, Mr. Ranga Iyer, when he rises to speak, will bear in mind the general spirit of goodwill that prevails throughout the country and also bear in mind the great responsibility as one of the ablest *ex*-Editors of Indian papers, and that he will speak not as a Member of this House, but as an *ex*-Editor of one of the best nationalist papers.

Mr. O. S. Ranga Iyer: Much as I should have liked to speak after hearing one of my colleagues in the Select Committee, as I happen to be one who has not signed the minute of dissent, I have been invited by my friend, Mr. B. Das, from a journalistic point of view, in his capacity as a Member of this House, to take part at this early stage of the discussions. I am willing to do so. Mr. B. Das said that I should speak as the Editor-that-was of a great newspaper.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Don't forget that you have to speak for a constituency in the United Provinces.

Mr. O. S. Ranga Iyer: My friend says "don't forget to speak for a constituency in the United Provinces", in which I may add, you have Indian States which are black balled in the British Indian Press. Sir, I am speaking as a Member of the Assembly, for unfortunately an *ex*-editor, or even for the matter of that, a very live editor like Mr. B. Das, has no *locus standi* as an editor in his journalistic capacity in this House. He said very nice words about the Honourable the Home Member, his spirit of conciliatoriness, his kindness, his goodness, and so on, and he has also promised that he would support at a later stage a certain controversial clause in this Bill about which also there is probably a difference of opinion among the members of the Select Committee, Mr. Jagan Nath

[Mr. C. S. Ranga Iyer.]

Aggarwal not differing from Government, though an eminent lawyer, but his difference is with two eminent lawyers, one of whom is a constitutional expert to whom Mr. Das referred. After speaking so well of the Honourable the Home Member, he asked me why I did not sign the dissenting note. The answer is that the same spirit of conciliatoriness prevailed in the Committee, and if Mr. Das only reads the italicised portions in the amended Bill, he would have understood to what extent that spirit of conciliation went. Probably he forgot *Explanation 5*:

"Statements of fact made *without malicious intention* . . . shall not be deemed to be of the nature described in clause (j) of this sub-section."

After this, as a journalist that he is, free from malice, he has no reason to dread any kind of strong criticism that he may direct against the maladministration or the unsatisfactory administration of an Indian State. He said, with his mealy-mouthed style of appeal which I always admire, he said in that mealy-mouthed way: "There is a spirit of conciliation and compromise in the country today, the Mahatma has created by his remarkable statement that wonderful spirit". Sir, I agree that a wave of the magician's wand has created a new atmosphere in British India, and I hope that the Honourable the Home Member will remove the ban on the Working Committee of the Congress and allow them to meet to ratify the statement of the Mahatma abandoning civil disobedience and follow it up by a gesture releasing all the political prisoners, so that they might address themselves to the new task of constructive work which the Mahatma has placed before them, including the fight for elections, if they choose, to the Legislature. (Hear, hear.) That is all right; but we are not concerned today about creating an atmosphere in British India, we are concerned today with removing the atmosphere of suspicion and distrust that from day to day is created in British India by the banshees of the Press. That is the point that Mr. B. Das in his mealy-mouthed admiration for the Home Member forgot. That is the tragedy about his speech. The Mahatma cannot speak with any authority whatever—he has never claimed it—for the Indian States and there is no one who is living today who can talk with greater authority than the Mahatma for British India. If there were an equal personality in regard to the subjects of the Indian States who could speak with the same authority, there would have been no necessity, I admit, for this Bill. There would have been no necessity much less for this clause. But if Mr. Das is sincere, as he no doubt is sincere, about continuing the conciliatory spirit that has come down to stay with us, then the proper thing is to see to it that agitation against Indian States of a flagrant kind carried on in the Indian Press does not actually kill this atmosphere. If the new atmosphere to which he referred—and I am glad he referred to it—continues—and Mr. Das, as an imaginative nationalist, has the experience of a great and sincere worker, he has worked disinterestedly for the national cause,—I know how deeply, how sincerely he feels that Indian nationalism must advance from strength to strength,—Indian constitutionalism, not communalism—that being the case,—I would ask him once again to recall the very good story that my friend, Mr. Muazzam Sahib Bahadur, narrated about what he saw in Lahore, namely, that there is a communal atmosphere there. In other parts of India, too, a communal campaign is carried on: the repercussions of the fight against Kashmir have not died down—the Government were wrong in letting loose, in allowing the letting loose,

the Government were wrong in not having prevented the letting loose on an Indian State of *jathas* from British India. I am glad they have woken up; and the spirit which this Assembly exhibited for co-operation with the Government in not having a repetition of these *jathas* will be defeated if the mischievous Press continues agitating as it has been agitating. That is why I could not understand my friend, the esteemed Leader of the Opposition, saying that this Press clause must be removed. That is why I could not understand the very earnest Leader of the Democratic Party not supporting, as he ought to have supported it, if he wanted to attain the object which they said would be attained if the clause relating to the *jathas* was passed in this House. Having passed that important clause, for goodness sake do not defeat the purpose by allowing newspapers to carry on the wicked campaign which they have been carrying on. Mr. Patil said, they are an insignificant section of the Press, they are unimportant, their circulation is poor, why punish them? No, they are not an insignificant section of the Press. These communal newspapers are today credited with having a larger circulation than the nationalist newspapers. The national atmosphere is *not* charged with such high pressure as the communal atmosphere, and, therefore, let us not, by theoretical ideas of the liberty of the Press, run away with the idea that we are promoting nationalism by calling for the deletion of this clause. If nationalism has a responsibility which it cannot shirk,—and if the atmosphere of British India is barely free from communalism as it seems on the surface,—if nationalism is not to be destroyed, this Bill will have to be passed; it is only for a short duration, and if in that period we find the Press has changed its style and is going to help in the building up of the new India to which Mr. B. Das referred, then I can say that there may not be a necessity to continue or give an added period of existence to this Press measure. It is really directed against communalism; and as a Federal Constitution is promised to us, do not, misguided by ideas of the liberty of the Press, give these people a license, for liberty must mean also wholesome restraint.

Sir, Mr. Das made a personal reference to me. He said that I was so closely associated with Deshbandhu C. R. Das in offering a battle to the no-changers of the Congress and in bringing them to the Councils. That was a happy reference. I have a great admiration for the late Deshbandhu, and I am glad that he chose me as one of his principal lieutenants to work with him in Bombay (Hear, hear, for hours battling against the no-changers in the meetings and in urging the working anew on constitutional lines, discussing with people who were willing to take a new line, the line that we ourselves took by entering the Legislatures. Sir, the fruit of our labours has not gone in vain. The Mahatma has today felt what his followers, he being in jail then, were not in the beginning willing to say. Sir, I went through the country with Deshbandhu Das and Mr. Jayakar addressing meetings; and when we addressed meetings we dared, sometimes we were hooted. We were misrepresented in the Congress Press, but that kind of misrepresentation we, the politicians, are prepared to stand. The case of the princes is different. My friend, Mr. Das, referred to the "admirable days of the *Independent* which preached independence". No, Sir. The *Independent* did not preach independence. The *Independent* of Allahabad fought for Dominion Status. The creed of the Congress had not been changed then. The flag of independence was unfurled a few years after at Lahore, in the Lahore Congress, and the spirit of the *Independent* was defeated for "independ-

[Mr. C. S. Ranga Iyer.]

dent" means independent of all coteries and caucuses. It was Independent of extremism then; it was a full-blooded home-ruler, and as home-rule is coming to us today, not only for British India, but also the whole of India under the Federation, I, at any rate, interpret thus, as I have the right to interpret, the feelings of the late Deshbandhu C. R. Das, the greatest leader of his day whose memory will be enshrined in the affectionate recollections of generations unborn. (Applause.) For, I say, the late Deshbandhu Das will be happy in the other world and bless the efforts of earnest and sincere men, his lieutenants here and elsewhere, lieutenants like Mr. S. C. Mitra, that the triumph has come to us of their efforts. That is what he called *the foundation of Swaraj* in his famous Faridpur speech which is laid in the new Constitution. There are defects in it; there are weaknesses in it; there are safeguards in it, safeguards which in Deshbandhu's opinion would have meant deadlocks. The future Councillors have the right of producing deadlocks if necessary in the march to freedom. When Mahatma Gandhi in British India is prepared to allow the Councillors to attack in whatever way they like within the Legislature, must not Mr. Das and other Members of this House help us in defeating the purpose of a few men in the Press, communal and otherwise, both Hindu and Muslim? Must we not defeat the purpose of these new anti-Federation mandarins who day after day with exaggerated stories misreport the newspapers which are full of mischief, as Members of this House are aware? By publishing these exaggerated reports, these newspaper mandarins are killing the purpose of bringing into existence a Federated and Free India. Sir, I want the princes to come into the Federation, and that is why I say that I have changed for the good. I am prepared to change with changing times and what I fought for, suffered for, struggled for, having had one year's rigorous imprisonment as a newspaper editor, has been attained. If Honourable Members are going to be wedded to the hobgoblin of little minds called consistency, they cannot expect me to follow them into the morass and the ditch. I want a New India to be created, as Bhupendra Nath Basu in the National Congress in Madras said. He saw visions, he dreamt dreams, the dream of a united India coming into its own. Under the Federation, Sir, there will be no bureaucratic block. There will be an aristocratic block, and, in this land of aristocracy, we must make it easy for the aristocrats by removing our suspicion. And if we so remove it, what do we get in return? Mr. Joshi himself in a subsequent amendment asks for it and Mr. Das himself asks for it and said today he asked for it. You will get responsible government in the Indian States. Read the Sapru Memorandum and then withdraw your support from the mischievous newspapers which are putting obstacles in the way of this Federation. You will not realise this Federation by helping these wretched, insignificant communal newspapers—insignificant from the princes' point of view, but much too significant from our point of view—lest they should let loose communal conflagration on this country where there is great need today for a national atmosphere. He says:

"I am strongly of the opinion, however, that one result among others of the association of British India and the Indian States in the field of common activity in the Federal Legislature will be to facilitate the passage of the Indian States from these present form of autocratic government to a constitutional form with the rights of their subjects ascertained and safeguarded."

I would, therefore, ask my friend, Mr. Das, to see as a journalist, and, what is more important, to see as a nationalist and a well-wisher of nationalism. I ask every one who has the good of this country at heart, and who has worked for this country, not to cherish old prejudices and play to the communal gallery or "the gutter press" as the Political Secretary correctly remarked. I would also ask my friend, the Leader of the Democratic Party, to ask his erstwhile Deputy Leader, Mr. B. B. Puri, to be present at the third reading of this Bill, for I had fairly warned Mr. Puri in his Leader's presence that I wanted to attack or rather to reply to his personal reference about an ugly episode in Kashmir that I was going to be bought and that Mr. Puri played the role of an agent. I want him to be here to face the music, for I want to make it impossible, because eminent lawyers sometimes play the role of agents of Indian States, to exploit the poor journalists in order to improve their cases. Mr. Puri got a few cases because of me, but I rejected the offer, because I did not like to take the risk. Besides, the administration had changed and the purpose of my work was done. I want him to come and face the music, for I do not like to hit a man behind his back. Having attacked me virulently, he should have come and faced the music. I myself attack strongly, powerfully and sometimes, when provoked, even vituperatively the arguments of some Members, but I do not accuse, them of things which they have not done. His Leader's association with Orissa States, as I said on a former occasion, was very good and he had every right to be associated with them. He did his work nobly by them. I was myself entitled, as a newspaper man, to do propaganda for any Indian State if I was in agreement with it. But Mr. Puri used wicked phrases and I hope the Democratic Party will send a telegram to him to be present on the third reading of this Bill. Suffice it to say at present that the passing of this Bill will make it difficult for the irresponsible members of the legal profession to attack starving and struggling journalists who, at any rate, believe in the integrity of journalism. Such integrity is a sin because of a few blackmailers in the Indian Press! These blackmailers must be put down, otherwise the Indian Press will lose its reputation.

My friend, Mr. Patil, said in his sweetly reasonable style that their number is small and their circulation is also small. Now, I am coming from the communal to the purely State Press and there Mr. Patil, I admit, is absolutely right. Their number is so small and their circulation is so feeble. That being the case, why attack them. Why not leave them alone? My argument is this. Is not the number of *Dakus* in this country small? (*A Voice*: "What is *Daku*?") In the population of 300 millions, how many dacoities are committed? Mr. Amar Nath Dutt does not know what a "Daku" is. In Hindustani, a dacoit is called a "Daku", and may I know what is he called in Bengali?

Mr. Amar Nath Dutt : *Dakat*.

Mr. O. S. Ranga Iyer: So, a "Daku" is called *Dakat* in Bengali, and dacoit in English, which shows philologically that there is some common background for all nations. Let there also be a common sentiment of unity here.

Sir, I admit, as I said, that the number and the circulation of such papers is small, and that is the reason why we must put them down.

[Mr. C. S. Ranga Iyer.]

It must not be possible to make a newspaper indulge from day to day in cruel libel. If three people talk libel, they can be proceeded against in a Court of law. Surely what individuals are labouring under, by way of a restraint, must be accorded to these papers with small circulation, for surely if their circulation is a hundred, they choose the names of men to whom they send, and probably the Political Secretary gets these cuttings which, without reading, he puts into the wastepaper basket or transfers to some clerk in his office if he knows what the paper is, and if its statement is worth being regarded, he sends it to some Under Secretary to glance at it. If, on the contrary, he knows that it is from a professional black-mailer, probably he does not take any notice of this, for he could not be expected to do any other work excepting the reading of these libellous articles, unfounded and untrue, repeated day after day. It is this section of the Press that we want to get at. They give a bad name to the Indian Press. The good newspapers are not affected, and, even for their sake, the Bill is necessary, so that they may become better. They are not after all straightaway proceeded against. They can change their soul, they can change their aspect, they can change their manner, and they can also become respectable and be gentlemen. This Bill is not directed against the gentlemen Press.

My Honourable friend, Mr. Das, referred to a case, rather a sensational case of the *Riyasat*. I personally sympathise with the *Riyasat*. I sympathise with every newspaper which is persecuted by an Indian State for its day-to-day criticisms, even though the criticisms may have gone farther than the limit. Day to day, the Editor writes, but he feels he is prepared to take the consequences. Therefore, I sympathise with that agitation. But if that agitation is to be kept within the limit, this Bill is necessary, and if the wings of the princes' agents are to be clipped—for I do not question, I had not studied the references which Mr. Das made, I take them to be correct and if they are correct—if the wings of the princes' agents are to be clipped, it is better to entrust the British Government in India with the power that they take under this Bill lest there should be any more repetitions of the scandalous *Riyasat* case, scandalous because it has run to so many months, probably it went to years.

Mr. B. Das: Two years.

Mr. C. S. Ranga Iyer: Yes, two years. My friend, Mr. Das, is fairly well informed on this matter. I myself thought that it was more than two years, because I was closely following the proceedings of this unfortunate case in the Press. The princes can afford to have long cases in Courts, they can impoverish the editor, they can rob him of his money, they can make him dance attendance in distant Courts, but all these must end. If action is necessary, it is much better that it should be taken under this Bill, a straight action after warning the editor concerned. If the editor is a lunatic, he will not listen to the warning. I hope, when the Home Member speaks, he will make it quite clear, though it is not for me to make it clear, because I know warnings are invariably given, as an editor I know it from experience, my paper's security would have been snatched away for the manner it was denouncing Kashmir administration, but a fair warning changed its policy within 24 hours, from one of severe

and fierce fight to one of critical and sometimes severely critical opposition. Therefore, the *Riyasat* case supports this Bill strongly, and I hope my Honourable friend will not press this motion to a division, for the purpose of the whole Bill will be defeated, including the clauses that we have passed already.

My Honourable friend referred to the Raja of Kollengode. He said high compliments were paid to Travancore, Cochin and Mysore and said that such good States should have no cause for complaint. I am afraid that the Raja of Kollengode has no authority to reveal the authoritative correspondence which he has shown to me and the difficulty of the South Indian States which I knew. The difficulty of these well-managed South Indian States is that they are not able to get as editors in British India those whose only purpose—insignificant papers though—is to blackmail them and misrepresent them or to blackguard them. In these States, let it be noted, there are a large number of well conducted newspapers opposed to the administration. There is no State in India today which has a more vigorous Press than Travancore and which, day after day, ask for the head of the Administrator *in a charger*. (Laughter.) I see my Honourable friend, Sir Lancelot Graham, smiling thus giving me an opportunity to correct my expression "*in a charger*". Sir, the popular English error is "*on a charger*". But if a reference is made to the Authorised Version of the Bible, both in St. Mark and in St. Luke, you will find the phrase "*in a charger*", and I want that Englishmen must emerge from the familiar English error.

I was saying that these good States also must be given protection from bad criticism. After all, good manners are better than bad journalism, and it is bad journalism that we are striking at, and I hope that this motion will not be pressed to a division, but, if it is to be pressed to a division, I hope and trust that those, who do not want to play to the gallery of the communal Press and the blackmailing Press, will reject it without any mercy whatever. (Cheers.)

Diwan Bahadur A. Ramaswami Mudaliar: Sir, I want to confine myself very strictly to the merits of the amendment that has been moved by my Honourable friend, Mr. Patil. I want to make it clear to the House that even if this amendment is carried and clause 3 is deleted, the amplest protection will still be available against any newspaper which creates or attempts to create. disaffection against the administration of any State. In the Indian States (Protection against Disaffection) Act, 1922, provision is made in section 3 for the substantive offence. The section reads:

"Whoever edits, prints or publishes, or is the author of any book, newspaper or other document which brings or is intended to bring into hatred or contempt or excites or is intended to excite disaffection towards any Prince or Chief of a State in India or the Government or Administration established in any such State shall be punishable with imprisonment which may extend to five years or with fine or with both".

If therefore, there are any Honourable Members in this House who are under the misapprehension that this clause for the first time makes the act penal and that the deletion of this clause would make newspapers run riot in the country and attack Administrations without any penalty for such attacks, I beg to submit that they are mistaken. This clause does not create the offence for the first time. The offence is already there punishable with five years' imprisonment. This clause merely tries to substitute instead of the judicial machinery which will ordinarily try this offence and give a punishment of five years, an executive machinery which will

[Diwan Bahadur A. Ramaswami Mudaliar.]

act, without recourse to Courts, without sifting the evidence without the chance for the editor or the proprietor to establish his *bona fides*, and this executive machinery will order him to give security and later forfeit that security.

Now, the position that this House has to consider is whether it is necessary, under the present circumstances, granting all that can be said about the communal Press or the blackmailing Press, whether it is necessary for this House to arm the executive with these powers of forfeiting securities and in the last resort to forfeiting the press even; or whether it is not sufficient to rely on the very rigorous provision that is already contained in the Act of 1922, a provision whereby the offending editor or the writer can be sent to imprisonment for a period of five years. This clause merely tries, to impose a penalty or fine, a financial penalty, if I may say so, whereas the other section which is already on the Statute-book can send him to jail for five years. Do Government think that it is a greater hardship to the editor of a newspaper to get the press or his security forfeited, or to send him for a period of five years to jail if he commits this offence?

Now, Sir, what is the necessity for this provision? It has already been stated that this House or rather its predecessor was against the enactment of the Act of 1922 itself and that it was certified by His Excellency the Viceroy then and it became law. I am not willing to go into the past history of this matter. But having got that provision, why is it necessary to enact this clause which gives the executive power on the lines of the Criminal Law Amendment Act of 1931 supplemented by the Act of 1932? There it was a case of grave emergency, and I would like the House to realise the difference between these two particular cases. I am not now justifying the Act of 1931 or the Act of 1932, but, as the Acts are there on the Statute-book, I assume that the House has given its verdict in favour of them; and having made that assumption, I still want to show that there is a vast difference between the present provision and the need for the present provision and the provision with reference to British India. In British India, it may be argued that when a state of emergency exists, as it did exist during the last two years, and when offending journalists committed these offences, it was inadvisable to prosecute them, because the very prosecution would serve the object which they had in view, would create an amount of publicity, would bring many people into contact with these offending journalists or rather their comments, and would keep up an unhealthy state of excitement among people whom this prosecution must necessarily take place and this trial would be staged. But what is the position with reference to this clause in British India? If somebody had done anything or written anything to encourage the Civil Disobedience Movement and the prosecution had been started in a British Indian Court, naturally with all the publicity attending them, the people surrounding the Court and surrounding the area of the prosecution, the British Indian subjects to whom a direct appeal is made for continuing the Civil Disobedience Movement being affected, the executive could legitimately claim there would ensue the very effect which they do not want to produce, of furthering the cause of the Civil Disobedience Movement and making more people take to it. But the position is entirely different with reference to this provision. Supposing that you do not adopt the remedy given by this clause, you will have to resort to the Act of 1922 and prosecute the erring editor. Then you will stage a trial. Where? In British India. In what atmosphere? Where British Indian people not directly connected with the

Indian States live, where there is no chance of exciting disaffection among Indian States directly. And we all know that many Indian States have resorted to the provision of shutting out many newspapers from their borders. That is a power which is inherent in them. They can well do it, and I know many instances where newspapers which are regarded with the highest approval by even the Honourable the Home Member, like the *Hindu* of Madras, have been shut out from Indian States. When they can do that with respect to responsible newspapers, newspapers of the highest reputation, newspapers about which no Member on the Government Benches can question their *bonâ fides* or their fairness of criticism, it is the easiest thing for them to shut out every rag that criticises them or their administration. Therefore, I say that even the news of this trial, even the detailed proceedings of this trial need never enter such Indian State. If that is so, where is the harm in resorting to the ordinary procedure which you have already furnished by the Act of 1922 and prosecuting them? I have no sympathy with those malevolent journalists who, for the sake of blackmailing, write scurrilous articles. Prosecute them and give them the maximum imprisonment for five years. But why do you ask us to give power to the executive to forfeit securities? I am aware that in the Select Committee amendments have been adopted whereby the ultimate right of appeal, after the security is forfeited, to the High Court has been given, based on a similar provision in the Criminal Law Amendment Act. But I think it is a very different position indeed. For a small journalist, whose security has been forfeited or whose press has been forfeited, to go after the event to the High Court and try to have his case argued is not always an easy matter; and the High Court as has been shown, is helpless in these matters. The High Court cannot really go behind the decision of the executive and they have no materials placed before them, whereby they can judge whether this was intentionally done, whether it could create disaffection, and so on. Therefore, ultimately it comes to this that it is not even an alternative remedy, it is the sole remedy and the executive becomes the judiciary. That, I submit, is the worst form of combination. The executive has, under this clause, to do what? When it forfeits the security, it has to decide,—and I am now dealing with the *Explanations* that have been incorporated in this clause,—it has to decide whether the statements of fact have been made with malicious intention or without malicious intention, and they have to decide whether such statements of fact attempt to excite hatred, contempt or disaffection.

Now, Sir, how can we be parties to arming the executive,—and quite unnecessarily, as I venture to submit,—to be the judges in their own case, to decide whether an editor has had malicious intention or not had a malicious intention, whether the effect of the statements of facts contained therein is to excite hatred or contempt or not to excite hatred or contempt? My Honourable friend, the Home Member, the other day replying to the speech of my Leader, Sir Abdur Rahim, said that there is a difference of view-points:

“I have been trained on the executive side and I approach it from a particular point of view; my friend has been trained on the judicial side and he has naturally more partiality for the judicial way of disposing of cases”.

I venture to think that he has done an injustice to himself. Whatever your training may be on the executive side, granting that you have been a District Magistrate or executive officer for all your 30 years, I am certain, no one on the Government side will venture to state that the judicial administration of this clause is not more impartial and the least liable to

[Diwan Bahadur A. Ramaswami Mudaliar.]

public criticism. Therefore, I hope that we are at one in thinking that the judiciary is a necessary thing, not a necessary evil, but a necessary good, as much for the protection of the individual and the members of the public as for the reputation of the executive itself. There is no better palladium to uphold the reputation of the executive than the judiciary, and, therefore, if the executive and any member of the public are at loggerheads, the tribunal to which they can both approach is certainly the judicial Courts, and these judicial Courts, I venture to think, will do justice between both parties.

Now, Sir, let me cite some of the criticisms that have been addressed. I venture to think, having carefully perused the various criticisms, that if there is one clause to which the severest objection has been taken, not by public agitators, not by journalists, not by advocates, but by responsible administrators, by men trained as my Honourable friend, the Home Member, has been trained, through years of executive administration, by men who occupy positions similar to that which he occupied only a few years back,—let me state the opinion of these gentlemen who state that the most objectionable feature of this Bill is the present clause 3 and the old clause 4. Reference has been made to my Province, and I should like only to quote two or three opinions from that Province. First is the Government of Madras itself:

“The Madras Government are of the view that there is considerable force in the Advocate-General’s opinion that this clause is of so emergent a character as to require a state of emergency to justify its introduction. If, however, its introduction in present conditions is considered justifiable, the reason for assigning it a limited duration coterminous with . . . is not apparent, etc.”

Then, the Madras Government suggest at least some palliative by way of explanation, which, I am bound to say, the Select Committee has adopted.

Let me turn now to the opinion of some of the administrators, executive officers with no particular bias for judicial tribunals and with an executive mind born out of long experience of administration for a number of years—the District Magistrate of Ramnad for instance. He says:

“It is unquestionable, I think, that the subjects of Indian States neither enjoy the same elementary rights of citizenship, nor the same standard of efficient administration as the subjects of British India. That being the case, the Bill, as it stands is too rigorous.”

--And what is the particular criticism?—

“Section 4 of the Bill, sub-section (a) makes it exceedingly difficult for persons residing in British India to indulge in true criticism of the patent defects of any Indian State administration, without running very serious risks. The words ‘hatred’, ‘contempt’ and ‘disaffection’ are difficult of definition, and there is a danger that courts may take a strict view, even where the criticism is well founded, and made in good faith, in public interests.”

This is the opinion of an executive officer, the District Magistrate of Ramnad. If Courts could take a strict view, how much more is it possible for the executive to take even a stricter view of the case, because the Political Secretary thinks so or because for purposes, quite unconnected with the nature of the offence itself, the Government of India want to be in good relation with any particular Indian State, and I think, during the last few months or years, we have had examples of that kind.

Take again, some District Magistrates from the Bombay Presidency. The Collector or Dharwar says:

"The only provision in this Bill which appears controversial is clause 4 (the present section 3). Should it be rendered impossible to bring rulers of Indian States into hatred and contempt when some of them are notoriously the most contemptible objects?"

That is not my language. I am sorry I have to read it out, but the District Magistrate of Dharwar has asked the question of the Honourable the Home Member who circulated this Bill to him. The Collector goes on to say:

"It appears to be part of the price that British India has to pay for the reforms which are now being elaborated. For political reasons, many States are being handed over to Political Agents who live at a distance;"

—this District Magistrate knows what he is talking about—

"and now it is proposed to extend to them a protection against blackmail, which they do not merit. It is regrettable that the reforms involve a waste of time and energy of this sort, but presumably it is inevitable."

This is the opinion of an executive officer. I will now refer to another Magistrate, the Magistrate of Belgaum; no wonder, my friend, Mr. Patil, who comes from very near that locality, took the view from the District Magistrate of Belgaum. He says:

"I see nothing objectionable in the provisions of the Bill except clause 4. I fear that if this clause is passed legitimate criticism of misdoings in an Indian State will be discouraged. Even in the case of British India, the Indian Press (Emergency Powers) Act was passed as a measure of emergency and I do not see why its provisions should be extended to protect State administrations which in many cases are not above criticism and are able within their own boundaries to stifle comments on themselves. It would be in the interest of the population of such States if free scope was given at least to the outside Press to criticise their maladministration wherever such exists."

These are responsible gentlemen who are not willing to allow the Press to run riot, but who see that there is another side of the case, another side to the picture, and who are anxious that the Indian States administration should not be more corrupt and more difficult than it is at present

Mr. B. Das: May I tell my friend that these gentlemen must be ex-Political Agents, because in Bombay Collectors are Political Agents?

Diwan Bahadur A. Ramaswami Mudaliar: Let me now turn to the Punjab about which a great deal has been heard. The Deputy Commissioner of Ludhiana, a very high official coming from the Punjab, says:

"Clause 4, which would enable Government to confiscate the security of a printing press where documents likely to bring into hatred or contempt or to excite disaffection towards a State administration may be published, however, stands on a somewhat different footing and is not in my opinion really necessary. It is a painful reality that the administration of many States is to put things mildly, far from good and there may be cases where even a bare publication of some hard facts may fall within the purview of this clause on the ground that it would tend to bring into hatred or contempt the administration of those States. Very few states have got an independent Press and the subjects of most of them have not got even ordinary elementary rights, leave alone the rights of having a Legislature and discussing things therein. They have thus no alternative but to ventilate their grievances in the British Indian Press and if this legislation is enacted, the British Indian Press would be shy of publishing even those documents that contain a true narration of facts. Therefore until and unless the State subjects get the same rights as we enjoy in regard to Press criticism of British Indian affairs, the States are not in my opinion entitled to get the same protection which the executive in British India possesses."

[Diwan Bahadur A. Ramaswami Mudaliar.]

Now, Sir, take another gentleman from the Central Provinces, and this time I will turn to a judicial officer, the District and Sessions Judge of Raipur. He says:

"The wording of clause 4 would be appropriate to British India, where the administration is admittedly good, but the circumstances in many States are so different, that the scope of the clause is automatically widened. In my opinion it would be very difficult for honest criticism in many instances to escape the liability of section 4, Indian Press (Emergency) Powers Act, as proposed to be amended. I consider it necessary in making the Act apply in respect of Native States to modify the amendment so as to include the ingredient of intention."

I am bound to say that in the *Explanation* to that clause it has been put. But what is the good of putting in that ingredient if the person who is to judge is not a judicial officer, but your own executive officer? That is my main criticism on this Bill. I have no objection whatever, notwithstanding the fact that the Indian States subjects have no possibility of ventilating their grievances, to the provision that has already been put in section 2 of the Act of 1922. Prosecute them by all means, but go before a Court of law: let there be a wider publicity of these things. It will do good to the State; it will do good to British India, and I venture to think, to the Government of India; for, how is the Political Secretary and His Excellency the Viceroy, who is in direct charge of these powers, to know about the conditions of a State? (Interruption.) The other day, the Honourable the Law Member said that the Government thought that they could interfere where there was maladministration in a State: that is the accepted position; but how is this maladministration to be proved? Not by the Press within the State, because there is no Press within such a State; not by the Press in British India, because any statement of facts which will prove maladministration may bring the administration of the State into hatred and contempt, and may, therefore, make the British Indian journals liable to the penalties which this clause provides for. Then, I ask, if the Political Secretary is to discharge his functions properly, how he is going to satisfy himself that in an Indian State there is maladministration?

Sir, they talk in the scientific world about the safety valve.
 1 P.M. There must be some safety valve somewhere even with reference to Indian States. I am not against any of these Indian States at all. I am one of those who believe in Federation, who did everything possible for the Indian States to come into the Federation, but I venture to think that the question of Federation has nothing to do with this matter at all, and that no Indian State, which is seriously thinking of coming into the Federation and which is worth coming into the Federation, would care to have these provisions or would not seriously object to coming into the Federation if this provision were enacted. I again invite the attention of this House and of my Honourable friend, the Home Member, if they have got positive provisions in the Act of 1922, why they should think of investing this supernumerary power, of arming the executive to bottle up free criticism in British India? I have some little knowledge of the Press in my Province, and I say that even the best edited journals are in fear of these security sections. They know that once a notice comes from a Chief Presidency Magistrate or the Commissioner of Police that the sword of Damocles is on them at every stage. They write every day in trembling and with fear. They do not know what to publish. Their editorials are all right, but the trouble is with letters which come to the Press, and having had something to do with the editing of newspapers, I

may tell the House that the editor of a paper is not afraid of what he writes himself, but he is afraid of the correspondence column, he is afraid of publishing what is sent to him by correspondents for publication. An inadvertent publication of a letter sent to him by some correspondent and which has been passed by a sub-editor, who has been in charge of the Press in the absence of the editor, may result in very serious damages to the proprietor, to the editor and to the Press itself, and, therefore, it will become an impossible task, and many British Indian newspapers of the kind,—and not the gutter Press which go out of their way to blackmail,—will think twice, thrice and even a hundred times before they publish a statement of that kind.

Sir, the Kashmir agitation has been referred to specifically, and many newspapers have also been referred to. I was following that agitation somewhat carefully in those days, but I think the strongest articles, the most closely reasoned arguments of the statements of facts appeared not in any gutter Press, but in one of the newspapers which are considered the most responsible and the most reasonable of the Press. It was the *Statesman* that day after day published statements about Kashmir, it was the *Statesman* which showed how a change in the administration was essential, and ventilated the grievances of the State subjects of Kashmir. Now, Sir, I have nothing to say against that policy, but I venture to state that with the sword of Damocles hanging over it, even the *Statesman* will think a hundred or even a thousand times before publishing these facts. Sir, I am not going into the merits at all, and, therefore, I say that the result of it will be to prevent an honest ventilation of facts in the most respectable and responsible journals in British India

Mr. C. S. Ranga Iyer: Not at all.

Diwan Bahadur A. Ramaswami Mudaliar: I think that this House should, as far as possible, while protecting the Indian States, while protecting the administration of the Indian States, see whether the enlarged powers asked for are necessary. My Honourable friend, the Law Member, the other day said that this was a neighbourly act and that we must see that our neighbour's State should be protected. I agree, but does he not realise that there is a small difference between the position of two independent States and the position of an Indian State?

With reference to the numerous States that have sprung up in Europe after the War, for instance, the subjects of one State belong to one nationality, the subjects of another State belong to a different nationality. It sometimes happens that there are subjects of one State living in another State. A notorious instance of that is the position of German subjects in Poland, and those who have followed the criticism and attacks in the German Press will realise that because the Polish Germans were flesh of their flesh and bone of their bones, the Germans in Poland were safeguarded and that they were not actually misruled by an independent Polish Government. Now, what is the position? I live in British India. Hundreds and thousands of my relatives are living in Indian States. We are not different nationalities. If God had made these States so self-contained that men of one nation should have nothing to do with men of another nation in British India, I could understand the arguments of my friend, but are they going to ignore the domestic ties, the family ties, and are you going to suggest that the people in British India can be brought up in such a way as if in a water-tight compartment that they cannot feel for

[Diwan Bahadur A. Ramaswami Mudaliar.]

the abuses to which their own kith and kin are subjected in Indian States? My friend, Mr. Mody, knows a good deal more of the domestic infelicity that exists in some of the States, because, he lives in States which are closely associated with Bombay. I, Sir, in spite of what has been said, come from a happier clime and from a happier land. I come from a place where the Indian States,—I acknowledge with gratitude—most of them on our side are so well governed that very few of us have any complaints at all. Mysore and Travancore are model States, and, therefore, I have not got any feeling against them at all. I have said so in Mysore, and I have said so outside Mysore,—it is not because of any feeling against it, but because I cannot close my eyes to obvious facts elsewhere in India that I have pleaded with the Political Department and the Honourable the Home Member that they should give some opportunity without the sword of Damocles or any kind of executive pressure hanging over the heads of respectable newspapers enabling them to publish a fair and bare criticism of facts or of abuses that may exist in some of these States. Sir, I support this amendment.

Mr. N. M. Joshi (Nominated Non-Official): Mr. President, my friend, Diwan Bahadur Mudaliar, has very ably dealt with the legal aspect of the amendment moved by my friend, Rao Bahadur Patil. I propose to deal with this amendment from a political point of view, and, while doing so, I may tell my friend, Mr. Ranga Iyer, that I am not ashamed of being considered a theoretical believer in the freedom of the press. May I also tell him that I don't propose to change my views for the pleasure of escaping the accusation of being consistent in our views.

It has been said that this piece of legislation is necessary in order to prevent blackmail by what is called the gutter press. I have never been a journalist for a long time, although I have had some experience of journalism, about which I shall speak later on, but I may say at the same time that this measure is not likely to be used only against the gutter press. It may be used against any press. We know the cases that have so far been made against the papers in this country under the present legislation. From that it is quite clear that it is not only what are called the gutter papers which are prosecuted, but some of the most influential papers in this country are being prosecuted under the press law. I, therefore, feel that it is wrong to talk as if this legislation is going to affect the gutter press only. I am prepared to admit that some blackmail is going on, but may I ask, if there are papers that ask for blackmail, why are there princes that give blackmail? I should like to have a reply to that question

Mr. C. S. Ranga Iyer: The answer is that if this Bill is passed, such princes will be prevented from encouraging blackmail. Therefore, it is good for the princes also.

Mr. N. M. Joshi: I would like Mr. Ranga Iyer to tell me why there are any princes who are willing to give blackmail to those papers which are gutter papers?

Mr. C. S. Ranga Iyer: Because there are gutter princes also.
(Laughter.)

Mr. N. M. Joshi: The truth has come out. There are gutter princes. We, who are in public life, know that our acts are not and cannot be immune from criticism, and sometimes we all have experienced criticism which we may consider to be unfair and which we sometimes regard as intended for blackmail, but those of us who do not like the criticism take shelter under the ordinary law of the land. They go to the Court, but many of us treat the criticism in the press with contempt. We do not feel that our reputations are so fragile that a few sentences in the gutter press will affect them. That is the right way to deal with the criticism of the gutter press.

Mr. C. S. Ranga Iyer: But the gutter press unfortunately deals not only with the gutter princes, but also with good princes, and, therefore, the gutter press must be put out for the sake of improving the gutter princes and excluding the good princes from its gutter attacks.

Mr. N. M. Joshi: I am talking of the good princes. I feel that those princes who are good will surely have such good reputation that that reputation cannot be taken away by what the gutter press may write.

Mr. C. S. Ranga Iyer: For instance, supposing Mr. Joshi is, day in and day out, libellously pilloried, he has the right to go to a Court of law. But the princes are in a different position, and you cannot reduce them to the position of citizens of British India, and, in order to prevent this gutter press libel, you have got to protect them by this legislation.

Mr. N. M. Joshi: I do not feel that the citizenship of the British Empire is so mean

Mr. C. S. Ranga Iyer: I was talking of British India.

Mr. N. M. Joshi: the citizenship of British India is so mean that any prince should disdain to be a citizen of British India!

Mr. C. S. Ranga Iyer: Then you want an abolition of the Indian States.

Mr. N. M. Joshi: I know even the British King was not ashamed to appear before a British Court when he wanted to vindicate his character. (Hear, hear.) Why should these princes be ashamed to appear before a British Court to vindicate their character?

Mr. C. S. Ranga Iyer: The princes will have to appear every day, because they are libelled every day in the gutter press.

Mr. S. O. Mitra: Sir, if the Honourable Member is allowed to interrupt in this way after each sentence, and that also not as a matter of personal explanation, is that in order?

Mr. President (The Honourable Sir Shanmukham Chetty): When the Honourable Member (Mr. Joshi) is ready to give way every time, what can the Chair do?

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhamadan): It becomes a regular dialogue.

Mr. N. M. Joshi: I feel that the good princes should either treat the criticism of the gutter press with contempt or go to the British Courts under the ordinary law. But, Sir, my complaint against the princes is that they not only submit themselves to be blackmailed, but they are the parties who offer inducements to people in British India to ask for blackmail. It is they who tempt them. I was once several years ago connected with a daily paper

Mr. President (The Honourable Sir Shanmukham Chetty): What time will the Honourable Member take?

Mr. N. M. Joshi: About 10 or 15 minutes.

Mr. President (The Honourable Sir Shanmukham Chetty): The House stands adjourned till 2-15.

The Assembly then adjourned for Lunch till a Quarter Past Two of the Clock.

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Shanmukham Chetty) in the Chair.

Mr. N. M. Joshi: When we adjourned for Lunch, I was saying that if there was a danger

Mr. Gaya Prasad Singh: I rise to a point of order. Is there a quorum in the House?

(As there was no quorum, the bell was rung for one minute, then Honourable Members came in, and there was a quorum.)

Mr. N. M. Joshi: Sir, if there was a danger of Indian newspapers blackmailing the Indian princes, there is an equal danger of a very serious kind of Indian princes offering temptations which I might call blackmail to Indian newspapers and Indian public men. I was once many years ago in charge of a Mahrathi daily paper. My Honourable friend, Mr. Ranga Iyer, does not expect me to admit that it was a gutter paper.

Mr. C. S. Ranga Iyer: Surely not.

Mr. N. M. Joshi: I am willing to give the name of that paper if he likes to know.

An Honourable Member: What is the name?

Mr. N. M. Joshi: It is called *Dnyan Prakash*. When I was in charge of that paper

An Honourable Member: How many years ago?

Mr. N. M. Joshi: 25 years ago, the paper wrote an article dealing with some matter connected with the Indian States in the ordinary course of its work. After two or three days, I received a cheque,

An Honourable Member: What amount?

Mr. M. M. Joshi: Either the amount of the cheque was not tempting enough or the Servants of India Society to which the paper belongs could maintain the paper without such a cheque, the cheque was returned, but the fact remains that a cheque was sent, and I am quite sure, before this discussion ends, the Assembly will know that it is not a solitary attempt on the part of an Indian prince to offer temptation to the Indian press for reasons of their own. This evil becomes greater when there is a quarrel between the princes themselves. You will remember very well that there was a time when there was a very big bumper crop of legal advisers in this Assembly. I do not suggest that a Member of the Legislative Assembly should not accept the position of a legal adviser to an Indian State, but when we see a big crop of such advisers all of a sudden, the circumstances become suspicious. The legal advisership is not confined to Members of the Legislature. It is travelling from the Members of the Legislature to retired High Court Judges and retired Members of the Executive Council. The Auditor-General in India is supposed after his retirement not to take up any service under the Crown, but a convenient prince is found to offer some kind of advisership even to the Auditor-General in India. This is happening in British India, and I say, if there is a danger of blackmailing by the Indian papers, there is an equal danger or a more serious danger from the princes themselves to the public life and the purity of public life in this country. (Applause.) I feel that this danger to the purity and the honourable traditions of public life in this country will be much greater when the Federation comes into existence. The representatives of the Indian princes and the Indian princes will begin to sit in this Legislature. It is, therefore, necessary for us today to see that safeguards are taken against this danger. I am not suggesting that, because there are these dangers, therefore we should not have a Federation. That is not my suggestion, but my suggestion is that it is absolutely necessary for us to put a stop to this serious menace to the public life of this country. So far as the blackmailing by the papers is concerned, the only remedy that suggests itself to me is that the Indian princes should give free scope to the development of press in their own territories. The Honourable the Political Secretary, when he spoke, mentioned a few papers that exist in Indian States, and he said, their number was 200. I wish the Political Secretary had placed a list on the table. I would have asked how many of these 200 papers are allowed to write on political subjects. I should have asked him how many of these papers exist in how many States and which are those States. If there are papers, they are confined only to a handful of States. If there are papers, most of them do not deal with politics. The real remedy for the princes to protect themselves against blackmailing by papers is that they should allow a free press to develop in their territory. It is because there does not exist a free press to defend the actions of a good prince that he has to give blackmail to a paper that writes against him. If for every one blackmailing paper there are ten papers that defend a prince, where will be the need for blackmail? I feel, therefore, that the Political Department, instead of bringing forward this legislation and trying to pass it, should give a friendly advice to the Indian princes that, as they, the British people, have allowed a free press to develop in this country, the Indian princes should allow a free press to develop in their own territories. Therein lies their protection against blackmail. Mr. President, there are

[Mr. N. M. Joshi.]

other remedies against blackmail, but I shall not deal with them today; I shall have another opportunity to deal with those remedies when my amendment comes up for discussion.

Mr. N. M. Dumasia (Bombay City: Non-Muhammadan Urban): Mr. President, I have the disadvantage of speaking after two most eminent and eloquent journalists. They are diametrically opposed to each other. I claim, so far as my Presidency is concerned, and so far as the papers which specialise in Indian State affairs are concerned, a longer and more intimate experience, and I say without hesitation that this clause will not in the least prevent an honest journalist from ventilating the grievances of the States subjects. Even a more drastic clause would not bring an honest, trained and experienced journalist into the clutches of the law. To an ordinary mind, not well versed with the conditions obtaining in the States in the Western Presidency to which I belong, the clause may appear drastic, but, to my mind, blackmailing, which is an evil which this clause tries to remedy, is only a minor aspect of the question. During the debate, the opponents and critics of the Bill made it quite clear that there would be risings in the State were it not for the fear that British troops go to support the Indian States. It is to prevent those risings, it is to prevent those rebellions that a drastic measure is necessary. If the Indian States are destroyed, who, Sir, will be saved in British India? Sir, I know certain papers which in season and out of season incite people to risings and rebellions and they feed upon them and they live upon them, and that is their business. If they become sober newspapers, then their vocation will go. Sir, if a prosecution were undertaken, this incitement to risings will be advertised all over the country and the mischief that it would generate would be incalculable.

After this Bill was introduced in this House, several new papers specialising in Indian State matters have come into existence and more papers are shortly coming into existence to protect what they call the "Indian States peoples' rights". Now, if they thought that this legislation would interfere with their liberty, these newspapers would not have seen the light of day. One paper has just been published in Bombay, another in Calcutta, and a third is to be published in Delhi, and it is through these that propaganda is being carried on against those Indian States. My friend, Mr. Das, said that he would like to pension off the Indian princes. That reminds me, Sir, of what Mr. Bernard Shaw once said about politicians. He said that if it was in his power, he would banish all politicians (Hear, hear), but his difficulty was, where to get better men in their place. I ask Mr. Das whom is he going to substitute in place of these princes?

Mr. B. Das: The British Government.

Mr. N. M. Dumasia: Mr. Das would not have the present Constitution, he would not have the princes, what does he want? A brown oligarchy for white bureaucracy? Sir, please remember that the spirit of irreverence that is abroad touches everybody, and unless this is stopped, the mischief will be incalculable. I have visited many places in Kathiawar where there has been an incitement to a rising, I have studied the conditions of the States, and I can say that they are far better than those prevailing in many civilized countries of Europe or in other parts of the world. Sir, I am not speaking as an academic man, I am speaking from my personal experience (Hear, hear), and if Mr. Das were to come with me, I will show him what the Indian princes are doing for their people.

Mr. B. Das: They won't arrest me, I hope?

Mr. N. M. Dumasia: I guarantee that Mr. Das will not be arrested. Well, if my friend wants to make short shrift of them, they will naturally try to make short shrift of our politicians. Sir, there are States and States. I do not say that there is perfection in all these States. But many speakers have tried to make out that the Political Department is partial to the Indian princes. If they only knew what is concealed behind the cryptic announcement of "voluntary abdications", they would know how hard sometimes the Political Department has been upon the Indian princes. (Hear, hear.)

Mr. S. O. Mitra: Protect them against the Political Department also.

Mr. N. M. Dumasia: That is not within our purview. Sir, from my experience I would like to add to the excellent testimony that has been given to the States in South India, but if these gentlemen knew of the poisonous stuff we every day get from interested parties against these very enlightened States, they would be shocked. I have to deal with them, and I know that if we were to publish the stuff that has been sent against these model States, we would land ourselves in trouble. Sir, the honest journalist and the trained and experienced journalist instinctively knows what is wrong, and he would not touch what is wrong. A man who is bent upon mischief will always economise truth, will be careless of truth, and his only object will be to destroy the States: and it is our duty (Ironical Laughter)—you may laugh, but I say it will recoil upon you, it will have repercussions throughout India, you do not know what mischief is brewing in certain quarters. With these words, I oppose the amendment.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, in this debate we have heard several speeches made in favour of princes or against the princes, but here we have to deal, not with the princes, but with the Administrations of the Indian princes; and if we confine ourselves to the issue which is before us, then I think the matter will be made greatly easy. As regards the matter of the personality of the princes that has been brought in, well, some princes undoubtedly are not so good as others are, but we have to remember that amongst the Order of the Princes there are some whom, I daresay, this House will be only too glad to have and to wish them to occupy the highest position which anybody in this country can occupy. (Hear, hear.) These princes should not be mixed up with a few old remnants or a few careless people. We cannot say that in British India all people are good and that in the Indian States all people are bad. That theory can never stand. As we are human beings, we can find good and bad people everywhere. We should ignore the fact that there are some people who do not come up to the proper standard. What we have to see here is the protection of the administration of the State and not the prince himself. My Honourable friend, Mr. Joshi, gave an illustration which happened 25 years ago, which is quarter of a century. My friend, Mr. Ranga Iyer, very rightly remarked that that was the time when Mr. Das was not even born.

Mr. N. M. Joshi: Probably the argument changed. They would come to offer temptation to India.

Mr. Muhammad Yamin Khan: There was a time when worst things were happening. 25 years ago, the British Indians were not as enlightened as we find them to be today. How many people were of the type of Mr.

[Mr. Muhammad Yamin Khan.]

Gokhale in his time? Mr. Gokhale in his time was considered to be a revolutionary, because he was revolutionising the ideas of that time, but if he were alive now, he would have been considered to be the most moderate man. So, the time has changed, and, with the changing time, the princes have also changed. Even in the States we find today criticism. The public mind is changing; British India is changing and simultaneously it is having its effect on the Indian States.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Are you also changing?

Mr. Muhammad Yamin Khan: My friend will never change, I suppose, in his interruptions. He will continue to interrupt as he used to do three or four years ago.

So, Sir, when we find that British India is changing, it is having its effect on the minds of the Indian princes and the subjects living under them. It is next to impossible that the force of public ideas should not create an appreciable effect on the minds of the princes. The princes 25 years ago were hardly sent to any school. Now, every prince is given modern education. He comes back from the school with improved ideas, and, as long as he is very young, he is kept under the supervision of an experienced officer. I think the time has come when we find that although a man may not be so bad, but he begins to get bad reputation if he is called bad, and that spoils the man also. We have seen what sort of pamphlets were used to be given to us ten years ago when there was a quarrel between the rulers of two States. We knew that certain newspapers in order to please one prince were trying to bring all kinds of infamy on the other prince. We knew when Nabha and Patiala were fighting that the people who were interested in one prince or wanted to extort money from him used to blackmail the other prince. That led to very serious consequences and it never ended in anything good. At least nobody in this House can deny that there is a certain section of the press which deals with nothing else except the Indian States. Their business is to go on praising the administration of one Indian State and at the same time begin to collect the material about the other. When they get the material against an Indian State, they begin to threaten it. At first they write only one small article, and, at the end of it, say that something more is to follow. Naturally, the prince becomes anxious. I admit that these princes also encourage these blackmailers. If they rise to the occasion, nothing can happen to them. On many occasions these press reports appear at such a time that it is next to impossible for the prince or for his administration to give a full explanation. I do not mean to say that there is nothing in this clause which should not be changed, but when it is proposed that the whole clause should be omitted, then I ask, what will be left of the Bill. If you take away this clause, then only those clauses will remain in the Bill which relate to *jathas*. That is not the sort of the Bill we want. Now, how these *jathas* come into existence? They come into existence because of the agitation which is created by a certain section of the press against the administration of a State. These *jathas* would not have come into existence if the press had not been agitating. The press is responsible for their existence. So, I say that if you omit this clause, the rest of the clauses become absolutely useless, because, really speaking,

this clause is responsible for the subsequent actions of the other people who are innocent, and who do not know anything about it. It is this gutter press which carries about the disease which spreads amongst the people who are highly sentimental and they begin to form the *jathas* and march into the State. So, this clause is absolutely essential if we want this Bill. If this clause is deleted, then I may say that the whole Bill should be thrown out.

An Honourable Member: Throw it out.

Mr. Muhammad Yamin Khan: Sir, there is a section of the press which deals in blackmailing, and I would like to know whether it is or it is not the duty of the Legislature to come forward and stop this evil. If it is the duty of a responsible Legislature like the Assembly to see that any kind of offence which is committed should not be committed in the future, then I say that this Bill is absolutely necessary and it should be passed. As I have already said, the princes are not free from blame. They are to be blamed. But it is no argument to say that if one prince is wrong, we shall allow every prince to go wrong. If these people are wrong, if they are weak, if their character is weak and they cannot face criticism even of a personal nature, we cannot allow another set of people to exploit the weaknesses of these individuals. There may be weaknesses, but we cannot allow them to be discussed in the press for the benefit of a few people. If this evil is allowed to continue, it will have a far greater effect on the people of British India than on the people whose evils we are trying to remedy. I think this is the only argument at present, although I am not in favour of all the provisions contained in this clause. I really do not like many matters in this clause, and unless they are explained to me, I am afraid I cannot say that they are properly drafted or legally correct. I have nothing to say about the policy. It is no doubt we should see if it is a good law. If it is a good law, I do not mind its remaining on the Statute-book. Whatever may be the policy of the Government, I want to see that policy carried out by enacting good laws, so that the Judges of High Courts may not misconstrue or misinterpret the law. The law should be so clear that the Judges may feel no doubt about the real intention of Government. It should not be that the Government meant one thing and that the Courts interpreted the same in a different way. Beyond this, I do not think that our policy should be guided about the personal character of the princes or the weakness of the princes. We should only remedy the evil which exists in British India and for which alone we are responsible. If we want to protect ourselves, we must also give protection to those who are our friends. Much has been made out about the word "neighbourly" used by the Honourable the Law Member. The Law Member said we should give protection to our neighbours. I submit we should not quarrel whether these neighbours are good neighbours or bad neighbours. That is not our concern. It does not necessarily mean that our neighbours should be good ones. As far as the administration of the States are concerned, we can criticise all of them and the press will be left free as my Honourable friends, Mr. Dumasia and Mr. Ranga Iyer, who have great experience of journalism, said that severe criticism can still come from the press in spite of this provision. This provision will only apply to people who are called thieves, and this will not apply to honest people. Therefore, I oppose the amendment and support the retention of the clause subject to the modifications which might come later on.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Sir, my complaint against Government and my Honourable friends opposite is that they fail to do themselves justice. Sir, this is rather an exceptional case, and I do not mean to say that my Honourable friends opposite do not know their own good qualities on all other occasions, but in this Bill, I do maintain that they do not do full justice to their own administration of this country. We were told that *Explanation 5* in the clause with which we are dealing was inserted on account of some criticism of the Bill during the very first stages of its discussion before the House. Now, I am afraid I cannot really see how that criticism has been completely met by this *Explanation*. The *Explanation* says:

“Statements of fact made without malicious intention and without attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (j) of this sub-section”.

The main point is that due to the administration of some of these States, if a pure statement of facts were made, it would be impossible to prove that no attempt was made to excite hatred or contempt. I maintain and I strongly maintain that some things that are going on in some States, if related in the press accurately and faithfully, are bound to raise contempt or hatred for that State, and it would be very difficult for the person giving expression to those facts in a newspaper to prove that he did not have any intention to bring that State into hatred or contempt. That is my objection to the *Explanation* that has been inserted.

The Honourable Sir Harry Haig (Home Member): The Honourable Member will no doubt recognise that we have not used the words “without creating hatred, etc.”. In that case it might have been subject to the criticism which the Honourable Member just made. But we have used the expression “without attempting, etc.”.

Sir Cowasji Jehangir: How is it possible to find that out?

The Honourable Sir Harry Haig: It is not a very difficult matter.

Sir Cowasji Jehangir: How is it possible to find out whether I am attempting to create hatred or contempt if I give a mere statement of facts? If you say that a mere statement of facts, pure and simple, should not come within the mischief of this clause, I can understand it; but you go and qualify it by saying that there shall be no attempt to excite hatred or contempt. I maintain that however much I may desire not to attempt to create hatred or contempt for that State, I am bound to do so, and it can be nothing else but a desire on my part to draw attention to these facts and to bring about a state of affairs which does create hatred or contempt in order to get redress. After all, Sir, who are the judges, as so many Honourable Members have asked,—Government themselves. It is not a judicial enquiry where I can put up a defence. I cannot put up a defence, and, therefore, I maintain that, in a really bad case a *bona fide* statement of facts would come within the mischief of this clause. I stated when I started that Government did not do justice to themselves. I want to justify that statement. The Press Act came into existence in this country at a time when my Honourable friend opposite was in real difficulties. There may be difference of opinion whether he was justified in putting such a law on the Statute-book, but there can be no denying the fact that in this country, there was a state of affairs prevailing which

cannot be compared to the state of affairs that prevails in this country with regard to the States. I say it deliberately and without any hesitation that there were certain newspapers in this country whose one business was to bring Government into hatred or contempt. They considered it their duty to do so, I may say even it was their declared policy, to upset the Government and place another Government in its place. That was the state of affairs which faced my Honourable friend when this Press Act was passed which gave him powers of suspending the operations of any newspaper he liked by demanding securities from them and by forfeiting those securities. Does that state of affairs exist with regard to the Indian States today in British India? Can he compare the two positions now that he desires to apply this Act even to malicious defamation against Indian States in British India? Therefore, I say, Sir, he does not do himself justice and the administration of which he is the head, and may I say, the administration of which he is an ornament, an administration, which today there is not a single Member in this House who will contend is not better than the administration in a very large majority of Indian States in India. If my Honourable friend desires to plead that the administration in British India is no better than the administration in most of the Indian States and that an attack against his administration can be as frequent and as justified as attacks against the administration of many an Indian State, then I am prepared to take my seat and support him. But I shall do so with the greatest reluctance and against my conscience. No man in his senses in British India today is prepared to state that the administration in British India has fallen as low as the administration in some of the Indian States; and if that were not so, may I ask my Honourable friend why Government have lately on more than one occasion have had to interfere with the administration of some Indian States? Surely he does not mean to state that an exposure of the administration of some of those States against which his Government have taken action would not be justified? Sir, the position is difficult; I admit it is. I do not wish to go into any great detail with regard to the difficulty of the position; I will make a passing allusion to it. We are on the threshold of constitutional changes when Government believe, and we also believe, that it is most desirable to have the goodwill of many of the Indian States, and we are prepared to make certain concessions. But I will ask my Honourable friend a question. Suppose there were criticisms in a newspaper about an Indian State, suppose it was on the border line, and that that Indian State pressed Government to take action under this clause. Considering the present political position, considering that this political position may continue for some time, does not my Honourable friend believe that Government will be rather influenced in favour of that Indian State and put this clause in operation a little more readily than they would have done ten years ago? I do not wish to go much further on this point; it is a delicate point. It is a question in which we are all interested. We all desire the goodwill of the Indian States, but there is a limit to the price which we are prepared to pay. One condition and one price that is demanded of us here is that we shall put the administration of British India and the Indian States on the same level. However ready my Honourable friend, the Home Member, may be to do so, I refuse to do so as, may I say, an advocate of the Government of which my Honourable friend is a member. There is no parallel between the conditions prevailing in this country when this Press Act was passed and the conditions prevailing today with regard to the Indian States. Besides which,

[Sir Cowasji Jehangir.]

the conditions prevailing today have prevailed in India for a number of years with regard to these States. The only change has been that the States have become more vocal and they have got the ear of the Government of India and even of the higher authorities for certain reasons I have already alluded to. I can remember a time when many an Indian State shouted itself hoarse over grievances to be remedied, but Government paid little heed. Today an Indian State bringing up a grievance is immediately heard with an attention which sometimes that grievance does not deserve. It is a change of times and circumstances. And, therefore, taking advantage of these times and this change of circumstances, it is possible that the Indian States are demanding legislation which they would not have dreamt of demanding ten years ago. They would not then have had the slightest hope of success. They are demanding it today as a price for something which it is expected they will give in the future. And, Sir, what are we getting in return? My Honourable friend asks us to give this considerable protection to Indian States, and when we, in our turn, ask from the Indian States justice for the revenues of British India, how are we treated? It strikes me, Sir, that all these demands within the last four or five years are very one-sided indeed and Government are inclined to be most lenient. I do wish to draw a line at this leniency now. Let it not be said that we in British India begin to tighten up the strings after we had got all that we wanted out of the States. Let us tighten up the strings immediately as an example of what will come in the way of justice and equity in the future. We ask with regard to the Indian States no more than what we are prepared to give; we ask of them nothing that we cannot base on justice, on equity and on fairplay. Sir, why should not an Indian State sue for a libel if it is defamed? Why, lately we had His Majesty the King having to sue for libel; we have had Prime Ministers of England suing for libel; we have had the greatest men in England suing for libel, going into the Courts, going into the witness-box, facing the Judges.

Several Honourable Members: In their own Courts.

Sir Cowasji Jehangir: Surely it is not expected that these Indian princes and their States should be placed on a level higher than His Majesty the King of England, our Emperor! If there is a defamation against the ruler of a State, Government desire to stop that paper by demanding security and forfeiting security; but if my Honourable friend, the Home Member, was defamed, he must go and sue for libel and prove in a Court of law that he was defamed.

The Honourable Sir Harry Haig: Not if the attack is on the Government.

Sir Cowasji Jehangir: No; I admit that, but in his individual capacity it is so. In his individual capacity, today, my Honourable friend, the Home Member, if he was defamed personally, will have to go and sue for defamation.

The Honourable Sir Harry Haig: What about the provisions of this Bill?

Sir Cowasji Jehangir: If the rulers of Indian States are defamed today under this Bill,

Honourable Members: No, no.

Sir Cowasji Jehangir: It is the administration: what have we been discussing for the last day or two? What have you been claiming for the last day or two? You have been talking about blackmail and libel against the person of a prince or Ruling Chief personally. In fact it is very difficult to distinguish in an Indian state, between the administration and the ruler. The ruler is the administration and the administration is the ruler. He makes the laws, he dispenses the laws, he is the judge; he hangs and he acquits. It is all very well to go upon technicalities. Let us go upon a little bit of realities too. I personally do not see why this protection should be given, and when we come to blackmail, one of the dirtiest crimes on earth, a man with clean hands who is blackmailed sometimes is reluctant, I realise, to go to a Court of law, because mud may stick; but if he has really clean hands and the libel is really blackmail, he will face a Court of law, as an Indian ruler has already done. But it is very often the case that in these blackmail and libel charges against Indian States, there are quarter truths and half truths—a good deal of exaggeration with a small semblance of truth in it. It is the desire to prevent making public that very little of truth that gives the gutter press their advantage. It will not protect the relations of an Indian ruler against blackmail. As has already been pointed out, this blackmail is going to continue, and the only way it can be successfully tackled is by bearding the lion in his own den, sending him to prison. You may get men who have got a grudge against an Indian State ready to sacrifice a few thousand rupees by way of security. You will not get many men ready to go to prison.

Considering the matter as a whole, I do think that my Honourable friend is asking us a good deal more than we are prepared to give in this particular clause. Other clauses of the Bill have been readily agreed to, and considering that this Act is only going to last for two years more, and that the necessity for protecting these Indian princes is going to continue for many a year to come, I do not know what the position will be in two years' time. We may be asked, on the analogy of this provision here, to pass legislation protecting the Indian States even more than the British administration may be protected in the future. If you consider this protection as justified today, you must admit that it will continue to be justified for a number of years. You must also be prepared to admit that even if the Press Act may have been justified when it was passed it may not be justified two years hence; and that there are many more chances of the Press Act not being necessary for British India than this clause being necessary for Indian States. I do hope that my Honourable friend, the Home Member, will not attempt to place his administration on the same level as the administration of certain Indian States.

The Honourable Sir Harry Haig: Sir, I confess I am disappointed with my Honourable friend, Sir Cowasji Jehangir. In a speech which I took to be a not unfriendly one in Simla, he made a complaint in relation to this clause that it might be possible for statements of fact to be made which would bring a newspaper under the provisions of the Bill as

[Sir Harry Haig.]

framed. We took that criticism to heart and we have introduced an amendment intended to meet that criticism, and my Honourable friend turns round and says that he has no use for our amendment. I think that he has been unjust to us. We have provided that statements of fact, which are made without any attempt to create hatred or contempt, will not bring the newspaper within the provisions of this Bill. It will be necessary, as I understand the law, for the prosecution, if I may use the word, as the matter has to go to the High Court, to prove that the words are untrue and that there was an attempt to create hatred and contempt. That seems to me to meet entirely the case which my Honourable friend had in mind of the innocent statement of facts, facts in themselves so damaging that they would create hatred and contempt. Unless it can be shown that the writer intended to create hatred and contempt, he goes scot-free

Sir Cowasji Jehangir: My Honourable friend will realise that what I meant was that you cannot do one without doing the other.

The Honourable Sir Harry Haig: You can: you most certainly can; you can create hatred and contempt without that being your intention; and that case was the case my Honourable friend had in mind. In that case, the publication goes unharmed. My Honourable friend made an attack also on the administration of many Indian States and suggested that abuses existed in many of them which ought to be exposed. Our position has always been that we do not want by this measure to, and we maintain that we do not, prevent the ventilation of grievances or an uncalicious exposure of disgraceful conditions in a State. That has always been our position. I was sorry that my friend went on to make a suggestion which I had already plainly repudiated at an earlier stage of this debate, namely, that in introducing this Bill, the Government were actuated by some unworthy motive, that in fact they desired,—this is what I understood to be my friend's suggestion,—that they desired to purchase the support of the princes for Federation. Let us be plain

Sir Cowasji Jehangir: What I meant was that Government's mentality had so changed that they became very lenient with the Indian States.

The Honourable Sir Harry Haig: I thought I read into his remarks the suggestion that we were so anxious to please the princes in order to get them to agree to Federation. Sir, there is not one word of truth in that.

Now, Sir, we have heard a good deal on the point whether there is a state of emergency existing which would justify the passing of this particular clause. My friend, Rao Bahadur Patil, started his speech by referring to that point. The Honourable Mr. B. Das, Diwan Bahadur Mudaliar and Sir Cowasji Jehangir have all referred to that. Rao Bahadur Patil went so far as to say that after hearing me he did not understand what the emergency was. I think perhaps it would have been juster to say that after not hearing me, after not listening to what I had to say, he did not understand what the emergency was, for, in fact, at the close of the debate on the motion to take this Bill into consideration, I dealt

very specifically with that point. I said we did not claim that there was any emergency comparable to the Civil Disobedience Movement and that our case did not rest on those grounds. I made it clear that had our case rested on those grounds, we would have continued to include this provision in the Ordinance legislation. It was precisely because we realised that the justification for these provisions was not the fact that civil disobedience was in existence, but a different set of circumstances, it was for that reason that we took the provision out of the Ordinance legislation and presented it to the House by a different measure.

Now, Sir, it is difficult to get away from the trail of the Congress. My Honourable friend, Mr. B. Das, who, I am sure, is very anxious to promote the policy, the new policy, of the Congress, and who, I hope, when in due time a new Assembly is elected, will find an opportunity of representing the Congress in this Assembly, seems to think that this provision against malicious and dishonest writing was a provision directed against the Congress. Well, Sir, though I am not generally considered as particularly friendly to the Congress, I do not go so far as to attribute everything evil to Congress inspiration. Writing of this kind may be done by a Congress man or it may be done by a non-Congress man, but I have never suggested that it is part of the policy of the Congress to malign and defame the Indian States. I would suggest that we might leave the Congress out of the discussion.

Now, the justification for this clause rests on conditions that have in fact been in existence for a long time, and were provided against, as I have reminded the House before, from the year 1910 till 1922 when the old Press Act was in existence. My friend, Rao Bahadur Patil, was inclined to question that point, and he drew attention to the fact that the provision in the Press Act of 1910 referred to hatred or contempt directed against a prince or chief, and not his administration. I understood him to draw a distinction and to suggest that it was now for the first time that we were protecting the administration of these States, but *Explanation II* in the Press Act of 1910 makes it quite clear that the words of that Act were intended to include the administration, the administrative acts of the State as well as any personal attacks on the ruler. It said:

“Comments expressing disapproval of the measures of any such native prince or chief or of the administrative or other action of any such native prince or chief without exciting or attempting to excite hatred, contempt or disaffection do not come within the scope of clause (c)”.

Therefore, I think it is quite clear that in the provision which we are putting now before the House, we do not go beyond the provisions which were included in the Press Act of 1910 from the year 1910 till the year 1922.

Now, Sir, what are the conditions which, in our judgment, justify these restrictions on the press? They are, as I have already stated, irresponsible and malicious writings, writings not only that do harm to the State, that may give rise to dangerous agitation and a weakening of the authority of the State, but writings which, as several Honourable Members have reminded us, may also give rise to very undesirable reactions in British India, particularly in the matter of communal animosity.

[Sir Harry Haig.]

And I was particularly glad to find that my Honourable friend, Mr. Ranga Iyer, himself an experienced journalist, had the courage to say boldly in front of the House that writings of this kind must be stopped. There are bad papers, Sir, and there are good. There are malicious papers, and there are honest papers. We have no desire whatever to penalise the well conducted, honest, good papers, but we do definitely want to control in a manner more effective than the present law allows us the dishonest and the malicious press.

Now, Sir, I was very much interested in the speech of my Honourable friend, the Raja of Kollengode, for, I think he brought out the point that it clearly does not matter what is the nature of the administration, however good it may be, it is still liable to these venomous attacks. Throughout this debate, Sir, there has been a general recognition of the fact that whatever criticism may be made on the administration of this State or that, the States of Southern India provide a model of administration. And yet it is in those States that it has been found necessary to take certain action to prevent attacks on the administration from outside. I think that that establishes the point that when you get a malicious paper, it attacks indiscriminately, it does not matter whether the administration is good or is bad, the policy of the paper is to attack and to malign.

Now, Sir, my Honourable friend, Diwan Bahadur Ramaswami Mudaliar, made, what I may call, a root and branch attack on this clause this morning, and he read out with evident satisfaction and at considerable length the opinions of a number of District Magistrates. I could imagine him saying to himself as he read them out "A Daniel is come to judgment!" But my Honourable friend will remember, as well as I do, that the character who ejaculated those words, a little later was sorry that he had made the exclamation, and I think my Honourable friend may perhaps later on feel that he has been a little premature if he has committed himself to the invariable acceptance of the views of District Magistrates. We, Sir, in the Government attach due regard to the views of District Magistrates. Their views are on many subjects varied and independent, but while we attach great importance to them, and particularly, I may say, in matters of which they have some personal knowledge,—while we attach great importance to them, we do not go so far as to surrender our judgment. We prefer to keep our judgment unfettered, and the mere fact that certain District Magistrates may hold particular views does not excuse us from the duty of trying to form our own views for ourselves. And, in this case, after taking these views, which my Honourable friend has read out to the House, into consideration, we had no doubt that they should be rejected.

My Honourable friend, Diwan Bahadur Mudaliar, who always puts his argument in a reasonable way, felt the necessity of establishing the position that if we did not take these powers, we had already sufficient powers in our hands to deal with the situation. He relied on the Princes (Protection) Act of 1922. Well, Sir, one of the disadvantages of conducting these debates at considerable intervals is that the House is apt to forget arguments that have already been advanced, because, I find, on looking

at the previous debates, I did deal at some length with that argument which had been prominent in our debates in February. I put before the House the consideration that that Act of 1922 had in operation admittedly been ineffective, that it had hardly been used, and I tried to examine the reasons why it had proved ineffective. Those reasons were, briefly, that the prosecution gives the widest publicity to the charges, and at the same time does nothing to prevent their repetition, that under our present system of law it unfortunately involves the most terrible delays—we have already had some reference today to a case which has gone on for four years and is still not concluded,—and finally, that it is always possible for the editor or the inspirer of these attacks to put up for the purpose of punishment what is known as a dummy. Therefore, it hardly becomes worth the while of a State to prosecute when it may involve a very large expenditure of money, an enormous period of time, possibly the real culprit not being punished in the end, and all the time nothing done to prevent a repetition of these charges. That, Sir, broadly speaking, is our case for departing from the ordinary judicial procedure.

My Honourable friend, Diwan Bahadur Mudaliar, suggested that, having departed from the normal judicial procedure, we were really acting by executive fiat, and I think that he unduly depreciated the influence and the power of the High Court in these matters under the Press Act. He suggested really that the High Court was hardly in a position to interfere when they did not have the facts before them and that, in giving them an opportunity of reviewing the proceedings of the executive, we were giving them a task which was almost unreal. But I would remind the House that within the last few months various proceedings of Local Governments under the Press Act have been upset by High Courts, and there is no difficulty in a High Court reaching a conclusion as to whether a particular article comes or does not come within the provisions of the Act. It is not a question of leading evidence to say that such and such a writing arouses disaffection or hatred or contempt. The High Court takes the words and puts upon them the interpretation that an ordinary man would put upon them, and if the words would arouse in the mind of an ordinary man feelings of disaffection, hatred or contempt, the High Court comes to that conclusion and otherwise does not. Therefore, I would like the House to feel that the safeguard provided by the reference to the High Court is a very real one.

Another point made by my Honourable friend, Diwan Bahadur Mudaliar, was that no harm would be done by these writings in British India, because the States could exclude them from entering their own territory. I do not know whether my Honourable friend pictured India as consisting of an area known as British India, and then behind something like a Great Wall of China, another area which is known as Indian India. Those are not the conditions that exist in India. We have the territories of the States and of British India intermingled, inhabited by exactly the same people, the boundaries purely arbitrary. Thought leaps over those boundaries very easily and lies penetrate without difficulty.

I would come back to the suggestion that if the House passes this clause, it will not be possible for legitimate grievances to be ventilated. I would remind the House that the British Indian press is at present

[Sir Harry Haig.]

suffering under this very disability in regard to attacks on the Government of India and the Local Governments, but I do not think it can fairly be said that they are unable to ventilate legitimate grievances, and I do not see why the press should be unable to ventilate legitimate grievances in regard to the States. As my Honourable friend, Mr. Ranga Iyer, has reminded us, the administration of the Press Act is not a savage thing. We do not desire to punish the editors of papers. We do desire to prevent certain writings gaining currency, and, in pursuit of that policy, it is a normal practice to give a warning to editors of newspapers, that a particular style of writing is likely to bring them within the provisions of the Press Act. We are trying not to stop the ventilation of genuine grievances, not to stop true statements of fact, but to stop malicious criticism and attempts to bring the administrations of Indian States into hatred and contempt. Surely, Sir, that is not the birthright of the well conducted press of which we are seeking to deprive them. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Shanmukahm Chetty): The question is:

“That clause 3 of the Bill be omitted and the subsequent clauses be re-numbered accordingly.”

The Assembly divided:

AYES—31.

Abdoola Haroon, Seth Haji.
 Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Azhar Ali, Mr. Muhammad.
 Bhuput Sing, Mr.
 Das, Mr. B.
 Dutt, Mr. Amar Nath.
 Hari Raj Swarup, Lala.
 Jadhav, Mr. B. V.
 Jehangir, Sir Cowasji.
 Jog, Mr. S. G.
 Joshi, Mr. N. M.
 Lalchand Navalrai, Mr.
 Liladhar Chaudhury, Seth.
 Mitra, Mr. S. C.
 Mody, Mr. H. P.

Mudaliar, Diwan Bahadur A.
 Ramaswami.
 Murtuza Saheb Bahadur, Maulvi
 Sayyid.
 Neogy, Mr. K. C.
 Pandya, Mr. Vidya Sagar.
 Parma Nand, Bhai.
 Patil, Rao Bahadur B. L.
 Reddi, Mr. P. G.
 Reddi, Mr. T. N. Ramakrishna.
 Sen, Mr. S. C.
 Shafee Dacodi, Maulvi Muhammad.
 Singh, Mr. Gaya Prasad
 Sitaramaraju, Mr. B.
 Thampan, Mr. K. P.
 Uppi Saheb Bahadur, Mr.
 Ziauddin Ahmad, Dr.

NOES—60.

Abdul Aziz, Khan Bahadur Mian.
 Ahmad Nawaz Khan, Major Nawab.
 Allah Baksh Khan Tiwana, Khan Bahadur Malik.
 Anklesaria, Mr. N. N.
 Anwar-ul-Azim, Mr. Muhammad.
 Bagla, Lala Rameshwar Prasad.
 Phore, The Honourable Sir Joseph.
 Brij Kishore, Rai Bahadur Lala
 Cox, Mr. A. R.
 Dalal, Dr. R. D.
 Darwin, Mr. J. H.
 DeSouza, Dr. F. X.
 Dillon, Mr. W.
 Dumasia, Mr. N. M.
 Fazal Haq Piracha, Khan Sahib Shaikh.
 Ghuznavi, Mr. A. H.
 Glancy, Mr. B. J.
 Graham, Sir Lancelot.
 Grantham, Mr. S. G.
 Haig, The Honourable Sir Harry
 Hardy, Mr. G. S.
 Hezlett, Mr. J.
 Hudson, Sir Leslie.
 Irwin, Mr. C. J.
 Ismail Ali Khan, Kunwar Hajee.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Krishnarachariar, Raja Bahadur G.
 Lindsay, Sir Darcy
 Macmillan, Mr. A. M.

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I beg to move:

"That in sub-clause (a) (j) of clause 3 of the Bill, the words 'or to excite disaffection towards' be omitted."

Sir, the elimination of the whole clause has been defeated, but I am not discouraged at all, because I find that my amendment which pertains to the change of only one word is a very reasonable one, and I hope the Honourable the Home Member will find it very easy to accept this amendment of mine. Sir, it is only the elimination of only one word that is sought to be made by me, namely, "disaffection", but I will explain what I mean by that and what my amendment aims at. Sir, as we find in the Bill, clause 3 says:

"The Indian Press (Emergency Powers) Act, 1931, as amended by the Criminal Law Amendment Act, 1932, shall be interpreted—

(a) as if in sub-section (1) of section 4 of the Act, after clause (i) the following word and clause were inserted, namely;—

'or (i) to bring into hatred or contempt or to excite disaffection towards the Administration established in any State in India.'"

Now, what this clause attempts to enact is that if any newspaper were to write or to express anything which brings into hatred or contempt any Administration of that State, it will be made liable, but another word has been added to it, which says, not only if it were to express anything which brings into hatred or contempt such Administration of a State, but even if it were to excite disaffection towards such Administration of a State, it will be made liable. Sir, I take exception to the words "to excite disaffection", and I want that the word "disaffection" should be eliminated. Now, in

Mitter, The Honourable Sir Broje. J. Bra
 Morgan, Mr. G.
 Muazzam Sahib Bahadur, Mr. Muhammad.
 Mujumdar, Sardar G. N.
 Mukharji, Mr. D. N.
 Mukherjee, Rai Bahadur S. C.
 Nihal Singh, Sardar.
 Noyce, The Honourable Sir Frank.
 Pandit, Rao Bahadur S. R.
 Rajah, Raja Sir Vasudeva.
 Rajah, Rao Bahadur M. C.
 Ramakrishna, Mr. V.
 Ranga Iyer, Mr. C. S.
 Rastogi, Mr. Badri Lal.
 Rau, Mr. P. R.
 Sarda, Diwan Bahadur Harbilas.
 Sarma, Mr. G. K. S.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan Gakhar, Captain.
 Singh, Kumar Gupteshwar Prasad.
 Singh, Mr. Pradyumna Prashad.
 Sloan, Mr. T.
 Suhrawardy, Sir Abdulla-al-Mamun.
 Talib Mehdi Khan, Nawab Major Malik.
 Tottenham, Mr. G. R. F.
 Varma, Mr. S. P.
 Wilayatullah, Khan Bahadur H. M.
 Yamin Khan, Mr. Muhammad.

[Mr. Lalchand Navalrai.]

the arguments that have been advanced with regard to the protection of the States, much has been said on both sides, but I think it cannot possibly be denied that many of the States, with the exception, I would say, of a few saner States, are such States wherein there prevails absolute mismanagement and misgovernment, and the question arises whether, where the subjects of Indian States of that nature are not loyal to them, is it right and proper that we should be asked or the Press should be asked to remain loyal to them? They have not put their own house in order, and now the Government of India want to force the press in British India to be loyal to those States. Now, I want that the word "disaffection" should be removed, and the reason is this. What is the meaning of the word "disaffection"?

[At this stage, Mr. President (The Honourable Sir Shanmukham Chetty) vacated the Chair, which was then occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

Mr. Muhammad Yamin Khan: May I ask on which amendment my friend is talking?

Mr. Lalchand Navalrai: I am talking on the amendment that I moved—No. 13.

Mr. Muhammad Yamin Khan: No. 13 is in the name of Sardar Sant Singh. My friend was all the time saying that he wants to remove only one word "disaffection", but here, in amendment No. 13, so many words are proposed to be deleted—"or to excite disaffection towards".

Mr. S. C. Mitra: When Mr. Lalchand Navalrai moved the amendment, where were you?

Mr. Lalchand Navalrai: I know that my friend Mr. Yamin Khan will come forward to oppose me on this too.

Mr. Muhammad Yamin Khan: You are wrong.

Mr. Lalchand Navalrai: Then I will be thankful to you. Sir, the word "disaffection" means the negation of love, or hatred. That means want of affection, in other words, want of love or regard. How is it that the British Government is coming forward to force the Press in British India to cherish love and regard for these States which are acknowledged on all hands to be grossly mismanaged and misgoverned? I, therefore, submit that the word "disaffection" should be removed. The word "disaffection" is so wide that anything can be twisted to cause "disaffection". If anything is said, they will say, "well, it means no loyalty to the Indian States". Anything can be moulded and then the Press shall have to be gagged. Therefore, the words "hatred and contempt" being there, if any expressions are used which would be inimical in the interests of the State, there will be no difficulty, but if there is no good word for them, it will be said that that is disaffection, because no love has been shown. In that way, anything can be twisted and turned. Therefore, I submit that the words "to excite disaffection" should be removed. If we are to put a strict construction as I find from the commentary of the Indian Penal Code, then the word "disaffection" also means contempt or hatred. That being the case, I ask, where is the necessity of the word "disaffection"? Therefore, there are two things. One is that if the Government want that the Press should show love and regard for the Indian States, then they are absolutely wrong, and, as the word "disaffection" can be included in the words "hatred and contempt", why should you put the word "disaffection" upon which any construction can be put. That is one of my reasons for removing it. The second reason is

this. It might be said that in section 124A of the Indian Penal Code, the same words do occur. Now, that section reads thus:

“Whoever by words, either spoken or written, or by signs or by visible representation or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards Her Majesty or the Government established by law in British India. . . .”

and then it is punishable under the Indian Penal Code. May I ask, therefore, if there is not any difference between the love for the Government of India and for the Indian States? Is the same love and respect to be shown to these princes of Indian States? Certainly not. Therefore this analogy will not apply.

An Honourable Member: Since when have you become in love with the Government of India?

Mr. Lalchand Navarai: So long as they are reasonable and right, I am in love with them. What I mean to say is this, do not give to the Indian States any powers which will make them bad boys. Many of them are already bad boys, and you are forcing the Press not to ventilate even the real grievances of the people. The administrations of some of the States are already in contempt, and they will be more and more merged into contempt if this Bill is passed. I, therefore, submit that on that ground also it would not be necessary at all to make this enactment, and the word disaffection should be removed.

Now, Sir, in support of my view that so much favour should not be shown to the States, I would say that this is not only my opinion or the opinion of some of the Honourable Members here but even the district officers or the District Magistrates, who are in charge of the administration of British India, are of opinion that by this Bill we are giving something which is too extensive and too elastic, so much so that even they are of opinion that this enactment should not be made. Now, Sir, I will only read one portion of a report which I find on page 26 of Paper No. 15. That is the opinion of a District Magistrate. He says:

“It is unquestionable, I think, that the subjects of Indian States neither enjoy the same elementary rights of citizenship, nor the same standard of efficient administration as the subjects of British India. That being the case, the Bill, as it stands is too rigorous. Section of the Bill, sub-section (A) makes it exceedingly difficult for persons residing in British India to indulge in *true* criticism of the patent defects of any Indian State administration, without running very serious risks. The words ‘hatred’, ‘contempt’ and ‘disaffection’ are difficult of definition, and there is a danger that courts may take a strict view, even where the criticism is well founded, and made in good faith, in public interests.”

What more substantial support to the arguments that I have raised before the House is needed? The District Magistrate, who is actually

4 P.M. dealing with these cases, is of opinion that you are doing something which these princes do not deserve, because they do not deal with their subjects in the manner in which they ought to. If you are going to make such an elastic law for the princes, then what is left to the subjects of these Indian States? If they were to do anything then the *firman* is issued, and, as my Honourable friend, the Raja Bahadur, said, their word is law. So, if a *firman* is issued, even the Political Secretary would not like to interfere with it. If the British Indian press were to criticise them and to show that the princes were mismanaging their States or at any rate were not acting in a constitutional manner, then it can be turned against them. After all, it is left to the interpretation of the Magistrate. Therefore, I submit that it would be very hard and very unreasonable if a Bill like this is

[Mr. Lalchand Navalrai.]

passed in which such an elastic word as "disaffection" occurs. For these reasons and with these words, I move my amendment.

Mr. Deputy President (Mr. Abdul Matin Chaudhury): Amendment moved:

"That in sub-clause (a) (j) of clause 3 of the Bill, the words 'or to excite disaffection towards' be omitted."

Mr. S. C. Mitra: Sir, I have great sympathy with the amendment that has been moved by my friend, Mr. Lalchand Navalrai. I think it lies heavily with Government to show why should we copy out, word for word, from the sedition section of the Indian Penal Code for this Bill. We certainly owe allegiance to the King-Emperor, and what is necessary for India and its administration should not be demanded for these Indian States. If the Government by their recent policy of having their own officers in some of the Indian States, as it happened in the case of Alwar, demand similar privileges as the Indian administration expects loyalty from their own subjects, then they should make it clear that they are bent upon having a different policy, and that is that the Indian States also should be administered by Indian Civilians largely and that some of the States will be taken charge of to be ruled by the British officers and that they want to bring the administration in Indian States on the same lines as they have in British India. If that is their view point, I shall support them in this Bill. Otherwise, it is anomalous to expect of British Indian subjects the same loyalty to their sovereign, the King-Emperor and also loyalty to the rulers of the Indian States. I do not like to go into details as to why they cannot claim the same loyalty and affection as the King-Emperor may claim from British Indian subjects. Without conferring any benefit on British Indian subjects, I resent the rulers of Indian States claiming the same loyalty and also claiming the right to be free from any criticism of their administration as my Honourable friend, Mr. Navalrai, put it. Some of the Judges defined the word "disaffection" as want of affection. I resent that the Indian State rulers should claim the same love and affection from British Indian subjects. The position of these Indian State rulers cannot be compared with the King-Emperor and the British Indian administration. We are not agreeable to permit the Indian State rulers to share in the sovereignty of British India. I hope the Honourable the Home Member will make it clear that this is not demanded of us. I do not understand why, word for word, the provisions of the sedition section have been incorporated and why those provisions are considered sacrosanct and must be kept here. My Honourable friend, Mr. Navalrai, in his learned way, proved by citing from judicial decisions that this word is unnecessary. If so, at least to prove to us that the same amount of loyalty is not demanded of us from the Indian State rulers, the Government should agree to delete these words. I support the amendment on these grounds.

Mr. Muhammad Yamin Khan: I think, Sir, we might hear the Government reply first, because this point is not clear in our minds. If we hear the Government reply, we will know what is meant by this provision.

Mr. Deputy President (Mr. Abdul Matin Chaudhury): The Chair cannot compel the Government Member to speak now. It is left to his convenience.

The Honourable Sir Harry Haig: If it would be any convenience to the House, I will speak now, but I hope no new points will be raised after I have spoken, because I shall not be able to deal with them.

Mr. Gaya Prasad Singh: It does not mean that your speech closes the debate now. You will have the right of reply after other Members have spoken.

The Honourable Sir Harry Haig: The Honourable Member, I understand, has a particular objection to the word "disaffection" though he does not mind the use of the terms "hatred or contempt". In the first place, I should like to remove what I think is a misapprehension in the mind of my Honourable friend, Mr. Mitra, possibly shared by my Honourable friend, Mr. Yamin Khan, that the disaffection which we try to prevent is a disaffection in the minds of British Indian subjects. Disaffection, as I understand it, can only relate to people who owe a duty of allegiance to States, in other words, the Indian State subjects. The word "disaffection" relates solely to the State subjects and it is the creation of feelings in the States subjects against their own lawful Governments that we want to prevent. As the Honourable the Law Member reminds me, it involves disloyalty and that can only be a feeling or a relation that exists between the States subjects and the State. It has no application whatever to British India. In regard to the ingredient of disaffection generally, I must explain that it is always one of the essential ingredients of the offence of sedition. It is always considered that sedition includes the three ingredients of hatred, contempt and disaffection, and we are not disposed to omit one of the ingredients while retaining the other two. I would remind the House that the object of sedition is to disturb the tranquillity of the State. That is a serious matter for the State, and as I think I have argued before, it is a serious matter for India as a whole, if the tranquillity of a State, if the allegiance of the subjects of a State to that State is disturbed, and it is to prevent such conditions arising that this provision has been inserted. I think my Honourable friend was labouring under a misapprehension when he said that if we try to prevent disaffection, it meant that we were inculcating a definite obligation of affection. I do not think that follows any more than when he said that not to show hatred meant to show love. I do not think that is a reasonable interpretation of the word "disaffection" which really means disloyalty and we want to prevent writings in British India which are intended to produce disloyalty and thereby disturb the tranquillity of a State. On that ground, I must oppose the amendment.

Mr. Muhammad Yamin Khan: I am very glad that this explanation by the Honourable the Home Member has clarified a great deal the misapprehension which was entertained by myself and several other speakers who have spoken. I understood that the words "hatred or contempt" also relate to the offence, namely, hatred or contempt created in the minds of people residing in British India, because the Press indulges in this respect. What I want to say is this, that if it is not the intention of the Government, it is all right. But what I want is that this should also include hatred and contempt towards the administration being created in the minds of British Indians, because, by doing so, the Press excites the people to commit the other offence which is given in the Bill. Unless and until contempt or hatred is created towards the administration in the minds of British Indians, there will be no *jathas* proceeding to the Indian States. I want this also should be penal that if the Press indulges in this that it tries to create any of these two things in the minds of British Indian subjects, that is hatred or contempt towards the administration, it leads to serious consequences as we have seen in the past. I do

[Mr. Muhammad Yamin Khan.]

not want that the rulers of the administrations of Indian States should be made targets of the Press simply in order to create communal feelings. These grounds were covered lately, and I need not traverse the same. From the explanation of the Home Member, I gather, this refers to the States subjects only. But as the clause reads, we cannot separate one from the other unless we add a separate clause that "hatred or contempt or excite disaffection" means disaffection towards the administration in any Indian State. This refers to the three ingredients of hatred, contempt and disaffection in the minds of the people. We cannot say that hatred and contempt includes all persons while disaffection only refers to the people who are residing in British India. This clause, as it reads, does not convey this idea, and no judge can draw that meaning from this. On a previous occasion, I wanted to know whether it referred to disaffection in the minds of the States people or of the people residing in British India. But, now, I have no quarrel with this and I wholeheartedly support this, if it is disloyalty created in the minds of the States subjects. I find that the other two ingredients will refer to the same class of people, but I would have liked to include British Indians also. My Honourable friend, Mr. Lalchand Navalrai, also has no quarrel with this if contempt and hatred may be made to apply to the people of British India, and I have no quarrel with that too, and I support him, though on different grounds. I have no quarrel with these words about exciting disaffection in the mind of States people towards the administration, and the explanation has satisfied me. I do not support the amendment now.

Sirdar Harbans Singh (East Punjab: Sikh): Sir, one point has been cleared, because my Honourable friend, Mr. Lalchand Navalrai, thought that disaffection referred to British Indians and the princes, but the Home Member has made it clear that it means disaffection between the subject and the prince. For the matter of that, I personally do not feel why we Indians cannot have affection for the princes who are our own kith and kin and our brethren and who are, after all, Indians. When we can have affection for an alien and foreign bureaucracy, there is no reason why we should not feel the same affection for those who form our own flesh and blood. But this disaffection is created by certain systems prevailing in Indian States at present, and unless we could remove some of those and see that some of those were mended, it would be very difficult even by repressive measures to avoid the creation of disaffection.

Another anomaly appears to me to be that by this Act disaffection created against the administration of the State will be punished, that when the administrative acts of the ministers or officials of the State are criticised, the people will be punished for doing so. But the disaffection against the person of the prince, which will be created by personal attacks on his life and on his personal actions, apart from his administrative actions, which will go to the very root of the relations between the subjects and the princes existing in a monarchical system of Government, will be allowed to go on as before. Why cannot the Government, if they really want a peaceful and happy state of affairs to prevail between the masters and the subjects in an Indian State, bring about that state of affairs where attacks on the person of the prince will be as much punishable as those against the ministers who will be his officials administering

in his name? I feel that this measure is necessary in places like Kashmir and Alwar where ministers or administrators from outside had to be sent in to check the anarchy and disruption within the borders of those States. And if things are allowed to continue when the administrative acts are allowed to be criticised, in the same manner, the very purpose of the Paramount Power, having interfered in the administration of those States, will have been gone without any useful purpose being served. Certainly it is necessary that the administrative acts of officers in such difficult times should receive a measure of protection which may be necessary according to the circumstances of each case. But occasions may arise when the actions taken by the ministers and the officials may be free from criticism due to the penal effects of this legislation, but the person of the prince may be vilified and may be attacked in his personal and private life in such a manner that a much graver harm and a much worse feeling may be created between his subjects and himself thereby endangering the very continuity of the House which rules and the State itself.

[At this stage, Mr. President (The Honourable Sir Shanmukham Chetty) resumed the Chair.]

I would, therefore, think that if that anomaly could be avoided and if things could be brought round in such a manner that the ministers will not be more or better protected than the princes themselves, only then the purpose of the princes could be served. I do not know, nor have I any authority to say whether they wanted this Bill or not, but certainly the Bill has received the approbation and approval of many, if not all, of the princes. I would, therefore, urge on the Political Secretary and the Home Member that the anomaly which I have stated will go to the very root of the things existing in the States and that it will be nothing but most desirable that if the purpose of this Bill, namely, the stopping of disaffection and bringing into hatred or contempt the administration or the rulers of the State, is to be served, the rulers should receive, if not more, at least the same measure of protection as their ministers and officials will receive under this measure. I do not consider, Sir, that on this amendment I should say anything more.

The Honourable Sir Brojendra Mitter: Sir, it has often been repeated that disaffection means want of affection. All I can say is that I should be sorry to hear it from a lawyer: it is cheap journalism, and, therefore, I was pained to hear that meaning attached to the word "disaffection" by experienced lawyers here. Disaffection means disloyalty. Disaffection is a feeling and not the want of a feeling. It is not the absence of affection. I am quoting the language of a very eminent Judge. I shall quote the language of another eminent Judge, Mr. Justice Ranade, who says:

"It is a positive political distemper, and not the mere absence or negation of love or good-will. It is a positive feeling of aversion which is akin to disloyalty, a defiant insubordination of authority, or when it is not defiant, it secretly seeks to alienate the people, and weaken the bond of allegiance, and prepossesses the minds of the people, with avowed or secret animosity to Government."

Then, another learned Judge says this:

"It signifies political alienation or discontent, that is to say, a feeling of disloyalty to the government or existing power, which tends to a disposition not to obey but to resist and attempt to subvert that Government or power. It cannot be construed to mean an absence of or the contrary of affection or love."

Mr. S. O. Mitra: What about Justice Strachey's interpretation in the Tilak case?

Mr. Lalchand Navalrai: That will be said to be a difference of opinion between Judges.

The Honourable Sir Brojendra Mitter: Is it not a difference of opinion. Some Judges have, according to the circumstances of the case, expressed themselves briefly and some have enlarged upon the meaning. That is all. Very likely, in the course of the argument before a learned Judge, the cheap journalistic meaning that disaffection means lack of affection was adduced, and that Judge thought it necessary to state the meaning at length. There is no difference between the Judges. So far as Mr. Justice Strachey's definition is concerned, he says (I am quoting a passage from the Tilak case from a text book and not from the report, but I take it it is correct):

"It means hatred, enmity, dislike, hostility, contempt and every form of ill-will to the Government. Disloyalty is perhaps the best general term, comprehending every possible form of bad feeling to the government."

Looking into the matter a little more closely, you will find that the whole basis of the conception of disaffection is disturbance of tranquillity. As Russell puts it:

"Sedition consists in acts, words or writings intended or calculated, under the circumstances of the time, to disturb the tranquillity of the State by creating ill-will, discontent, disaffection, hatred, or contempt towards the person of the King or towards the constitution or Parliament, or the government or the established institutions of the country."

The basis of disaffection is disturbance of tranquillity by creating a positive feeling of disloyalty amongst the subjects. Therefore, it involves the conception of the relation between the ruler and the ruled. When my Honourable colleague, the Home Member, said that the word "disaffection" in that section could have reference only to the feeling in the minds of the States subjects and not feeling in the minds of British Indian subjects, he was supported by authority, because the conception of allegiance is involved in the word "disaffection" or "disloyalty". I cannot be disloyal to a man to whom I do not owe allegiance. A British Indian subject, who does not owe allegiance to an Indian prince, cannot be disloyal to him. Therefore, when we use the word "disaffection" or the word "disloyalty", it must mean the feeling in the mind of the subject *vis-a-vis* his own ruler.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): What about hatred and contempt?

The Honourable Sir Brojendra Mitter: I am coming to that

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Why not say it definitely?

The Honourable Sir Brojendra Mitter: It is not necessary. This section has been construed so often—I mean the corresponding section in the Indian Penal Code has been construed so often that every lawyer knows what the meaning is: there cannot be any doubt in the mind of anybody. I think it was Disraeli who once said contemptuously that "a lawyer is a person who explains the obvious and expatiates on the commonplace". I do not want that description to be applied to the Legislative Assembly. With regard to Sir Abdur Rahim's interruption, I will draw his attention.

to what has been said about the words hatred, contempt or disaffection. The first point I make is this: that in the sequence and in the collocation of these terms in the same section, we are thinking of the feeling present in the minds of the States subjects and not feelings present in the minds of British Indian subjects. As regards the distinction between them, it has been said:

"The word disaffection goes very much towards expressing the same as hatred or dislike; it may cover something perhaps a little different from the expression hatred because it includes disloyalty. To urge people to rise against the Government is tantamount to trying to excite feelings of disloyalty in their minds."

If you urge people to rise against the Government, you need not excite hatred or contempt; merely for the purpose of upsetting the Government you may urge people to be disloyal. That would be disaffection and would not be covered by hatred or contempt; and that is why it is necessary to use all the three expressions, hatred, contempt and disaffection.

Mr. Gaya Prasad Singh: Sir, I am thankful to the Honourable the Home Member and the Honourable the Law Member for the explanations which they have given to this clause. but still I find that there is some difficulty remaining. If I understand the Honourable the Law Member rightly, he means to say that all the three expressions, hatred, contempt or disaffection relate to the state of feelings existing in the minds of the States subjects. If that is so, I can give an example in which it may be possible for an offending journal not to create any sort of such feeling in the minds of the States subjects. Suppose, for instance, a newspaper in British India indulges in an article which is of a very objectionable character against a State. That State has banned the entry of that newspaper within its own territories. What will happen? Will that newspaper be guilty of any offence under this clause or not, because it is not allowed to reach the hands of the States subjects at all? It has been effectively banned from entering into that territory or it has no circulation there, and, therefore, no feeling of hatred or contempt or disaffection could conceivably be caused in the minds of the States subjects. I want to know definitely whether, under these circumstances, the editor of that paper would be liable to punishment or not. That is a point on which I should like to have an explanation.

With regard to the explanation of the word disaffection, this particular word, as Honourable Members know, occurs in the sedition section of the Indian Penal Code, section 124A, and *Explanation 1* says:

"The expression 'disaffection' includes disloyalty and all feelings to enmity."

Now, section 124A has been incorporated in the Indian Penal Code at a later date. The former section was as follows:

"Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment, which may extend to three years, to which fine may be added or with fine."

This was the old section, but it has been amended in the form in which we find it today. Now, the *Explanation* also to the former section reads as follows:

"Such disapprobation of the measures of the Government as is compatible with a disposition to render and support the authority of the Government against unlawful attempts to subvert or resist that authority is not disaffection."

[Mr. Gaya Prasad Singh,]

Therefore, Sir, the making of comments on the measures of Government with the intention of exciting only disapprobation is not an offence under this clause.

Now, Sir, reference has been made to the well-known case of Queen Empress *versus* Bal Gangadhar Tilak. There is a very excellent commentary, a standard book on the Indian Penal Code, and I should like to take the liberty of reading one or two pertinent sentences from it

An Honourable Member: Who is the author of it?

Mr. Gaya Prasad Singh: The author of this book is an ex-colleague of ours, Dr. Nand Lal, who is a well-known jurist. I am going to refer to the interpretation of the law as given by Justice Strachey. Mr. Justice Strachey in his direction to the Jury in Queen Empress *versus* Tilak, in explaining section 124A, in reference to the charges in that case before the Jury said :

"I agree with Justice Sir Comar Petharam in the *Bangabasi* case that disaffection means simply the absence of affection."

The Honourable Sir Brojendra Mitter: That is not Chief Justice Petharam's interpretation. In interpreting the section, he was quoting all that had been said before.

Sir Abdur Rahim: Chief Justice Petharam did say that.

Mr. Gaya Prasad Singh: Anyway, Sir, I find that Justice Strachey in that case agrees with Justice Petharam that disaffection means simply the absence of affection. I am quoting this from a standard book.

Now, what did Chief Justice Sir Lawrence Jenkins say in the case of Queen Empress *versus* Luxman? After reading the main provisions of the section. Chief Justice Sir Lawrence Jenkins went on to say :

"These, gentlemen, are the main provisions of the section, and you will see, therefore, that the section is directed against those practices which are calculated to call into existence certain hostile feelings towards the Government as established by law. They are 'hatred', 'contempt', and 'disaffection'. That is to say, it is directed against those acts which may result in, or aim at, bringing the Government into hatred or contempt exciting disaffection against the Government. Now, the words 'hatred' and 'contempt' require no explanation : their meaning must be plain to you all. But there still remains the word 'disaffection', which in the past has been the subject of much discussion and controversy; happily, however, you sitting here are free from the necessity of entering on this field of controversy, because the first explanation to the section indicates clearly to you what is meant by 'disaffection' "

and so on.

The commentary proceeds :

" 'disaffection' is a feeling, and not a want of feeling, it is not the absence of affection. . . . "

(Laughter.)

It is a controversial point, and there have been differences of opinion on that point. My point of contention is that there is much room for difference of opinion in a matter like this. It must be settled once for all. In the case of Queen *versus* Ramchandra Narain, it was

held that the word "disaffection" was taken in its special sense as signifying political alienation or discontent, that is to say, feeling of disloyalty to the Government or existing power. I do not want to quote from this book any more, but I would commend it to every Honourable Member of this House who may have to deal with the subject. But as I was saying before, I should like to know whether the editor of a paper would be guilty or not when the offending newspaper is not allowed to enter the territories of a State, and the States subjects have no opportunity of reading the comments in that paper which might excite hatred, contempt or disaffection towards the administration.

Now, the word "administration" has not also been defined. I am quite at one with the Government when they aim at preventing blackmail against Indian States and against the rulers of the Indian States. There is little doubt that some newspapers indulge in that sort of profitable pastime by levying blackmail upon Indian States, and this House would be perfectly justified in putting down such attempts at blackmail, but reasonable and *bona fide* comments on the administration of a State must be immune from punishment. The clause, as it stands, does not prevent the levying of blackmail by newspapers or by their editors if they are so inclined. It only puts a ban upon those honest journalists who, with *bona fide* intention, might attempt to draw pointed attention of the administration of a State to certain evils existing in that State. If this clause is enacted into law, it will be a hardship upon honest journalism, and it will provide no remedy against persons levying blackmail. Now, these persons who want to levy blackmail do not comment upon the administration of a State; they comment upon the personality of a ruler or member of his family in their individual, personal and private capacity. That is the sort of evil against which there does not appear to be any provision in this Bill. Sir, in the speech I made on the last occasion, I made it clear that I was entirely at one with the object of the Government in trying to stop the levying of blackmail. But suppose this clause is enacted into law, and if the editor of a newspaper indulges in certain personal reflections, not upon the administration of a State, but upon the character of the ruler of the State, or a member of his family, how can he be held liable under this clause? Therefore, I feel that if this clause is enacted in its present form, it will land us in difficulties owing to various interpretations. I feel, Sir, that either a clear enunciation of the objects of this clause may be given by the Law Member or a more suitable amendment should be substituted in place of the one which exists at present, which will prevent blackmail, but not prevent *bona fide* comments with the honest intention of improving the administration of a State.

An Honourable Member: Why don't you suggest one?

Mr. Gaya Prasad Singh: As has been stated by a previous speaker, *Explanation 5* runs as follows:

"Statements of fact made without malicious intention. . . ."

The Honourable Sir Harry Haig: On a point of order, Sir. Will the Honourable Member be in order in discussing *Explanation 5*?

Mr. Gaya Prasad Singh: I was not referring to it in detail. I was merely going to say that this clause 3, of which *Explanation 5* is a part, if it is enacted into law in the present form, will not serve the purpose which the Government have in view.

Mr. President (The Honourable Sir Shanmukham Chetty): But we are discussing the amendment of Mr. Lalchand Navalrai.

Mr. Gaya Prasad Singh: My Honourable friend, Mr. Lalchand Navalrai, wants to omit the words "or to excite disaffection towards". I have just explained from the book from which I was quoting that this word "disaffection" is not free from doubt and difficulty. My Honourable friend, Sardar Harbans Singh Brar, asked a question as to why we should not entertain a feeling of affection towards our own Indian rulers of States, and why we should entertain feelings of affection towards a foreign Government. That is not the point. Here affection and disaffection have political and constitutional connotations. It is not a question of mere personal or social relationship existing between two individuals. These words "affection" or "disaffection" must be construed in the sense in which they occur in the Indian Penal Code. I have, therefore, some doubt in accepting this clause if the word "disaffection" is retained in it.

Sir Abdur Rahim: The question raised by this amendment is really one of drafting, and I do think that there are difficulties that might easily be cleared up, and I do not see any reason why by inserting words like "in the minds of the subjects of the States", any doubt there might be should not be cleared. My Honourable friend, the Law Member, says that the word "disaffection" has undergone interpretation by many learned Judges, and, therefore, it has acquired a certain meaning in law. Even there, I do remember certainly one case, the *Bangabasi* case, which was decided by Chief Justice Petharam, before my Honourable friend, the Law Member, joined the profession, in which he did define or at least gave the dictionary meaning of "disaffection" as absence of affection and did not go any further. I vividly remember the comments that were made at the bar on the definition that he gave. But later decisions have tried to narrow that definition.

The Honourable Sir Brojendra Mitter: May I remind Sir Abdur Rahim that that decision was given in the year 1891, and all the decisions which I quoted were subsequent to 1891?

Sir Abdur Rahim: That is why I said that my Honourable friend had not joined the bar at the time. But even supposing it could be said that the word "disaffection" has acquired in law a particular meaning, that argument cannot certainly be applied to the words "hatred or contempt". Supposing a newspaper in British India, where the whole of this Bill is to operate, including clause 3, says in so many words that the administration of such and such a State is contemptible owing to particular reasons and particular incidents that have been happening there, and supposing that newspaper does not find circulation in that State,—it is read by men living in British India alone,—and supposing that the newspaper goes on indulging in writings of that sort and does create a feeling of hatred and contempt towards that administration, it may not be shared by any one in the State at all—it is just possible. The Magistrate may not be quite

familiar as to what has been the effect of such writings on the administration of that State, but supposing he does take action, then what answer can there be upon the language of the clause as it stands? You cannot say that hatred and contempt implies hatred and contempt among the subjects of that administration. I do not think that any Court would be bound to interpret it in that way. Because, as my Honourable friend suggests, the word "disaffection" is also there, it does not follow that the words "hatred and contempt" would also be interpreted in a similar sense. I do think there is a difficulty and doubt there, and I do not see why it could not easily be cleared up by inserting a few words, and I do suggest to the Government that it should be done.

The Honourable Sir Harry Haig: The only point I need deal with is the point which has been raised since I spoke before—the case put by my Honourable friend, Mr. Gaya Prasad Singh, and repeated by my Honourable friend, Sir Abdur Rahim, of an article which clearly rouses feelings of disaffection, but the newspaper in which it is published has been prohibited from entering the State. In the first place, it would be very difficult for any State administration, however effective, to be perfectly certain that no copy of a prohibited paper entered the State, and it would certainly be impossible for any State to ensure that no State subject went outside the State and read it. Therefore, I do not think it is really a conceivable case for a publication, which in itself would arouse feelings of hatred and contempt among States subjects, to be entirely isolated from the possibility of any State subject ever reading it. In the second place, I would say that the provision is not that a particular writing should have actually caused hatred, contempt or disaffection, but that it should tend towards that.

Mr. Gaya Prasad Singh: Still wider!

The Honourable Sir Harry Haig: Still wider as my Honourable friend says, and, therefore, I think with that wording the difficulty that my Honourable friend anticipates will not arise.

Mr. President (The Honourable Sir Shanmukham Chetty): The question is:

"That in sub-clause (a) (j) of clause 3 of the Bill, the words 'or to excite disaffection towards' be omitted."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I beg to move:

"That in sub-clause (a) (j) of clause 3 of the Bill, after the word 'established' the words 'by law' be inserted."

The clause says, "to bring into hatred or contempt or to excite disaffection towards the Administration established in any State in India". Established by whom is the question, and I say that the words "by law" should be introduced there. Otherwise, it has no meaning at all. If one were to say that there is an administration in a State which is not constitutional or established by law, how are the British Government coming forward to protect such a State? Without the words "established by law" it would mean that the administration has no authority to guide it and no authority to act on or to place a check on it and it is such an administration that the British Government want to protect and to help. My friend, Mr. S. C. Mitra, speaking on the previous amendment said that the Government were going so far as to enact a Bill the provisions of which were

[Mr. Lalchand Navalrai.]

exactly like the provisions contained in section 124-A, but my friend did not read that section. If my friend had read that section, he would have seen that it contained wider words which I now want to be incorporated in this amendment. Section 124-A reads thus:

"Whoever, by words, either spoken or written, or by signs or by visible representations or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards Her Majesty or His Majesty or the Government established by law in British India",
and so on.

Supposing it had been said "by the Government established in India", it would have no sense. It must be Government in India based on some constitution, on some authority and by some law. The Government of India are thus going to be more loyal to the Indian State than they are to themselves. Their own law says that their administration is subject to a particular law, and unless and until the Government are carried on by that law, it would not be worth living. Therefore, if the Government in the Indian States is carried on only by means of *firman*s or by mere verbal orders, then it is hazardous on the part of the Government of India to get such an enactment made. I am not used to telling stories in the House, but I will give one instance to show how these *firman*s are made and how the law is created in some States. There is a State in Sind where there was no law. What was being done there was this. There is a fort in which there is a prison. If any person used to come to the then ruler with a complaint, it might be even of assault or abuse, then the ruler used to say "Take him to Kol Diji", that is, take him to the prison, and, thereupon the man was incarcerated. There the man used to be kept without any limit of time.

An Honourable Member: Which century you are talking of?

Mr. Lalchand Navalrai: I could give you the name of the ruler, but it is no use. This happened about 30 years ago, at any rate, in my
5 P.M. own lifetime. The man imprisoned did not know when he was going to be released.

An Honourable Member: Is it like detenus?

Mr. Lalchand Navalrai: Well, you may apply the simile if you like. After a long time, the ruler used to go to the fort to see the prison. Then only the imprisoned men could come up and say that they had been in jail for such and such a number of years for such and such an offence. Then the ruler gave orders that some men (who were fortunate) should be set free. In this way, there was no law there. Subsequently, there is law there now to some extent. Therefore, my point is that unless you add the words "Government established by law", you should not give protection to those States the administration of which is carried on by *firman*s. Therefore, I am submitting that we must make the law exactly like the seditious law that is enforced in British India, and no more. With these words, I move my amendment.

Mr. President (The Honourable Sir Shanmukham Chetty): Amendment moved:

"That in sub-clause (a) (j) of clause 3 of the Bill, after the word 'established' the words 'by law' be inserted."

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 10th April, 1934.