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AGENDA.

Agenda for the third session of the Bombay Legislative Council commencing at the Council Hall, Bombay, on Tuesday, the 22nd November 1932, at 2 p.m.

- I. OATH OR AFFIRMATION OF ALLEGIANCE TO THE CROWN.
- II. NOMINATION OF FOUR CHAIRMEN BY THE PRESIDENT.
- III. ADDRESS BY HIS EXCELLENCY THE GOVERNOR TO THE COUNCIL.
- IV. QUESTIONS AND ANSWERS.
- V. GOVERNMENT BILL—

(1) *Bill No. XXVII of 1932 (A Bill to confer special powers on Government and its officers for the purpose of maintaining law and order)—*First reading.*

Notices of amendments† have been received from—

- (i) Mr. G. S. Gangoli, M.L.C.
- (ii) Mr. J. B. Petit, M.L.C.
- (iii) Dr. M. K. Dixit, M.L.C.
- (iv) Mr. A. N. Surve, M.L.C.
- (v) Rao Bahadur R. S. Asavale, M.L.C.
- (vi) Mr. C. N. Patel, M.L.C.
- (vii) Rao Bahadur R. R. Kale, M.L.C.
- (viii) Mr. V. N. Jog, M.L.C.
- (ix) Mr. J. G. More, M.L.C.

- VI. DEMANDS FOR SUPPLEMENTARY GRANTS.
- VII. GOVERNMENT RESOLUTION.

Resolution by the Honourable Dewan Bahadur S. T. Kamblī, B.A., LL.B., M.L.C.

“ This Council recommends to Government that the following amendments proposed to be made to the rules under section 7 of Act III of 1923, having been laid in draft before the Council and approved by it in the form set forth below, may now be issued in the said form :—

Notification.

No. 535-A.—In exercise of the powers conferred by section 7 of the Cotton Transport Act, 1923 (III of 1923), the Government of Bombay is pleased further to amend the rules made thereunder published in Government Notification in the Revenue Department, No. 535-A, dated the 18th August 1923, as follows, namely :—

I. In rule 3 of the said rules—

(a) in sub-rule (1) after the word ‘ rail ’ the punctuation and words ‘ road, river or sea ’ shall be inserted ; and

(b) for sub-rule (2) the following shall be substituted, namely :—

‘ (2) In the case of consignments to be despatched by rail, certified copies of the licenses shall be tendered in Form C hereto annexed.

* *Note.*—Intimation has been received that Government intend to take the 1st, 2nd and 3rd readings of this Bill during this session.

† *Vide* Appendix to the Agenda.

with each consignment at the despatching station, and shall accompany the railway invoice to the station of delivery and shall then be forwarded by the railway authority concerned to the railway audit office for being forwarded to the Secretary, Indian Central Cotton Committee; and in the case of consignments to be despatched by road, river or sea, certified copies of such licenses shall be tendered in Form C hereto annexed with each consignment and shall be delivered at the naka, bunder or other place specified by the licensing authority to the officer mentioned in the license, for being forwarded to the Secretary, Indian Central Cotton Committee.'

2. For forms B and C appended to the said rules, the following forms shall be substituted, namely :—

' Form B.

[Annual General License (for Mills).

Import by rail, road, river or sea.]

(See rule 3.)

No. of 193

Under the Cotton Transport Act, 1923 (III of 1923), the (Mills) situated in the protected area known as are hereby granted a general license under section 3 of the said Act for the period September 1st, 193 , to August 31st, 193 , to import.....*..... from.....to.....for the purpose of manufacture, subject to the following conditions :—

(1) In the case of consignments to be despatched by rail, a certified copy of this license shall be tendered with the consignment at the despatching station and it shall accompany the invoice to the Railway Audit Office and shall be forwarded from there to the Secretary, Indian Central Cotton Committee.

(2) In the case of consignments to be despatched by road, river or sea, a certified copy of this license shall be surrendered to the officer in charge of the.....at..... on the arrival of the consignment, who shall forward it immediately to the Secretary, Indian Central Cotton Committee.

(3) Cotton imported under this license shall not be used except for the purpose stated above, save under the instructions of the licensing authority.

(Signed)

Licensing Authority.

Dated.....193

This certified copy shall accompany the invoice to the railway audit office or be surrendered to the officer mentioned in the license, and shall then be despatched to the Secretary, Indian Central Cotton Committee.

* Here enter ginned cotton, cotton waste, kapas or cotton seed in respect of which license is granted.

Form C.

Certified copy of the General License (for Mills) to be tendered at despatching stations or places.

(See Rule 3.)

License No. of 193

Copy No.

Under the Cotton Transport Act, 1923 (III of 1923), the.....(Mills) situated in the protected area known as.....are hereby granted a general license under section 3 of the said Act for the period September 1st, 193 , to August 31st, 193 , to import.....* from.....to.....for the purpose of manufacture, subject to the following conditions:—

(1) In the case of consignments to be despatched by rail, a certified copy of this license shall be tendered with the consignment at the despatching station and it shall accompany the invoice to the Railway Audit Office and shall be forwarded from there to the Secretary, Indian Central Cotton Committee.

(2) In the case of consignments to be despatched by road, river or sea, a certified copy of this license shall be surrendered to the officer in charge of the.....at.....on arrival of the consignment, who shall forward it immediately to the Secretary, Indian Central Cotton Committee.

(3) Cotton imported under this license shall not be used except for the purposes stated above, save under the instructions of the licensing authority.

(Signed)

Licensing Authority.

Name of consignor.....

Number of bales.....

Descriptions of cotton.....

(Signature of the Consignor.)

(Signature of the Station Master or of officer in charge of the.....at.....).²

By order of the Government of Bombay
(Transferred Departments),

Acting Secretary to the Government of Bombay,
Revenue Department."

* Here enter ginned cotton, cotton waste, kapas or cotton seed in respect of which license is granted.

VIII. MOTION.

By Mr. L. R. Gokhale, M.L.C.

"This Council puts on record its high sense of appreciation of the valuable services rendered by the Honourable Mr. W. F. Hudson, as a member of the Executive Council of the Governor of Bombay, during the last three years, regrets his impending retirement from the Indian Civil Service and wishes him all health and happiness during his well-earned rest."

IX. PAPERS* PRESENTED TO THE COUNCIL.

(i) A copy of Government Notification in the General Department, No. 7679, dated the 1st September 1932, containing certain amendments in the Bombay Local Fund Audit Rules, 1931. [Placed on the Council Table in accordance with sub-section (3) of section 15 of the Bombay Local Fund Audit Act, 1930 (Bom. XXV of 1930).]

(ii) A copy of Government Notification in the Revenue Department, No. 8836/28, dated the 14th September 1932, containing the Bombay Electricity Rules, 1932. [Placed on the Council Table in accordance with sub-section (3) of section 11 of the Bombay Finance Act, 1932 (Bom. II of 1932).]

(iii) A copy of Government Notification in the Revenue Department, No. 9003/28, dated the 10th October 1932, containing the amendment made in Rule 22 of the Bombay Co-operative Societies Rules, 1927. [Placed on the Council Table as required by sub-section (5) of section 71 of the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925).]

G. S. RAJADHYAKSHA,

Secretary to the Legislative Council
of the Governor of Bombay.

Bombay, 22nd November 1932.

*Kept in Secretary's office.

APPENDIX TO AGENDA.

AMENDMENTS TO BILLS.

Bill No XXVII of 1932 (A Bill to confer special powers on Government and its officers for the purpose of maintaining law and order).

Clause.	Amendment.	Name of mover.
Preamble	.. After the words "maintaining law and order" and before the word "and" add the following :— "only in reserve to deal with the Civil Disobedience Movement organised by the Indian National Congress".	Mr. J. G. More.
Preamble	.. In the preamble, after the words "law and order" add "and for fostering a spirit of loyalty amongst the people".	Mr. C. N. Patel.
Clause 1, Sub-clause (2).	In place of the word "years" substitute "months".	Dr. M. K. Dixit.
Do.	.. In place of words "three years" substitute "six months".	Dr. M. K. Dixit.
Do.	.. Substitute for the words "three years" the words "one year".	Mr. V. N. Jog.
Do.	.. For the word "three" substitute the word "one".	Rao Bahadur R. S. Asavale.
Do.	.. For the words "three years" substitute the words "one year".	Mr. J. B. Petit.
Do.	.. In place of words "three years" substitute "one year".	Dr. M. K. Dixit.
Do.	.. Substitute "one" for "three"	*Mr. L. R. Gokhale.
Do.	.. Substitute "one and half year" for "three".	Mr. J. G. More.
Do.	.. Substitute the following for the existing sub-clause (2) :— "(2) It shall remain in force for a period of one year. The Governor in Council may, by a notification in the <i>Bombay Government Gazette</i> , direct that it shall remain in force for a further period not exceeding two years; provided that a copy of such direction given under this sub-section shall be sent forthwith to each member of the Bombay Legislative Council, and shall be laid on the table of the Bombay Legislative Council at the commencement of the session next following the date of such direction, and the question whether the said Act shall remain in force for a further period be decided by a resolution duly passed in this behalf by the said Council, if so required, by due notice given at that session by any member."	Mr. A. N. Surve.

Clause.	Amendment.	Name of mover.
Clause 1, Sub-clause (2).	For the word "three" substitute "not more than two".	Mr. G. S. Gangoli.
Do.	Add a clause (3) as follows :— "All orders under this Act shall be in writing and a copy shall be supplied immediately to the person or persons concerned or affected. Every order shall, so far as it may be, be in the interest of public safety and tranquillity". Add a clause (4) as follows :— "The name of every person arrested, detained, or otherwise dealt with under this Act shall be caused to be published in the Local Papers within a week of the happening".	Mr. G. S. Gangoli.
Clause 1, Sub-clause (3).	After the words "Governor in Council" and the word "may" add the following words :— "with the approval of the Legislative Council".	Mr. J. G. More.
Do.	At the end of sub-clause (3) add the following words, viz :— "only if and when the Governor in Council consider that the general condition of the area or district is such as to call forth the necessity of having recourse to or use of such powers". Put a comma after "notification" at the end of the clause and a full point after the proposed amendment.	*Mr. V. N. Jog.
Clause 1, Sub-clause (4).	After the words "Governor in Council" and before the word "may" and "after the necessary assent of the Legislative Council under sub-clause (3)".	Mr. J. G. More.
Do.	Add explanation after sub-clause (4) :— "The Governor in Council or any officer of Government shall not be deemed to be invested with any power hereinafter mentioned unless they are necessary and imminent for the purpose of checking civil disobedience movement."	*Mr. V. N. Jog.
Clause 2, Sub-clause (2).	For the words "The Commissioner of Police" substitute the words "the Chief Presidency Magistrate".	Mr. J. B. Potit.
Do.	After the words "City of Bombay" omit the words "Commissioner of Police" and substitute the words "any Presidency Magistrate".	*Mr. L. R. Gokhale.
Clause 2	Add at the end :— (3) "Civil Disobedience Movement" means the Civil Disobedience Movement organised by the Indian National Congress".	Mr. J. G. More.

Clause.	Amendment.	Name of mover.
Clause 3, Sub-clause (1).	In line 1, after the word "any" add the words "police officers".	*Mr. L. R. Gokhale.
Do.	.. Add after the words "any officer of Government" the words "not below the rank of the District Magistrate" in line 1.	Mr. V. N. Jog.
Do.	.. Delete the words "authorised in this behalf by general or special order of the Governor in Council".	Mr. C. N. Patel.
Do.	.. In line 2, omit the words "general or" ..	Mr. J. G. More.
Do.	.. Omit the words "general-or" in line 2 ..	Rao Bahadur R. S. Asavale.
Do.	.. In line 3, after the words "if satisfied" add "after giving the person reasonable opportunity of being heard".	Rao Bahadur R. R. Kale.
Do.	.. In line 4, substitute the word "such" for the word "any".	Rao Bahadur R. R. Kale.
Do.	.. Add after the words "any person" the words "after the passing of this Act" in line 4.	Mr. V. N. Jog.
Do.	.. In the fifth line omit the following words:— "has acted" and "is about to act".	Dr. M. K. Dixit.
Do.	.. In line 5, after the words "is acting" omit the words "or is about to act".	*Mr. L. R. Gokhale.
Do.	.. Omit the words "or is about to act" in line 5.	Rao Bahadur R. S. Asavale.
Do.	.. In line fifth, after the words "is about to act" and before the words "in a manner" add:— "in furtherance of the Civil Disobedience Movement organised by the Indian National Congress and".	Mr. J. G. More.
Do.	.. Drop the words "to the public safety or peace" and insert in their place the words "to the civil administration of any area" and add the word "greatly" before "prejudicial" in line 6.	*Mr. V. N. Jog.
Do.	.. Between the last two words in the sixth line, insert the following:— "For reasons to be recorded and a copy supplied to the person, to be arrested, simultaneously".	Mr. G. S. Gangoli.
Do.	.. For the words "himself arrest such person without warrant or may direct the arrest of such person without warrant" substitute the words "report to the District Magistrate, who shall arrest such person, etc.".	Mr. J. B. Petit.

Clause.	Amendment.	Name of mover.
Clause 3, Sub-clause (1).	Substitute for the words "may direct" the words "order in writing" in line 7.	Mr. V. N. Jog.
Do.	In line 7, after the words "without warrant" omit the words "or may" to the end of the clause.	*Mr. L. R. Gokhale.
Do.	Omit the words "and in making such arrest any means that may be necessary may be used" and substitute instead the words "he may use such measures as may be necessary".	Rao Bahadur R. S. Asavale.
Do.	Omit all the words commencing with the last two words in the eighth line.	Mr. G. S. Gangoli.
Do.	Omit all the words in the last lines from "and in making such arrest....." to "may be used".	Dr. M. K. Dixit.
Do.	Omit "and in making such arrest any means that may be necessary may be used".	Mr. J. G. More.
Clause 3, Sub-clause (2).	For the words "by the officer" substitute the words "the District Magistrate".	Mr. J. B. Petit.
Do.	For the words "such officer may" substitute the words "the District Magistrate may".	Mr. J. B. Petit.
Do.	Omit all the words commencing with the last three words in the sixth line, including the word "behalf" up to the proviso. Substitute the portion omitted by the following:— "the nearest goal or the sub-goal as the case may be".	Mr. G. S. Gangoli.
Do.	Delete the words at the end of the sub-clause "The Governor in Council may, by general or special order, specify in this behalf" and substitute "he may deem proper".	Mr. C. N. Patel.
Do.	In line 7th omit the word "special"	Mr. J. G. More.
Clause 3, Sub-clause (2), First proviso.	Delete the 1st proviso to this sub-section	Mr. C. N. Patel.
Do.	Omit the words from "unless the Governor in Council...." to "otherwise directs".	Dr. M. K. Dixit.
Do.	For the words "fifteen days" substitute the words "three days".	Rao Bahadur R. S. Asavale.
Do.	For the words "fifteen days" substitute the words "seven days".	Mr. J. G. More.
Do.	For the word "fifteen" substitute "seven".	Mr. G. S. Gangoli.
Do.	For the word "fifteen" substitute the word "seven".	*Mr. L. R. Gokhale.

Clause.	Amendment.	Name of mover.
Clause 3, Sub- Sub-clause (2), First proviso.	Substitute for the words "fifteen days" the words "eight days".	Mr. V. N. Jog.
Clause 3, Sub- clause (2), Second proviso.	Omit the second proviso	Dr. M. K. Dixit.
Do. ..	Delete the second proviso	Mr. C. N. Patel.
Do. ..	For the word "months" substitute "weeks".	Mr. G. S. Gangoli.
Do. ..	In the further proviso for the words "two months" substitute the words "one month".	Rao Bahadur R. S. Asavale.
Do. ..	For the words "two months" substitute the words "one month".	Mr. J. B. Petit.
Do. ..	Substitute for the words "two months" the words "one month".	Mr. V. N. Jog.
Do. ..	In paragraph 3 substitute the words "one month" for the words "two months".	Mr. J. G. More.
Do. ..	For the words "two months" substitute the words "one month".	*Mr. L. R. Gokhale.
Clause 3, Sub- clause (2).	Add the following proviso at the end of the clause : " Provided further that the general order issued by the Governor in Council shall be subject to the approval of the Legislative Council and the Legislative Council shall have power to add, alter, modify or cancel it altogether ".	Mr. J. G. More.
Clause 4 ..	Delete the whole clause	Rao Bahadur R. R. Kale.
Clause 4, Sub- clause (1).	Delete the opening words "The Governor in Council", and substitute "Any officer of Government".	Mr. C. N. Patel.
Do. ..	Add after the words "that any person" the words "after the passing of this Act" in lines 2 and 3.	Mr. V. N. Jog.
Do. ..	Omit the words "has acted" and "or is about to act".	Dr. M. K. Dixit.
Do. ..	In line 3rd after the words "is about to act" and before the words "in a manner" add "in furtherance of the Civil Disobedience Movement organised by the Indian National Congress and".	Mr. J. G. More.
Do. ..	Delete "or in furtherance of a movement prejudicial to the public safety or peace".	Mr. J. G. More.
Do. ..	In line 4, omit the words "or in furtherance of a movement prejudicial to the public safety or peace" and in line 3 omit the words "or is about to act".	*Mr. L. R. Gokhale.

Clause.	Amendment.	Name of mover.
Clause 4, Sub-clause (1).	In line 6th after the words "by order in writing" and before the word "Council" add "stating in detail the reasons thereof".	Mr. J. G. More.
Clause 4, Sub-clause (1) (a).	Between the words "any" and "area" insert "reasonable".	Mr. G. S. Gangoli.
Clause 4, Sub-clause (1) (b).	Delete (b)	Mr. J. G. More.
Clause 4, Sub-clause (1).	Delete clause (b)	*Mr. L. R. Gokhale.
Clause 4, Sub-clause (1) (b).	Insert the word "healthy" between the words "any" and "area".	Mr. G. S. Gangoli.
Do.	Add the following at the end :— "Provided that if he is ordered to reside outside his place of residence, the Government shall provide for the maintenance of the person and his dependents during the period".	Mr. G. S. Gangoli.
Clause 4, Sub-clause (1) (c).	Add the following at the end :— "Provided that reasonable time and facility are given to the person to obey such order".	Mr. G. S. Gangoli.
Clause 4, Sub-clause (1) (d).	Delete (d)	Mr. J. G. More.
Do.	Drop the whole sub-clause (d)	Mr. V. N. Jog.
Do.	Delete clause (d)	*Mr. L. R. Gokhale.
Do.	Omit all and substitute the following :— "shall abstain from such acts as may be specified in the order".	Dr. M. K. Dixit.
Do.	Delete the words "conduct himself in such manner".	Rao Bahadur R. R. Kale.
Do.	Omit the last five words and the comma in the first line.	Mr. G. S. Gangoli.
Do.	Delete the last portion of sub-clause (d) beginning with the words "or take".	Rao Bahadur R. R. Kale.
Clause 4, Sub-clause (1).	At the end add the following :— "Provided that an allowance shall be given to him for his maintenance and that of his dependents, if while obeying such orders he is obliged to stay away from his place of residence".	Dr. M. K. Dixit.
Clause 4, Sub-clause (1) (d).	Add the following at the end :— "Provided that reasonable time and facility are given to the person to obey such order or to dispose of saleable property immediately, provided however where Government require him to be dispossessed of his property, but do not think fit to allow him to sell, he shall be compensated for the cost-price or market price thereof whichever is less".	Mr. G. S. Gangoli.

Clause.	Amendment.	Name of mover.
Clause 4, Sub-clause (2).	Omit the words "unless the Governor in Council by special order otherwise directs" in clause 4 sub-clause (2).	*Mr. V. N. Jog.
Do.	Delete the words "the Governor in Council" and substitute "the said officer".	Mr. C. N. Patel.
Clause 4	Add the following at the end of the clause:— " (4) The special order issued by the Governor in Council under sub-clause (2) shall not remain in force for more than 3 months from the making of the order under sub-clause (1).	Mr. J. G. More.
Do.	Add the following at the end of clause 4 :— " <i>Exemptions</i> " Nothing in this Act shall be deemed to affect the following :— (a) Encouraging Swadeshi by all lawful means. (b) Peaceful propaganda against intoxicating drugs and liquor including distribution of pamphlets, peaceful picketing at a reasonable distance from liquor shops and similar other demonstrations. (c) Organising any propaganda, association, committee etc. to fight economic distress aiming at a better living. (d) Organising any labour movement by all lawful means with a view to their better living and earning. (e) Hoisting, demonstrating, exhibiting or selling national flags or photographs of national leaders not guilty of violence. (f) Singing or repeating national slogans or songs not calculated to incite violence or sedition or hatred between different classes of His Majesty's subjects. (g) Abstinence on the part of any person from doing any overt act, e.g. not opening the doors of his private shop. (h) Resignation or relinquishment of any post, title or office held by a person. (i) Refusal to join any anti-national movement at the pressure of officials. (j) Settling any disputes through <i>panchas</i> . (k) Refusal on the part of traders to part with their goods in the usual course of business and retaining them with a view to profit. (l) More wearing of any dress, head-gear or any ornament according to the liking of the wearer. (m) Organising any movement for the betterment of agriculture and home industries. (n) Attempt to settle any dispute or to bring about compromise between the various castes and sub-sects of His Majesty's subjects.	Mr. G. S. Gangoli.

Clause.	Amendment.	Name of mover.
Clause 4	.. Add at the end of clause (4) :— "No order under this section shall be made and effective unless the Government makes due provision for residence and maintenance of the person against whom such order is served".	*Mr. V. N. Jog.
Clause 5	.. Drop clause 5	Mr. V. N. Jog.
Do.	.. Omit clause 5	*Mr. L. R. Gokhale.
Do.	.. Delete the words "The District Magistrate" and substitute the words "Any Magistrate or Police Officer not below the rank of Sub-Inspector".	Mr. C. N. Patel.
Do.	.. Substitute for the words "the District Magistrate" the words "Governor in Council" in line 1.	*Mr. V. N. Jog.
Do.	.. Put the word "they" for "he" in line 2 ..	*Mr. V. N. Jog
Do.	.. Drop the words "for the public advantage" in line 3.	*Mr. V. N. Jog.
Do.	.. Delete the words "of any Railway administration".	Mr. J. B. Petit.
Do.	.. Add the following at the end :— "Such order shall be notified and reasonable opportunity shall be given to hear the objections of persons concerned or to be affected before passing the order".	Mr. G. S. Gangoli.
Do.	.. Instead of full point at the end of clause 5 put a comma "," and add the following words at the end of the clause, viz :— "of any person whose access to the said premises is in their opinion prejudicial and dangerous to public safety, order or peace". and a full point "."	*Mr. V. N. Jog.
Clause 5	.. Add at the end following proviso :— "Provided that the prohibition or limitation for access to the place stated above shall be imposed on persons who in furtherance of the Civil Disobedience organised by the Indian National Congress have acted or are acting or are about to act in a manner disadvantageous to the public".	Mr. J. G. More.
Clause 6	.. Delete this clause	Mr. G. S. Gangoli.
Do.	.. Drop the clause	Mr. V. N. Jog.
Do.	.. Delete	Mr. J. G. More.
Do.	.. Delete	Mr. J. B. Petit.
Do.	.. Omit the clause	*Mr. L. R. Gokhale.

Clause.	Amendment.	Name of mover.
Clause 6 ..	Delete the words "The District Magistrate" and substitute for the same the following words "Any Magistrate or Police Officer not below the rank of a Sub-Inspector of Police".	Mr. C. N. Patel.
Do. ..	At the end of the clause add the following :— "Such order shall not be in force for more than three hours".	Mr. G. S. Gangoli.
Do. ..	At the end add "provided that such order shall remain in force for a period not exceeding three days".	Dr. M. K. Dixit.
Clause 7 ..	Drop the clause	Mr. V. N. Jog.
Do. ..	Delete	Mr. J. G. More.
Do. ..	Delete	Mr. J. B. Petit.
Do. ..	Omit the clause	*Mr. L. R. Gokhale.
Clause 7, Sub-clause (1)	Delete the sub-clause	Mr. G. S. Gangoli.
Clause 7 ..	In clause 7, delete the words "The District Magistrate" and substitute for the same the following words "Any Magistrate or Police Officer not below the rank of a Sub-Inspector of Police".	Mr. C. N. Patel..
Clause 7, Sub-clause (1).	In line 2 after the word "person" add "after hearing him".	Rao Bahadur R. R. Kale.
Do. ..	Add the following at the end :— "Such order shall not be in force for over a week".	Mr. G. S. Gangoli.
Clause 7, Sub-clause (2).	Omit the sub-clause	Dr. M. K. Dixit.
Do. ..	Delete	Mr. G. S. Gangoli.
Do. ..	In line 3 after the word "writing" add "after hearing any person" and in the same line substitute the word "such" for the word "any".	Rao Bahadur R. R. Kale.
Clause 8 ..	Delete the clause	Mr. V. N. Jog.
Do. ..	Delete the clause	Rao Bahadur R. R. Kale.
Do. ..	In clause 8 delete the words "The District Magistrate" and substitute for the same the following words :— "Any Magistrate or Police Officer not below the rank of a Sub-Inspector of Police".	Mr. C. N. Patel.
Do. ..	From line 2nd omit the words "for the public advantage" and substitute the following words :— "to check effectively all the communications which he suspects to be in furtherance of the Civil Disobedience Movement organised by the Indian National Congress".	Mr. J. G. More.

Clause.	Amendments.	Name of mover.
Clause 9, Sub-clause (c).	Omit the whole sub-clause	Rao Bahadur R. S. Asavale.
Do.	Delete the sub-clause	Rao Bahadur R. R. Kale.
Do.	Delete	Mr. J. G. More.
Do.	Omit	Dr. M. K. Dixit.
Do.	Delete	Mr. J. B. Petit.
Do.	Delete	*Mr. L. R. Gokhale.
Clause 9, Sub-clause (e).	Omit the words " or other persons "	Mr. J. G. More.
Clause 9, Sub-clause (c).	Add the following clause at the end :— " after refunding the money in full or in part according as he is entitled to claim in respect of the ticket which he has purchased "	Mr. A. N. Surve.
Do.	Add the following at the end :— " And compensate them for proper loss "	Mr. G. S. Gangoli.
Clause 9, Sub-clause (d).	Delete sub-clause (d)	*Mr. L. R. Gokhale.
Do.	Between the last words " station " and " or ", insert the words " for not more than 12 hours "	Mr. G. S. Gangoli.
Clause 9	At the end of the clause, add the following proviso :— " Provided, however, no order under this section shall be made to the advantage of one class of goods or persons over another and no such order shall be made where there is no danger to public peace "	Mr. G. S. Gangoli.
Do.	Add the following provisos at the end of the clause :— " Provided that the District Magistrate may exercise powers under sub-sections (a), (b) and (c) of this section so far as persons or passengers are concerned only in the cases of those who resort or about to resort to a train or a vessel with the manifest object of helping the Civil Disobedience Movement organised by the Indian National Congress. " Provided further no order shall be made under this section where there is no danger to public peace or safety "	Mr. J. G. More.
Clause 10	From lines 3 and 4 omit the words " or other person "	Mr. J. G. More.
Do.	Add after the word " person " the following words, viz. :— " who have specially qualified themselves to take shorthand notes in the language in which the proceedings are conducted "	Mr. A. N. Surve.

Clause.	Amendment.	Name of mover.
Clause 10	.. In line 4, substitute "meeting in a public place" in place of "public meeting".	Rao Bahadur R. R. Kale.
Do.	.. After the words "public meeting" and before the words "for the purpose" add "which he has reason to believe is in connection with the Civil Disobedience Movement organised by the Indian National Congress".	Mr. J. G. More.
Clause 10, (Ex-planation).	Delete the Explanation	Rao Bahadur R. R. Kale.
Do.	.. Delete	Mr. J. B. Petit.
Do.	.. Omit in the third line "or to any class or portion of the public".	Dr. M. K. Dixit.
Do.	.. In line 3, omit the words "or to any class or portion of the public".	*Mr. L. R. Gokhale.
Do.	.. In line 3, after the word "public" add the following words:— "and the avowed object of which is calculated to be prejudicial to public safety or peace".	Mr. A. N. Surve.
Clause 10	.. Delete "and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise".	Mr. J. G. More.
Clause 10, (Ex-planation).	In lines 4 to 7, omit all the words beginning with "and a meeting etc." and ending with "or otherwise".	Mr. A. N. Surve.
Clause 10	.. Between the first two words in the fourth line insert "except the police". In the explanation in the third line omit the words "to any class or".	Mr. G. S. Gangoli.
Clause 10, (Ex-planation).	At the end of the explanation add the following:— "if it is open to the public or to the press".	Mr. G. S. Gangoli.
Clause 11	.. Delete	Mr. J. B. Petit.
Clause 11, Sub-clause (a).	In line 4, omit the words "or any act prejudicial to the public safety or peace"; and in line 6 omit the words "or is about to be".	*Mr. L. R. Gokhale.
Do.	.. Omit the words "or is about to be" in the sixth line.	Rao Bahadur R. S. Asavale.
Do.	.. Add at the end "in furtherance of Civil Disobedience Movement organised by the Indian National Congress".	Mr. J. G. More.
Clause 11, Sub-clause (b).	Delete the words "so far as may be" ..	Mr. J. G. More.

Clause.	Amendments.	Name of mover.
Clause 11. Sub-clause (b).	In line 7, omit the words "so far as may be".	*Mr. L. R. Gokhale.
Do.	Omit the words "so far as may be"	Mr. G. S. Gangoli.
Clause 12	Delete	Mr. J. B. Petit.
Clause 12 (1)	From line 2, omit the words "general or"	Mr. J. G. More.
Clause 12	In line 3, after the words "any" omit the word "person" and add the words "not below the rank of a police sub-inspector".	*Mr. L. R. Gokhale.
Do.	In the third line, between the words "person" and "to" insert the words "not below the rank of the sub-inspector of police".	Mr. G. S. Gangoli.
Do.	In line 3, after the words "any person" and before the word "to" add "not below the rank of the Inspector of Police".	Mr. J. G. More.
Clause 13. Sub-clause (1).	In line 2, after the word "comply" add "with the intention of disobeying" and delete the word "with".	Rao Bahadur R. R. Kale.
Do.	After the first two words in the last but one line, omit all the words and substitute the following : "Proceed against him for breach thereof."	Mr. G. S. Gangoli.
Do.	Add at the end of the sub-clause the following words :— "And no action shall be taken against any person for such disobedience or neglect unless upon sanction of the authority who has given the order or made the direction."	Rao Bahadur R. R. Kale.
Clause 13. Sub-clause (2).	Delete	Mr. J. B. Petit.
Do.	Omit	*Mr. L. R. Gokhale.
Do.	In line 1, omit the word "No"	Mr. J. G. More.
Do.	Omit the word "No" and after the word "lodged" add "paid".	Dr. M. K. Dixit.
Do.	In line 1, after the word "lodged" add "and paid".	Mr. J. G. More.
Do.	After the words "damage caused" add "wilfully or wrongfully".	Mr. J. G. More.
Do.	Add the following at the end : "if not provided for, under this Act."	Mr. G. S. Gangoli.
Clause 14	Omit the third and the fourth words "or neglects" in the first line.	Mr. G. S. Gangoli.
Do.	In line 1, after the word "comply" add "with the intention of disobeying" and delete the first word "with" in line 2.	Rao Bahadur R. R. Kale.

Clause.	Amendments.	Name of mover.
Clause 14	.. Substitute the words "six months" for "two years" in clause 14.	*Mr. V. N. Jog.
Do.	.. In line 4, after the word "with" add the word "simple", and in line 5 for the word "two years" substitute the words "six months" and after the words "with fine" add the words "which may extend to Rs. 200".	*Mr. L. R. Gokhale.
Do.	.. Insert the word "simple" before "imprisonment".	*Mr. V. N. Jog.
Do.	.. Omit the last line and substitute "to six months".	Mr. G. S. Gangoli.
Do.	.. Substitute the following for the last two lines :— "punishable with simple imprisonment which may extend to six months or with fine not exceeding Rs. 100".	Dr. M. K. Dixit.
Clause 14 (1)	.. After the words "punishable with" and before the word "imprisonment" add the word "simple".	Mr. J. G. More.
Clause 14	.. For the words "two years" substitute the words "one year". After the word "fine" add the words "not exceeding Rs. one thousand".	Mr. J. B. Petit.
Do.	.. Substitute "six months" for "two years"	Mr. A. N. Surve.
Do.	.. In line 5, substitute "six months" for "two years".	Mr. J. G. More.
Do.	.. In line 5, substitute "6 months" in place of "2 years".	Rao Bahadur R. R. Kale.
Do.	.. For the words "with imprisonment which may extend to two years or with fine or with both," substitute the words "with rigorous imprisonment extending to not less than 10 years and with sequestration of all his property".	Mr. C. N. Patel.
Do.	.. After the words "with fine" and before the word "or" add the words "not exceeding hundred rupees".	Mr. J. G. More.
Clause 15	.. In the second line, omit the five words between "disobeys" and "any".	Mr. G. S. Gangoli.
Do.	.. In the fourth to sixth lines, omit all the words after "chapter" and ending with the words "chapter".	Mr. G. S. Gangoli.
Do.	.. Omit the last two lines and substitute "simple imprisonment which may extend one month or with fine not exceeding Rs. 50".	Dr. M. K. Dixit.
Do.	.. In line 6, after the word "with" and before the word "imprisonment" add the word "simple".	Mr. J. G. More.

Clause.	Amendments.	Name of mover.
Clause 15	.. Insert the word "simple" before "imprisonment" in clause 15.	*Mr. V. N. Jog.
Do.	.. In line 6, after the word "with" add the word "simple" and after the word "fine" in line 8, add the words which may extend to Rs. 200 "	*Mr. L. R. Gokhale.
Do.	.. In the last two lines, omit all the words after "to" and substitute the omitted portion by "two months".	Mr. G. S. Gangoli.
Do.	.. In line 7, substitute "two" for "six"	Mr. A. N. Surve.
Do.	.. Substitute the words "three months" for "six months".	*Mr. V. N. Jog.
Do.	.. After the words "with fine" and before the word "or" add the words "not exceeding fifty rupees".	Mr. J. G. More.
Do.	.. After the word "fine" add the words "not exceeding Rs. 500".	Mr. J. B. Petit.
Do.	.. Add "rigorous" before the word "imprisonment", substitute "3 years" for the words "six months", the words "and with fine" for the words "or with fine" and delete the words "or with both".	Mr. C. N. Patel.
Clause 16	.. Delete	Mr. J. B. Petit.
Do.	.. Omit the whole clause	Mr. C. N. Patel.
Do.	.. Drop the whole clause	Mr. V. N. Jog.
Clause 16, Sub-clause (1).	.. Delete	Mr. G. S. Gangoli.
Clause 16, Sub-clause (2).	.. Omit the sub-clause	Dr. M. K. Dixit.
Do.	.. Delete	Mr. J. G. More.
Do.	.. Omit	*Mr. L. R. Gokhale.
Do.	.. Omit all the words after "sub-divisional magistrate".	Mr. G. S. Gangoli.
Clause 16, Sub-clause (3).	.. Omit the sub-clause	Dr. M. K. Dixit.
Do.	.. Delete	Mr. G. S. Gangoli.
Do.	.. Delete	Mr. J. G. More.
Do.	.. In the second line between the words "officers" and "to" insert "not below his second in rank".	Mr. G. S. Gangoli.
Do.	.. In line 2, after the words "any officer", add the words "not below the rank of Deputy Superintendent of Police".	*Mr. L. R. Gokhale.

Clause.	Amendments.	Name of mover.
Clause 16, Sub-clause (3).	In line 2, after the word "officer" add the words "not below the rank of sub-divisional magistrate or Deputy Superintendent of Police".	Mr. A. N. Surve.
Clause 17	Drop the clause	* Mr. V. N. Jog.
Clause 17, Sub-clause (2).	Delete the words beginning from "or to" in line 6 and ending with the word "land" in line 7.	Rao Bahadur R. R. Kale.
Do.	Delete "or rent of agricultural land or anything recoverable as arrears of or along with such rent".	Mr. J. G. More.
Do.	Omit the words beginning with "or rent etc." and ending with "such rent".	Mr. A. N. Surve.
Do.	Between the words "authority" and "shall" in the sixth and eighth lines, omit all the words.	Mr. G. S. Gangoli.
Do.	In line 8, substitute the words "of such amount" in place of the first 6 words in the same line.	Rao Bahadur R. R. Kale.
Clause 18	Drop the whole clause	* Mr. V. N. Jog.
Do.	In line 1st omit the word "whoever" and substitute the following words :— "any person who in furtherance of the Civil Disobedience Movement organised by the Indian National Congress".	Mr. J. G. More.
Do.	Between the first two words insert the word "unlawfully".	Mr. G. S. Gangoli.
Do.	Omit the words "or by signs or by visible representations, or otherwise", in lines two and three. Also omit the words "signs or visible representations" in lines seven and eight.	Rao Bahadur R. S. Asavale.
Do.	In line 3, after the word "implication" add the words "in furtherance of any political activity"; and in line 4, omit the words "or to defer payment of".	* Mr. L. R. Gokhale.
Do.	In line six, omit the word "whoever" and substitute the words "any person who in furtherance of the Civil Disobedience Movement organised by the Indian National Congress".	Mr. J. G. More.
Do.	In paragraph 3, for the word "six" substitute the word "three" and after the words "with fine" add the words "which shall not exceed Rs. 300".	* Mr. L. R. Gokhale.
Do.	Delete the words "shall be punishable with imprisonment which may extend to six months or with fine, or with both" and substitute the following : "shall be punishable with death by being crushed under the feet of a wild elephant or by being devoured by a wild lion and with sequestration of all his property."	Mr. C. N. Patel.

Clause.	Amendments.	Name of mover.
Clause 18	.. Omit the last words " or with fine or with both "	Mr. G. S. Gangoli.
Do.	.. In line 12, after the word " with " and before the word " imprisonment " add the word " simple ".	Mr. J. G. More.
Do.	.. In line 13, after the words " with fine " and before the word " or " add " not exceeding hundred rupees ".	Mr. J. G. More.
Do.	.. Add the following proviso :— " Provided however no steps taken by or help rendered to a person in approaching the authorities for the redress of his grievance or to apprise of his inability to pay on economic distress shall be cognisable under this chapter "	Mr. G. S. Gangoli.
Clause 19	.. Drop the clause	*Mr. V. N. Jog.
Clause 19, Sub-clause (1).	.. Between the first two words insert the following— " being able to pay "	Mr. G. S. Gangoli.
Do.	.. Omit the last two lines and substitute " with simple imprisonment which may extend to three months or with fine not exceeding Ra. 50 "	Dr. M. K. Dixit.
Do.	.. In line 3, substitute " six months " for " one year "	Mr. J. G. More.
Do.	.. In clause 19, sub-clause (1) for the words " one year " substitute the words " six months "; and in line 5, after the words " with fine " add the words " which shall not exceed Ra. 500 "	*Mr. L. R. Gokhale
Do.	.. In line 4, after the words " with fine " and before the word " or " add " not exceeding fifty rupees "	Mr. J. G. More.
Do.	.. Delete the words " with imprisonment " and substitute the words " solitary confinement "	Mr. C. N. Patal.
Do.	.. For the words " to one year or with fine or with both " in the last two lines substitute " to six months "	Mr. G. S. Gangoli.
Do.	.. Substitute the words " six months " instead of the words " one year " in line 3.	Rao Bahadur R. S. Asavale.
Do.	.. Substitute " six months " for " one year "	Mr. A. N. Surva.
Clause 19, Sub-clause (2).	.. Delete	Rao Bahadur R. B. Kale.
Do.	.. Omit	Dr. M. K. Dixit.
Do.	.. Delete	Mr. G. S. Gangoli.
Do.	.. Delete	Mr. J. G. More.
Do.	.. Delete	Mr. A. N. Surva.
Do.	.. Delete	*Mr. L. R. Gokhale.

Clause.	Amendments.	Name of mover.
Clause 19, Explanation.	After the words " on account of poverty " and before the word " is " add the words " or under section 18 ".	Mr. J. G. More.
Do.	In line 2, after the word " poverty " add the words " or any other sufficient cause ".	*Mr. L. R. Gokhale.
Do.	For the last word " section ", substitute " chapter ". Add the following proviso :— " Provided further that whoever honestly helps an agriculturist in distress shall not be liable under this Act."	Mr. G. S. Gangoli.
Clause 20	Omit	Mr. C. N. Patel.
Do.	Drop the clause	*Mr. V. N. Jog.
Do.	Omit the words "section 19" and substitute the words "any provision of this chapter" and omit "all" after the words "in the behalf" in line 6.	Dr. M. K. Dixit.
Do.	Omit the following words— "or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf".	Mr. J. G. More.
Do.	In the last line for the word "Sub-Inspector" substitute the word "Inspector".	*Mr. L. R. Gokhale.
Do.	Substitute "the Deputy Superintendent of Police" for the word "Sub-Inspector".	Mr. J. G. More.
Do.	Substitute the word "Inspector" instead of the word "Sub-Inspector" in the last line.	Rao Bahadur R. S. Asavale.
Do.	Omit the word "sub" which is joined to the word "Inspector".	Mr. A. N. Surve.
Clause 21	Delete the clause	Rao Bahadur R. R. Kale.
Do.	Drop the clause	*Mr. V. N. Jog.
Clause 21, Sub-clause (1).	Delete	Mr. G. S. Gangoli.
Do.	Delete	Mr. J. G. More.
Do.	Delete	*Mr. L. R. Gokhale.
Do.	Delete the words "the Collector" whenever they occur and substitute "any revenue officer not below the rank of a talati or kulkarni".	Mr. C. N. Patel.
Clause 21, Sub-clause (2).	Delete	*Mr. L. R. Gokhale.
Do.	Substitute "(1)" for "(2)"	Mr. J. G. More.
Clause 21, Sub-clause (3).	Delete	*Mr. L. R. Gokhale.

Clause.	Amendments.	Name of mover.
Clause 21, Sub-clause (3).	Substitute "(2)" for "(3)"	Mr. J. G. More.
Do.	Add the words "double the amount of" before the words "such excess".	Mr. A. N. Surve.
Do.	Delete the words "the Collector" and substitute the words "the said revenue officer".	Mr. C. N. Patel.
Clause 22	Delete the clause and substitute therefor as follows :— "Any Magistrate may take cognizance of or try any offence under this Act."	Mr. C. N. Patel.
Do.	For the words "of a Presidency Magistrate" substitute the words "of the Chief Presidency Magistrate".	Mr. J. B. Petit.
Do.	For the words "Magistrate of the first class" substitute the words "the District Magistrate".	Mr. J. B. Petit.
Do.	For the words "a magistrate of the first class" substitute "sub-divisional magistrate".	Mr. J. G. More.
Do.	For the words "or a magistrate of the first class" substitute the words "sub-divisional magistrate".	*Mr. L. R. Gokhale.
Clause 23	Delete	Mr. J. B. Petit.
Do.	Delete	*Mr. L. R. Gokhale.
Do.	Omit the words "Notwithstanding anything contained in the Code".	*Mr. V. N. Jog.
Do.	Substitute the word "non" before "cognizable" and remove the word "non" before "bailable".	*Mr. V. N. Jog.
Do.	Omit the last two words "and non-bailable".	Mr. G. S. Gangoli.
Do.	Omit the words following the word "cognizable".	Mr. A. N. Surve.
Do.	Omit "non-bailable" and substitute "bailable".	Dr. M. K. Dixit.
Do.	For the word "non-bailable" substitute the word "bailable".	Mr. J. G. More.
Clause 24	Delete	Mr. J. B. Petit.
Do.	Omit	Dr. M. K. Dixit.
Do.	Delete	Rao Bahadur R. R. Kale.
Do.	Delete	Mr. J. G. More.

Clause.	Amendments.	Name of mover.
Clause 24	Delete the words "A Presidency Magistrate or a Magistrate of the 1st class" and substitute "any Magistrate".	Mr. C. N. Patel.
Do.	In the second and third lines, omit the words "or a magistrate of the first class".	Mr. G. S. Gangoli.
Do.	In line 4, for the word "may" substitute the word "shall" and omit the words "in his discretion" and omit lines 5 and 6, and substitute the words "the trial in warrant cases as laid down in the Criminal Procedure Code."	*Mr. L. R. Gokhale.
Do.	In the fourth line between the words "discretion" and "follow" insert the words "for reasons to be recorded".	Mr. G. S. Gangoli.
Clause 25	Omit	Mr. G. S. Gangoli.
Do.	Delete	Mr. J. B. Petit.
Do.	Omit	Mr. J. G. More.
Do.	Delete	*Mr. L. R. Gokhale.
Do.	Between the last two words of the second line, insert the words "for over a month".	Mr. G. S. Gangoli.
Do.	At the end add "or adjournment is sought for defending the accused".	Dr. M. K. Dixit.
Clause 26	Omit	Mr. G. S. Gangoli.
Do.	Omit	Dr. M. K. Dixit.
Do.	Delete	Rao Bahadur R. R. Kale.
Do.	Omit	Mr. J. G. More.
Do.	Delete	*Mr. L. R. Gokhale.
Do.	Omit	*Mr. V. N. Jog.
Do.	Delete the words "The provisions of section 32 of the Code shall not operate to limit the powers of a Presidency Magistrate or a Magistrate of the 1st class to pass a sentence" and substitute the following, "The provisions of the Code shall not operate to limit the power of any Magistrate to pass a sentence of any kind provided under this Act and to pass a sentence".	Mr. C. N. Patel.
Clause 26	Omit the word "not"	Mr. A. N. Surve.
Do.	In the fourth line between the words "amount" and "for" insert the words "not exceeding one thousand rupees".	Mr. G. S. Gangoli.

Clause.		Amendments.	Name of mover.
Clause 26	..	Omit all the words after the words " under this Act ".	Mr. A. N. Surve.
Do.	..	Add the following at the end :— " All sentences, orders, or directions under this Act shall cease to be operative or to have force after the expiry of this Act and all fines and portions thereof not recovered when this Act ceases to have force shall not be recovered ".	Mr. G. S. Gangoli.
Clause 27	..	Delete	Mr. J. B. Petit.
Clause 27, Sub-clause (1).	Sub-	Between the second and the third lines insert the words " excepting illness ".	Mr. G. S. Gangoli.
Do.	..	Omit the words beginning with " or behaves " and ending with " disorderly manner ".	Mr. A. N. Surve.
Do.	..	Omit the words " for such period as it may think fit " in the last two lines.	Dr. M. K. Dixit.
Clause 27, Sub-clause (3).	Sub-	Omit all the words following the word " court ".	Mr. A. N. Surve.
Do.	..	Omit the third and fourth words in the last line.	Mr. G. S. Gangoli.
Clause 28	..	Omit	Dr. M. K. Dixit.
Do.	..	Omit the words " or cannot be found " in line six and all the words in the last three lines beginning from words " and the court " and ending with the word " accused ".	Rao Bahadur R. S. Anavale.
Do.	..	In line 7, after the words " the Court " omit the words " is of opinion " and substitute the words " finds on evidence ".	*Mr. L. R. Gokhale.
Do.	..	Substitute the words " in the interests of " in the last line by the word " by ".	Mr. G. S. Gangoli.
Do.	..	In line 9 for the words " in the interests of " substitute the word " by ".	Mr. J. G. More.
Clause 29	..	In clause 29, line 4, substitute the words " overridden by " in place of " inconsistent with " in the same line.	Rao Bahadur R. R. Kale.
Clause 30	..	Delete	Mr. J. B. Petit.
Do.	..	Delete	Mr. J. G. More.
Do.	..	Omit	*Mr. V. N. Jog.
Do.	..	After the word " done " add the following words " in good faith, the burden of proving which shall rest on him ".	Mr. A. N. Surve.

Clause.	Amendments.	Name of mover.
Clause 30	.. At the end add the following :— “ For every conviction under this Act, an appeal shall lie from an order of the District Magistrate or any other subordinate magistrate to the District and Sessions Judge, and in every other case to the High Court.”	*Mr. L. R. Gokhale.
Do.	.. Add the following at the end :— “ Provided that an appeal shall also lie in each case to the Local Government.”	Mr. G. S. Gangoli.
Do.	.. Add a new proviso to clause 30 :— “ Provided that the proceeding or order mentioned in the section can be called in question by a magistrate trying a case under this Act or by the Superior Courts in their Appellate or Revisional jurisdiction.”	Rao Bahadur R. R. Kale.
Clause 31	.. Add at the end the following clause :— “ But if a prosecution is commenced against him under any other law, then the proceedings against him under this Act shall be terminated and if he is already convicted under this Act then such conviction shall be set aside.”	Mr. A. N. Surve.
Do.	.. Add the following at the end :— “ if he is not punished under this Act.”	Mr. G. S. Gangoli.
Do.	.. Add at the end “ if he is not prosecuted under this Act ”.	Mr. J. G. More.
Do.	.. At the end add the following proviso :— “ Provided that no action has been taken under the provisions of this Act.”	*Mr. L. R. Gokhale.
Clause 32	.. Omit	Rao Bahadur R. R. Kale.
Do.	.. Omit	Mr. V. N. Jog.
Do.	.. Delete	*Mr. L. R. Gokhale.

Tuesday, the 22nd November 1932.

The Council met at the Council Hall, Bombay, on Tuesday, the 22nd November 1932, at 2 p.m., the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ADVANI, Mr. P. B.
 ALLAHBAKSH, Khan Bahadur
 AMINUDDIN, Mr. SAIYID
 ANGADI, Rao Bahadur S. N.
 ARBUTHNOT, Mr. C. W. E.
 ASAVALE, Rao Bahadur R. S.
 BAKHALE, Mr. R. R.
 BALOCH, Mr. HAJI MIR MAHOMED
 BANGI, Mr. A. K. J.
 BHURGRI, Mr. J. W.
 BIRADAR, Sardar MAHABOOBALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CHIKODI, Mr. P. R.
 CHITALE, Rao Bahadur G. K.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Saheb B. G.
 DHALUMAL LILARAM, Mr.
 DHURANDHAR, Mr. J. R.
 DIXIT, Dr. M. K.
 D'SOUZA, Dr. J. ALBAN
 GANGOLI, Mr. G. S.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 GREAVES, Mr. J. B.
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.
 HUMPHREY, Mr. JOHN
 JITEKAR, Mr. HAJI IBRAHIM
 JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.

KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHURRO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIYUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHAIKH ABDUL MAJID, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dr. P. G.
 SPENCE, Sir REGINALD
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SYED MIRAN MAHOMED SHAH
 SYED MUNAWAR, Mr.
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.
 VAISHAMPAYAN, Dr. V. G.

VAKIL, Mr. PESTANSHAH N.

VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR

VANDEKAR, Rao Bahadur R. V.

WADKE, Mr. B. P.

WINTERBOTHAM, Mr. G. L.

NEW MEMBERS SWORN.

The following members made the prescribed oath or affirmation of allegiance to His Majesty the King-Emperor, and took their seats in the Council :—

1. Mr. V. F. Taraporewala, Bar-at-Law.
2. Mr. C. W. E. Arbuthnot, C.I.E.
3. Mr. F. O. J. Roose,
4. Mr. A. Master, C.I.E., I.C.S.
5. Mr. J. R. Dhurandhar, LL.B.
6. Mr. J. F. Gennings, Bar-at-Law.
7. Mr. A. E. Servai, M.A., I.S.O.
8. Mr. J. P. Brander, I.C.S.
9. Mr. R. M. Maxwell, C.I.E., I.C.S.
10. Mr. H. V. Hampton, M.A.
11. Nawab Shah Rook Shah Yar Jung Bahadur.
12. Mr. J. B. Greaves.

NOMINATION OF CHAIRMEN OF COUNCIL.

The Honourable the PRESIDENT: Order, order. I have now to announce the panel of Chairmen for the session. I nominate the following honourable members :—

1. Mr. P. R. Chikodi,
2. Khan Bahadur A. E. Patel,
3. Mr. S. H. Prater,
4. Reverend R. S. Modak.

GOVERNOR-GENERAL'S ASSENT TO ACTS.

The Honourable the PRESIDENT: The following Acts have received the assent of His Excellency the Governor-General since the close of the last session :

- (1) An Act to provide for the better regulation and control of transactions in cotton in Bombay.
- (2) An Act further to amend the Bombay Local Boards Act, 1923.
- (3) An Act to amend the Bombay Finance Act, 1932.
- (4) An Act further to amend the Bombay Municipal Boroughs Act, 1925.
- (5) An Act further to amend the City of Bombay Municipal Act, 1888.
- (6) An Act further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay.
- (7) An Act to amend the Bombay Borstal Schools Act, 1929.

- (8) An Act further to amend the City of Bombay Municipal Act, 1888.
- (9) An Act further to amend the Bombay Hereditary Offices Act, 1874.
- (10) An Act further to amend the City of Bombay Municipal Act, 1888.

**LETTER OF ACKNOWLEDGMENT FROM SHRIMANT
M. R. SARDESAI.**

The Honourable the PRESIDENT: I have now to read for the information of the House a letter received in reply to the message of condolence that was sent to the family of the late Sardar S. A. Sardesai. It runs thus:

“ From Bijapur, 31st October 1932.

Shrimant M. R. Sardesai of *Amarawati*, Bijapur.

To

The Secretary
to the Legislative Council of the Governor of Bombay.

Sir,

Shrimant Kenchangouda *alias* Babasaheb, adopted son of late Sardar S. A. Sardesai and myself express our gratitude to the Council for the message of sympathy so kindly conveyed to us through the Secretary.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) M. R. SARDESAI

of *Amarawati*.”

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT: Now, the order of the day is that His Excellency arrives at 2-30 p.m. and we may presume that he addresses the Council for about half an hour or more; after that the House will adjourn and His Excellency will depart. After that, the Honourable the Home Member will introduce his Bill and the Council may adjourn for tea at the usual hour. --

In the meanwhile, there is a Question List. I can take it up for about ten minutes just now, if the House so desires, and take up the rest of it later, before the Honourable the Home Member introduces his Bill.

STARRED QUESTIONS AND ANSWERS.

MUNICIPALITIES: CONSTITUTION AS LOCAL AUTHORITIES.

* Rao Bahadur R. S. ASVALE (Bombay City North): Will the Honourable Minister for Education be pleased to state the reasons why the Municipalities were constituted Local Authorities under the Bombay Primary Education Act?

The Honourable Dewan Bahadur S. T. KAMBLI: The object was to enable municipalities which desire and are fit to manage their own schools to do so.

POLITICAL PRISONERS: REMOVAL TO, ANDAMANS.

*Mr. R. R. BAKHALE: Will the Honourable the Home and General Member be pleased to state whether Government propose to send any of the political prisoners to the Andamans? If so, when, and what is their number and what are their names?

The Honourable Mr. W. F. HUDSON: No.

C CLASS PRISONERS: CLOTHING.

*Mr. R. R. BAKHALE: Will the Honourable the Home and General Member be pleased to state—

(a) what articles of clothing are supplied to the C class prisoners for wearing and for bedding;

(b) how many times a month these articles are changed?

The Honourable Mr. W. F. HUDSON: (a) The attention of the Honourable Member is invited to rule 887 of the Bombay Jail Manual, Part I.

(b) Two sets of clothing are issued to each prisoner to be worn alternatively. A prisoner can change from one set to the other as often as he likes and must wash them at least once a week. Additional blankets are given on medical grounds as required. Blankets are washed when necessary.

POLITICAL PRISONERS: REMOVAL FROM SABARMATI TO
NASIK JAIL.

*Mr. R. R. BAKHALE: Will the Honourable the Home and General Member be pleased to state—

(a) whether it is a fact that towards the end of June last about a hundred C class political prisoners were removed from Sabarmati to the Nasik jail;

(b) whether it is a fact that some of them were beaten and some had their hands chained for a month and that consequently great excitement prevailed among the B class prisoners as a result of which Messrs. S. A. Brelvi and Jamnadas Dwarkadas were removed from Nasik to other jails?

The Honourable Mr. W. F. HUDSON: (a) Yes.

(b) No.

Mr. R. R. BAKHALE: May I know why Messrs. Brelvi and Jamnadas Dwarkadas were removed from the Nasik Jail to other jails?

The Honourable Mr. W. F. HUDSON: I want notice of that. The question asked is whether they were transferred for a certain reason. The answer is in the negative, but if the honourable member wants to know the reason and if he will put a separate question, I will find out why they were transferred.

✓ INTRODUCTION OF TENANCY BILL.

* Rao Bahadur S. K. BOLE: Will the Honourable the Revenue and Finance Member be pleased to state when Government intend to introduce a Tenancy Bill for the protection of cultivators tilling the land in the Khoti villages of the Ratnagiri and Kolaba districts?

The Honourable Sir GHULAM HUSSAIN: In view of impending constitutional changes Government have decided to postpone tenancy legislation for the present. They consider that it would be more appropriate and effective if it is undertaken by a Minister with a mandate from the agricultural constituencies.

Mr. R. R. BAKHALE: In view of the reply given by the Honourable the Leader of the House, may I know whether Government would consider the possibility of postponing other legislative measures——

The Honourable the PRESIDENT: That does not arise. ✓

PAYMENT OF CASH ALLOWANCES TO TEMPLES IN THE KANARA DISTRICT.

* Mr. G. S. GANGOLI (Kanara District): With reference to my question regarding temple committees in the Kanara District will the Honourable the Revenue and Finance Member be pleased to state——

(a) whether the yearly cash allowances are regularly paid to the temples in the Kanara District;

(b) if not, whether their payment is withheld in the case of any temples and, if so, on what grounds;

(c) whether it is a fact that Government refuse to pay the arrears of cash allowances of over six years;

(d) whether it is a fact that after a period of twelve years the amount of such arrears lapses to Government;

(e) if so, what is the total amount of the arrears so lapsed to Government during the course of the last thirty years;

(f) whether it is a fact that the Temple Committee of Ankola and Kumta deducts nine pies in every rupee of cash allowance payable by Government; if so under what authority?

The Honourable Sir GHULAM HUSSAIN: (a) Yes, subject to the rules under the Pensions Act, and except in the cases mentioned in the reply to clause (b).

(b) The payment is withheld in the case of four temples, pending enquiry in connection with the appropriation of the temple premises for the furtherance of the civil disobedience movement.

(c) Yes, in accordance with rules 12 and 14 of the Rules under the Pensions Act.

(d) Yes.

(e) The trouble involved in collecting the information over a long period of thirty years would be out of proportion to its value from the point of view of the public. The amount that has lapsed to Government during the last ten years is Rs. 5,065.

(f) Yes, in accordance with a resolution passed by the Hindu Temple Committee for Kumta and Ankola talukas in April 1924.

Mr. G. S. GANGOLI: May I know whether the Pensions Act applies to such charges?

The Honourable Sir GHULAM HUSSAIN: The reply is already there.

Mr. G. S. GANGOLI: When was it made applicable?

The Honourable Sir GHULAM HUSSAIN: I want notice of that.

Dr. M. K. DIXIT: Are cash allowances in the nature of pensions and are they covered by the Pensions Act?

The Honourable Sir GHULAM HUSSAIN: That Act is applicable to them.

Mr. G. S. GANGOLI: If some of the worshippers do not behave well in the eyes of Government, is that a sufficient reason for Government to withhold payment of these cash allowances?

The Honourable Sir GHULAM HUSSAIN: If those who are connected with the temple do not behave well, Government have the right to stop payment.

Mr. G. S. GANGOLI: Cannot Government suspend those people and appoint others?

The Honourable Sir GHULAM HUSSAIN: That would give rise to many complications, because it is so difficult to remove those who are in charge, against the wishes of the community.

Mr. G. S. GANGOLI: Is the worship of the idol to be stopped then?

The Honourable Sir GHULAM HUSSAIN: No, not at all.

Mr. G. S. GANGOLI: How is it to be carried on if the amount is withheld?

The Honourable Sir GHULAM HUSSAIN: They should not then employ such objectionable people there.

Mr. G. S. GANGOLI: But the idols are not parties to such a movement.

The Honourable Sir GHULAM HUSSAIN: The people are.

Rao Bahadur R. R. KALE: Cannot Government take steps to remove the trustees under the law?

The Honourable Sir GHULAM HUSSAIN: I believe Government cannot do so against the wishes of the community.

Rao Bahadur R. R. KALE: Under the provisions of the Civil Procedure Code, I think it is open to Government to do so.

The Honourable Sir GHULAM HUSSAIN: I should like to have notice of that.

RECOVERY OF LAND REVENUE: USE OF COERCIVE MEASURES.

*Mr. G. S. GANGOLI (Kanara District): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) the number of cases in which coercive measures were taken to recover the land revenue in the Siddapur Taluka in the year 1932;

(b) the number of attachments of moveable property;

- (c) the number of forfeitures of land;
- (d) the number of sales of immoveable property;
- (e) the number of evictions from houses or of closing of houses for realising land revenue;
- (f) the number of cases in which cattle were attached?

The Honourable Sir GHULAM HUSSAIN : (a) 1,252.

- (b) 425.
- (c) 242.
- (d) 178.
- (e) None.
- (f) 48.

Mr. G. S. GANGOLI : From what date was the information collected ?

The Honourable Sir GHULAM HUSSAIN : I do not carry such details in my head. If the honourable member will give me notice, I will find out.

RECOVERY OF LAND REVENUE : DIGGING OF HOUSES AND ATTACHMENT OF PROPERTY.

*Mr. G. S. GANGOLI (Kanara District) : Will the Honourable the Revenue and Finance Member be pleased to state—

- (a) the number of instances in which houses or other places were dug out to find out cases of alleged hiding of moveables in recovering land revenue in the taluka of Siddapur;
- (b) the number of such instances in which the houses of Khatedars were dug by officers;
- (c) the number of houses belonging to the tenants of such Khatedars which were dug;
- (d) whether such digging was authorised by the higher officials or whether it was done unauthorisedly by the subordinate officers;
- (e) the number of cases in which the ploughing cattle or oxen used for agricultural purposes were attached;
- (f) the number of cases in which agricultural implements or copper pots required for boiling supari were attached?

The Honourable Sir GHULAM HUSSAIN : (a) 6.

- (b) 5.
- (c) Nil.
- (d) No such authority is required. The course adopted was within the discretion of the distraining officers.
- (e) Nil.
- (f) Nil.

Mr. G. S. GANGOLI : With reference to answer to (d), may I know whether the houses can be dug up by officers in the manner referred to in the question ?

The Honourable Sir GHULAM HUSSAIN : The officers have every right to dig up a house if they have reason to believe that moveable property is hidden in it.

Mr. G. S. GANGOLI : From what date is the information collected ?

The Honourable Sir GHULAM HUSSAIN: The honourable member can imagine that I cannot carry all these dates in my head.

RECOVERY OF ASSESSMENT IN KANARA DISTRICT: ATTACHMENT AND SALE OF FOOD-STUFFS AND CATTLE AND DIGGING OF HOUSES.

*Mr. G. S. GANGOLI (Kanara District): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether it is a fact that one Manjnath Subbayya Vajgod of the village of Keremane in the taluka of Siddapur in Kanara had to pay an assessment of annas five and pies ten only in the village of Keremane;

(b) whether he punctually paid it on 18th February 1932;

(c) whether he is the tenant of certain landholders residing in distant villages;

(d) whether it is a fact that his house was dug at several places to realise the assessment due from the landlords;

(e) if so, under what rules and under whose authority;

(f) whether it is a fact that on another occasion, his food-stuffs stored for the monsoons and his cattle were attached;

(g) if so, the approximate price, description and quantity of the attached property;

(h) whether its value was above Rs. 120 and whether it was sold for Rs. 29-11-0 on 18th July 1932;

(i) whether it is a fact that the village is situated in a jungle;

(j) whether it was ever visited by any gazetted officer; if so, by whom and when;

(k) whether Government are aware that there is a practice in that village of storing food-stuffs for use during the monsoons?

The Honourable Sir GHULAM HUSSAIN: (a) Yes, for the year 1931-32.

(b) Yes.

(c) Yes, a Mulgeni tenant.

(d) No.

(e) Does not arise in view of the reply to clause (d) above.

(f) 4½ khandis of cleaned rice, 6 khandis of paddy and 2 cows were attached for the realisation of land revenue due from his landlord (*vide* section 136, Land Revenue Code, which makes the tenant also responsible for the land revenue dues). It cannot be definitely said whether rice and paddy were stored for the monsoon.

(g) The particulars of the attached property are as follows:—

Description.	Quantity etc. of the property.	Approximate price.	
		Rs.	a. p.
Cleaned rice	.. 4½ khandis	.. 13	8 0
Paddy	.. 6 khandis	.. 6	0 0
2 cows	.. ....	.. 10	0 0
			29 8 0

Its value as estimated by the Panch was Rs. 29-8-0 and it was sold for Rs. 29-11-0.

(i) Yes.

(j) The village was visited by the Mamlatdar on 26th October 1931.

(k) There was such a practice, but this year it was not adhered to with a view to evade payment of land revenue dues. The practice followed this year was to deposit grain in the houses of people who had paid their dues.

Mr. G. S. GANGOLI : In view of the reply to (b), may I know whether, although the man had paid the assessment due punctually on the 18th February 1932, he was treated by Government officers in the manner referred to in the question ?

The Honourable Sir GHULAM HUSSAIN : Perhaps somebody has handed over the question to my honourable friend and he has sent it on to Government. He is mixing up (b) and (c). It seems to me the man in question has two capacities, as a holder of land and as a tenant. I do not know which he refers to.

Mr. G. S. GANGOLI : My first question was whether the house was dug up ; my subsequent question was whether there was an attachment of his moveables. The answer is " Yes". So, my supplementary question is whether the man having paid in time, he is to be treated by Government in the manner mentioned in the question.

The Honourable Sir GHULAM HUSSAIN : Is the honourable member sure that the man did not have two capacities, as a tenant and as a zamindar ? Two different capacities.

Mr. G. S. GANGOLI : Yes.

The Honourable Sir GHULAM HUSSAIN : Then they are two different questions.

Mr. G. S. GANGOLI : Does the Honourable the Leader of the House believe that the worth of two cows is only Rs. 10 ?

The Honourable Sir GHULAM HUSSAIN : It is the money realised there by auction. If people do not come forward to pay a higher price, Government are not to blame.

The Honourable the PRESIDENT : The House will now adjourn to receive His Excellency.

(The House re-assembled at 2-30 p.m.)

The Honourable the PRESIDENT : Order, order. His Excellency will be pleased to address the House.

ADDRESS BY HIS EXCELLENCY THE GOVERNOR TO THE MEMBERS OF THE LEGISLATIVE COUNCIL.

Rising to address the Council, His Excellency said :

Mr. President and Gentlemen, let me begin by assuring you that it is with the greatest regret and only under the pressure of necessity that we have called upon you to come together for another session so soon after your long and arduous labours in Poona. I am sure, however, that you will all agree with me that the question we have met to discuss is

one of paramount importance, on the successful handling of which with wise judgment the whole future of this Presidency may depend. We fully sympathise with the inconvenience caused to you by having to come to Bombay at this season of the year. I can only assure you, however, that it is fully as inconvenient for my Government and the Secretariat, for, as you know, this is the time at which the preparation of the Budget demands the whole of their energies. For that reason we have been unable to include any days for private business in this session, for the Secretaries have all necessarily to be fully engaged upon their Budget work and it will not be possible to nominate them as members of the Council during this session, and I am sure you will recognise that without their presence it would be difficult for private business to be satisfactorily dealt with.

In the month of February last, at the beginning of the Budget Session of this Council, I described the circumstances which forced the Government of India to meet the challenge thrown out by the leaders of a movement professedly aimed at the subversion of Government by the promulgation of the ordinances, and appealed to the people of this Presidency through their representatives in this honourable House to co-operate with Government in the measures which were to be taken to combat the movement. I then fully explained the circumstances which had brought about the crisis, but now, after the subversive movement has persisted without cessation since May 1930, except for the period of the Delhi Pact, it again falls to me to recall the main events of the civil disobedience campaign and to show that, successful though the action taken under the ordinances has been in restoring order throughout the Presidency and in enabling the great majority of our people to pursue in peace and quietness their ordinary avocations, the challenge thrown out by the Congress still persists and the state of affairs is still such as to call for sustained and vigorous effort, and that for this effort it is essential for Government to remain in continued possession of most of the special powers provided by the Ordinance now in force.

The events to which I referred in my speech of February last, the tragedies of Malegaon, Viramgam and Ahmedabad, the deplorable campaign of arson and murder instigated by the agents of Congress in Sholapur, the scenes at the time when large areas of Bombay were given over to mob rule for days together, were a clear indication of the position with which Government were faced and show why it was necessary to take extraordinary powers to cope with a form of attack with which the ordinary law of the land was never designed to deal and for the suppression of which it had proved to be inadequate.

It had been hoped that once the Delhi Pact had been signed civil disobedience would not again be resorted to, but it was soon evident that the Pact was not regarded by a large part of Congress as anything more than a breathing space. Within three days after it had been signed, Mr. Vallabhbhai Patel at a meeting held in Bombay told his audience that they should sheathe their weapons for a couple of months and that they should see that they were not rusted. A few days later, Pandit Jawaharlal Nehru at another meeting also in Bombay reminded

his hearers that the Pact did not mean a final peace and that "people should keep up the war mentality in the country so that in case of another fight they would be in a position to fight more vigorously". Then later, at the very time when Mr. Gandhi, who had proceeded to London to take part in the Round Table Conference with the other representatives of India, was sitting in conference with representatives of the British Parliament engaged in an endeavour to find a basis for the new Constitution, some of the most prominent of his professed adherents in India were actively engaged in organising intensive and dangerous movements directed against the stability of Government and their preparations had reached a stage at which orderly Government was seriously menaced.

Government were thus forced to realise that Congress merely regarded the Pact as a period of recuperation and preparation for a renewal of civil disobedience, and had in consequence to equip themselves with weapons adapted to deal with a movement with which, as I have said, the ordinary law was never meant to cope.

This they did by the issue of the Ordinances which were brought into force in January 1932, and when these Ordinances were about to expire at the end of June and it was clear that the position in the country was such that the weapons with which civil disobedience was being fought could not yet be discarded, the first series of Ordinances were replaced by a new consolidated Ordinance the local application of which was, however, determined by the circumstances actually prevailing in each area. The results of the working of these Ordinances are known to you all. By their means Government have been enabled to restore peace virtually throughout the Presidency, and the wild and disgraceful scenes which rendered the name of the City of Bombay a reproach throughout India and which made Gujarat a byword for disorder have ceased. Government have been enabled to collect their revenues, to put an end to the intolerable practice of social boycott and in short to restore that peaceful and orderly Government which is so earnestly desired by the great bulk of the inhabitants of this Presidency.

The consolidated Ordinance known as Ordinance No. X of 1932 will expire on the 29th December next and the question as to what will be the position at that time has arisen. In answer to that question Government have decided that the time has not yet come when the Presidency can afford to dispense with the special powers which have enabled the civil disobedience movement to be kept in check, and that, as it would be undesirable to continue to rely upon the promulgation of Ordinances for these powers, they should now be taken by legislation. They have, therefore, come before this House with a Bill to provide the powers which in the opinion of Government will be required.

Two forms of argument are commonly advanced against the necessity for the continuance of Special Powers. On the one hand it is urged that the fact that such powers are still necessary shows that the Ordinances have failed of their purpose. But no one contends that the ordinary Criminal Law should be repealed because in spite of its existence crimes are still committed. Secondly, it is sometimes urged that the Ordinances have produced the desired effect, that the civil disobedience movement

is broken, and that the general position is such that the emergency powers are no longer necessary. I wish I could believe that this were so, but the facts are too strong. The Congress challenge has undoubtedly been met, a large degree of peace and order restored, but, even so, it is quite clear that the civil disobedience movement, though held in check, has not yet been abandoned, and that any relaxation in the pressure maintained upon it will lead inevitably to a revival of its activities. Outward manifestations of Congress activity still continue, especially in Bombay City, a no-tax campaign is still in progress in the Kanara District, and although for the present the situation in Gujarat is under control, there can be little doubt that this is due largely to the possession by Government of the powers conferred by the Ordinance. And although this Presidency has been fortunate enough to escape the wave of terrorist crime which has spread throughout Bengal, a few weeks ago an attempt was made on the life of the Sub-Divisional Magistrate of Kolaba by an armed assassin. I would also refer to the communal riots which have recently wrought such havoc in Bombay City. I do not contend that they were the deliberate work of Congress, but I think there is no doubt that they were very largely the direct result of the policy of boycott by which Congress was seeking to enforce its wishes.

I am, therefore, convinced that quite apart from the fact that it is obvious to me that it will be necessary for Government to have these special powers in reserve during the whole of the coming period of constitutional transition, the present political situation in the Presidency is alone sufficient justification for their continued existence. The Bill, which is to be laid before you, has in consequence been brought forward to confer upon Government the special powers which experience has shown to be required, and in doing so Government can fairly claim to be meeting a demand that has often been made to the effect that if emergency powers are required they should be obtained by legislation. As this House is aware, the Government of India are engaged in securing in the Legislative Assembly the strengthening of the general law by the inclusion of a considerable number of the provisions of the new consolidated Ordinance, and the Bill which will presently be presented for your consideration is designed to provide such supplementary powers as the Government of Bombay consider absolutely essential in the special circumstances of this Presidency at this juncture.

Gentlemen, I think I have said enough to prove that the continued possession by Government of the powers sought is entirely justified by the political situation in this Presidency, and I now wish to lay great stress upon the other aspect of the case to which I have just briefly referred. I have endeavoured to show that the measure to be laid before you is essential for the purpose of bringing to an end the present civil disobedience movement, but I now wish to emphasise that the powers it will provide are also essential to act as a safeguard against the revival of any similar activities in the near future. Civil disobedience means, whatever may be said to the contrary, the application of coercion to politics, and we must take steps to ensure that this doctrine of direct action preached by the Congress leaders is effectively prevented from

application in future. We are closely approaching the time when a new constitution will come into operation, and with the prospect of the early inauguration of this constitution the maintenance of orderly progress against disruptive forces is of paramount importance. It is our duty, therefore, to do all that lies in our power to hand over to our successors a legacy of sound administration as a firm foundation for the new constitution. Unless this is done and unless the Government which will be formed under the new regime possesses the powers which experience has shown to be essential for coping with such movements as civil disobedience, it will have no chance of survival and the doctrine that Government should be based upon argument and reason and on the wishes of the people as constitutionally expressed, will be forced to give way in favour of that of the Congress, the chief weapon of which is not persuasion but pure coercion as is shown by the history of the last two years in Bombay City, and in fact throughout this Presidency.

I do not wish to touch upon the details of the Bill—it will be the task of my Honourable Colleague the Home Member to explain its provisions to the House; but I do wish to urge Members to remember that the policy of Congress has been solely responsible for the promulgation of the various Ordinances and for the necessity which we now find for legislation to secure the continuance of the special emergency powers. I would ask Members to remember that the working of the Ordinances over an extended period has given rise to singularly little in the way of serious complaint, that all indications point to the conclusion that the powers conferred by them, which, in a more limited form, it is now sought to continue, have been reasonably and wisely administered, and I would state that I consider myself justified in calling for your support in the passing of this Bill. I earnestly hope, and I am sure every Member of this House will echo the hope, that all occasion for the use of these emergency powers will soon pass away and will never recur. But in so far as their use remains or becomes necessary, they will not be a weapon forged for the irresponsible use of the executive but one designed to bring the present struggle to an end and to provide the Government which will come into being as a result of the forthcoming constitutional changes with powers which will clearly be essential if this new Government is to function with any chance of success.

The four years of my office which have passed in this Presidency have been ones of intense political activity, but I have, generally speaking, had much help and support from Honourable Members of this House. It is for this reason that I have spoken most frankly to-day, as I feel that, in view of the gravity of the situation, you and those who read my words would rightly wish that I should fully explain the principles which I and my Colleagues have in mind, and ask you, as the acknowledged leaders of the people in the political sphere, to share with my Government the responsibility for crushing the subversive activities of Congress and maintaining law and order. I believe, moreover, that with a full realisation of the position you will again co-operate with us and afford us your support in action which we sincerely hold will be in the best interests of the great bulk of the people we are endeavouring to serve. [*Applause.*]

STARRED QUESTIONS AND ANSWERS—(contd.)

LOCAL BODIES IN SIND AND PRESIDENCY : ENGINEERS.

*Mr. GOVER RORA (Karachi City): Will the Honourable Minister for Local Self-Government be pleased to state—

(1) whether Government have issued orders to district local boards to employ qualified engineers for official supervision of works and, if so, whether they will please place a copy of those orders on the Council table ;

(2) whether they have issued orders to the Commissioner in Sind, while reviewing the reports of the administration of local boards, that he should compel district local boards in Sind to employ engineers and that in case of non-compliance the Government grant for road maintenance and constructions should be withheld from such local boards as do not employ engineers for execution of works ;

(3) the names of district local boards in Sind and in the Presidency which have not yet complied with Government orders in this matter and what action Government propose to take thereon ;

(4) whether Government grant to any district local board has so far been withheld for non-compliance ;

(5) the names of district local boards which have

(i) employed two officers, namely, chief officer and Engineer separately ;

(ii) employed only one officer, namely, a qualified engineer to perform the duties of the engineer and chief officer ;

(6) whether Government have held that it is necessary to employ two officers for efficient discharge of duties ;

(7) if the reply to (6) is in the negative, what steps, if any, Government propose to take in the case of boards employing two officers ;

(8) whether it is a fact that Government have issued a resolution or order that if any district local board desires to employ a single officer only that officer should have engineering qualifications ;

(9) if so, whether Government will be pleased to place a copy of that resolution or order on the Council table ?

The Honourable Sardar Sir RUSTOM J. VAKIL : (1) In their Resolutions reviewing the Annual Reports on the Administration of Local Boards in the Bombay Presidency, including Sind, for the years 1925-26 and 1928-29, Government have impressed on the Local Boards the necessity of appointing qualified Engineers.

(2) No. Attention is invited to the last sub-paragraph of paragraph 16 of Government Resolution No. P-52, dated the 30th September 1930, where the Commissioner in Sind was requested merely to *advise* all the District Local Boards in his charge to engage qualified engineers and to inform them that if the state of affairs continued without improvement, Government would have to consider the question of withholding or cutting down the grants given to them for local public works.

(3) The question does not arise since advice does not amount to an order.

(4) No.

(5) (a) The following District Local Boards have employed two separate officers, as Engineer and Chief Officer :—

In Sind—Karachi and Thar Parkar.

In the Northern Division—Kaira, Surat and Thana.

In the Central Division—All the Boards.

In the Southern Division—All except Kanara.

(b) The following District Local Boards have employed one officer both as Chief Officer and Engineer :—

In Sind—Sukkur, Larkana and Nawabshah.

(6) No.

(7) No exceptional steps.

(8) and (9) Government have not issued such a resolution or order.

Mr. S. S. TOLANI : Will Government be pleased to order that every district local board should have a qualified engineer ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : It has been suggested that it will be in the best interests of the local board themselves, if they appoint qualified engineers. At present Government consider that this advice will be acted upon by the local boards which can afford to employ qualified engineers. If Government find that their advice has not been taken seriously by the local boards, then they will be prepared to reconsider the position and see what steps they should take in order that their advice is given effect to.

Mr. S. S. TOLANI : I want to know whether Government propose to issue order ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : Not at present.

SYED MIRAN MAHOMED SHAH : Is it an advice given to all the district local boards ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : To all.

SYED MIRAN MAHOMED SHAH : Is the advice given by Government applicable to certain local boards and not to others ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : No.

SYED MIRAN MAHOMED SHAH : In the case of the Karachi district local board, it was forced to employ a qualified engineer and the grant was withheld till then ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : The Karachi local board is an important one and it must have a qualified engineer.

SYED MIRAN MAHOMED SHAH : I wish to remind him of that and ask him whether it was not a fact that the advice was insisted upon in certain cases and in others not.

The Honourable Sirdar Sir RUSTOM J. VAKIL : It is an important board and a qualified engineer was absolutely necessary there.

SYED MIRAN MAHOMED SHAH : What is the advice tendered by Government to those local boards which cannot afford to employ qualified engineers on high salary in view of financial stringency ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : If the district local board can afford to have two officers, a chief officer and a qualified

engineer, they can do so. If the district local board cannot employ two officers on a high salary, a chief officer and a qualified engineer, then one chief officer may be appointed who is preferably a qualified engineer.

**PESHWA DAFTAR : PREPARATION OF HANDBOOK : ASSISTANCE
OF THE BHARAT ITIHAS SANSHODHAK MANDAL.**

*Rao Saheb P. D. KULKARNI (Poona District): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether it is a fact that on the 27th December 1921 Mr. Rogers, the then City Magistrate of Poona, had called Prof. D. V. Potdar and Sardar G. N. Mujumdar, the then Honorary Secretaries of the Bharat Itihas Sanshodhak Mandal, for interview ;

(b) whether that interview was in connection with the recommendation contained in the resolutions of the Indian Historical Records Commission ? If not, what the purpose of the interview was ;

(c) whether it is a fact that Prof. Potdar and Sardar Mujumdar gave to Mr. Rogers a written undertaking that they would undertake gratis the work of preparing a handbook of the Peshwa Daftar ;

(d) if so, why the said undertaking was not availed of by Government ;

(e) why the said Mandal was not consulted and its help and co-operation availed of when the work of the Peshwa Daftar was again taken up in hand by Government ?

The Honourable Sir GHULAM HUSSAIN : (a), (b) and (c) Yes. The statements are believed to be approximately correct.

(d) An offer from the late Rao Bahadur D. B. Parasnis, who was better qualified than any other living person to prepare a handbook, had previously been received and provisionally accepted by Government. Rao Bahadur Parasnis, after some preliminary work on the Daftar, found the volume so enormous that he submitted proposals for the entertainment of a special staff for the purpose—a suggestion which was eventually adopted by Government.

(e) Suggestions in connection with the work made by the Mandal from time to time have always been given careful consideration by Government.

Rao Saheb P. D. KULKARNI : With regard to replies to (c) and (d), may I know the reason why Government engaged a special staff giving them remuneration, when the honorary secretaries of the Mandal gave an undertaking that they would prepare the handbook with the help of their own staff without taking any remuneration at all ?

The Honourable Sir GHULAM HUSSAIN : Because they cannot be allowed to have access to every document, unless it is examined by Government.

Rao Saheb P. D. KULKARNI : Has the work of the handbook already been taken in hand by Government ?

The Honourable Sir GHULAM HUSSAIN : It is printed already.

Rao Saheb P. D. KULKARNI : What portion of it is complete ?

The Honourable Sir GHULAM HUSSAIN: Thirty volumes have been printed.

Rao Saheb P. D. KULKARNI: Of the handbook?

The Honourable Sir GHULAM HUSSAIN: The handbook is in preparation.

Rao Saheb P. D. KULKARNI: I wish to know how much portion of it is complete?

The Honourable Sir GHULAM HUSSAIN: May be that the whole handbook has been completed but it has not been approved by Government.

Rao Saheb P. D. KULKARNI: When is it to be finally approved of by Government?

The Honourable Sir GHULAM HUSSAIN: I cannot say.

DISTRICT LOCAL BOARD, SHOLAPUR: BY-ELECTION: ADJOURNMENT
OF SCRUTINY OF VOTES BY MAMLATDAR.

*Mr. J. G. MORE (Sholapur District): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether the date and the hour of scrutiny of votes were fixed in the recent by-election of the district local board, Sholapur, in the Sangola taluka constituency which took place in the month of June 1932, as required by the Bombay Local Boards Act, 1923;

(b) whether it is a fact that the Mamlatdar of Sangola did not commence the scrutiny of votes at the appointed hour;

(c) if so, the reasons for his failure to do so;

(d) whether it was open to the Mamlatdar to hold the scrutiny at any time he liked;

(e) whether it is a fact that the Mamlatdar adjourned the scrutiny for some hours to favour the request of one of the candidates;

(f) if so, whether Government intend to make any enquiry in the matter?

The Honourable Sirdar Sir RUSTOM J. VAKIL: (a) The scrutiny of votes was fixed for the 22nd June 1932 during office hours, as required by the Election Rules.

(b) No. The time fixed by the Collector for scrutiny of votes was "during office hours" and the Mamlatdar commenced the scrutiny of votes on the day fixed at 3 p.m. in consultation with both the candidates.

(c) Does not arise.

(d) It was open to the Mamlatdar to fix the hour of scrutiny at any time during office hours.

(e) No.

(f) Does not arise.

Mr. J. G. MORE: May I know whether the date and hour fixed for the scrutiny of votes should be mentioned?

The Honourable Sirdar Sir RUSTOM J. VAKIL: Yes.

Mr. J. G. MORE : In the reply it is stated : " The time fixed by the Collector for the scrutiny of votes was ' during office hours ' and the mamlatdar commenced the scrutiny of votes on the day fixed at 3 p.m. in consultation with both the candidates." What is meant by during " office hours " ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : " During office hours " means 11 a.m. to 5 p.m.

Mr. J. G. MORE : Does the Honourable Minister mean that the time of the commencement of the scrutiny of votes is not communicated to the candidates themselves ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : The Collector merely notifies that the scrutiny will take place during office hours and the mamlatdar in the case of talukas fixes the hour. In this case, the mamlatdar fixed 3 o'clock.

Mr. J. G. MORE : After consulting the candidates ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : Yes.

Mr. J. G. MORE : On what date ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : On 22nd June.

Mr. J. G. MORE : Is it not necessary that the candidates should be informed few days before as to when the scrutiny of votes will commence ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : The Collector notifies that the scrutiny of votes will take place on a particular date during office hours. The local officer, the mamlatdar, in the case of the talukas consults the candidates and fixes the exact hours.

The Honourable the PRESIDENT : The question is whether the candidates were informed a few days before 22nd June that the scrutiny would take place on 22nd June ?

Mr. J. G. MORE : Is it a fact that the mamlatdar changed the hour of counting votes ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : I am not aware of it.

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN : Is it a fact that a candidate belonging to his party has been elected ?

Rao Saheb P. D. KULKARNI : Is the consent of the candidate taken in writing ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : It is not necessary. It is immaterial whether the consent is taken in writing or not.

Mr. J. G. MORE : May I know whether it is a fact that one of the candidates approached the mamlatdar and informed him that astrologically 3 o'clock would be favourable to him and not the time fixed ?

The Honourable the PRESIDENT : Next question.

**BOMBAY RIOTS: MURDER OF A HINDU BY MUHAMMADANS IN THE
BHANDARI STREET AND CROSS LANE.**

*Mr. N. N. PATIL (Kolaba District): Will the Honourable the Home and General Member be pleased to state—

(a) whether it is a fact that on the 15th May 1932, at about 3-30 p.m., one Rama Mahadoo was taken alive by force from the Brass Factory at Bhandari Street No. 22, Bombay, by the Muhammadans in the 2nd Bhandari Cross Lane opposite the Mosque, and was killed by them ;

(b) whether it is a fact that the permanent Muhammadan residents of the Bhandari Street and 2nd Bhandari Cross Lane were amongst the rioters at the time of the murder of this man ;

(c) if so, how many persons have been arrested from out of them and dealt with according to law ;

(d) the names and addresses of those persons and the punishment inflicted on them ?

The Honourable Mr. W. F. HUDSON : (a) The Brass Factory at Bhandari Street was broken into by Muhammadans on the 15th May 1932, and two Hindus were killed on that day in the locality. As neither of the dead bodies was identified and as Rama Mahadoo has not been seen or heard of since the 15th May 1932, it is believed that one of the two dead bodies was his.

(b) There is no evidence to this effect.

(c) None.

(d) Does not arise.

Mr. B. P. WADKE : May I know whether two Hindus were taken by force in the recent riots and were killed ?

The Honourable Mr. W. F. HUDSON : I have already replied that two Hindus were taken out of the Brass Factory by force and unfortunately killed. As neither of the dead bodies was identified and as Rama Mahadoo has disappeared since then, it is believed that one of the dead bodies was his.

Mr. B. P. WADKE : How long was the dead body kept in the hospital ?

The Honourable Mr. W. F. HUDSON : Probably a very short time in the month of May.

Mr. B. P. WADKE : Is the Honourable the Home Member aware that the situation was then so bad that people were afraid of coming out of their houses ?

The Honourable Mr. W. F. HUDSON : It is doubtless true.

Mr. B. P. WADKE : How could any relative of the deceased go to the hospital and attend to him ?

The Honourable Mr. W. F. HUDSON : I do not know.

Mr. B. P. WADKE : Then, the reply given is not correct.

The Honourable Mr. W. F. HUDSON : I only said that doubtless all possible enquiries were made.

Mr. B. P. WADKE : What sort of enquiry ?

The Honourable Mr. W. F. HUDSON : The usual enquiry.

TEACHING OF HISTORY IN GOVERNMENT HIGH SCHOOLS AND THE
ANGLO-URDU HIGH SCHOOL AT POONA.

*Rao Bahadur G. V. PRADHAN (Nasik District) : Will the Honourable the Minister for Education be pleased to state—

(a) whether it is a fact that in Government high schools history is taught in vernacular in the 6th standard in all the Marathi speaking districts ;

(b) whether it is a fact that in the Anglo-Urdu high school at Poona history is not being taught in Urdu, but in English ;

(c) if the answers to the above questions are in the affirmative, whether this differential treatment of history is due to the fact that the students in the Anglo-Urdu school, Poona, cannot easily follow lessons if taught in Urdu ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) No. The practice varies.

(b) Yes.

(c) Does not arise as the answer to (a) is in the negative. However, I may inform the honourable member that the boys at this school prefer to learn history through English mainly because no suitable Urdu translation of the prescribed text-book is available.

SALT AND EXCISE DEPARTMENT IN SIND : TRANSFERS OF MENIALS.

*Mr. SHAIKH ABDUL MAJID (Karachi District) : (a) How many transfers of (i) Jamadars, (ii) Dafedars, (iii) Naiks, (iv) Sowars and (v) Peons have taken place in the office of the Deputy Superintendent, Salt and Excise, in the Upper Sind since April 1930 ?

(b) The reasons for these transfers ?

(c) whether it is a fact that travelling allowances were given to some of the persons and refused to others ? If so, what are the reasons for refusing them in some cases ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) The number of transfers of menials effected since April 1930 to April 1932 is as shown below :—

					Number.
(i) Jamadars	..	..	..	..	Nil.
(ii) Dafedars	..	..	..	..	14
(iv) Sowars	..	..	..	..	30
(v) Peons	..	..	..	..	20

(b) At the menials' own request; in leave vacancies; or otherwise in the public interest.

(c) Owing to financial stringency and the small distances to be travelled no travelling allowance was given to any one.

COMPLAINTS OF POLITICAL PRISONERS IN HYDERABAD
CENTRAL PRISON.

*Mr. S. S. TOLANI (Western Sind):—Will the Honourable the Home and General Member be pleased to state—

(a) whether the attention of the Government has been drawn to the constant complaints, appearing in Sind papers, of inhuman beating of political prisoners in the Hyderabad Central Prison;

(b) whether it is a fact that many complaints were made personally to the District Magistrate and to other jail visitors by the prisoners themselves;

(c) what action has been taken by Government regarding these complaints;

(d) whether a record of these complaints has been maintained;

(e) if so, whether it will be placed on the Council table?

The Honourable Mr. W. F. HUDSON: (a) Yes.

(b) Only one such complaint was made to a Visitor of the jail.

(c) An enquiry was held and the complaint was found to be untrue.

(d) Yes.

(e) A copy is placed on the Council table.

CENTRAL PRISON, HYDERABAD (SIND).

*Extract from the Official Visitors' Book No. 14 for the week ending
Friday evening the 18th day of March 1932.*

Date.	Remarks by the Visitors.	Remarks by the Superintendent.
15-3-32	<p style="text-align: center;">* * *</p> <p>There was another complaint made about a boy having been beaten. This will of course be inquired into by the Superintendent.</p> <p style="text-align: right;">(Signed) UDHARAM, H. D. C.</p>	<p>No. 2503 of 1932 dated 19th March 1932.</p> <p style="text-align: center;">* * *</p> <p>The complaint about the boy being beaten was inquired into—it was not true—the boy, a “(C)” class civil disobedience prisoner, was unruly in presence of the Junior Jailor and he had to hold him and put him in his place.</p> <p style="text-align: right;">(Signed) D. J. D’Souza, Superintendent, Central Prison, Hyderabad.</p>

HYDERABAD CENTRAL PRISON: CONDUCT OF SUPERINTENDENT.

*Mr. S. S. TOLANI (Western Sind): Will the Honourable the Home and General Member be pleased to state—

(a) whether it is a fact that on the 13th July 1932, all the "B" class prisoners in the Hyderabad Central Prison called for a sheet of paper each for complaining against the action of the Superintendent;

(b) whether it is a fact that a sheet of paper was given only to two of them;

(c) whether it is a fact that the complaint of Professor Ghanshyam Jethanand was not forwarded to the Inspector General of Prisons by the Superintendent;

(d) if so, what are his reasons therefor?

The Honourable Mr. W. F. HUDSON: (a) Yes.

(b) No. Paper was given to those who required any.

(c) Yes.

(d) The petition was withheld in accordance with rule 452 of the Bombay Jail Manual, Part I.

Mr. S. S. TOLANI: What does rule 452 of the Jail Manual state?

The Honourable Mr. W. F. HUDSON: The honourable member can refer to it himself: the Jail Manual is in the library. Rule 452 says:

"A petition shall not be forwarded if it contains statements which the Superintendent knows to be untrue and which the prisoner refuses to amend after the petition has been returned to him for amendment."

Mr. S. S. TOLANI: What were the allegations made against the Superintendent in the petition?

The Honourable Mr. W. F. HUDSON: I do not know.

NASIK GOVERNMENT HIGH SCHOOL: REFUSAL OF ADMISSION TO STUDENTS.

*Rao Bahadur R. V. VANDEKAR (Nasik District): Will the Honourable Minister for Education be pleased to state—

(a) the number of students from the Advanced, Intermediate and the Depressed Classes to whom admission was refused in the Nasik Government High School during the last three years;

(b) the particular standards for which such admissions were sought;

(c) the number of classes reduced during the last three years, and the reasons for doing so?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) and (b) The accompanying statement gives the requisite information.

(c) One class in standard III was abolished in accordance with the decision of Government to have single classes in standards I-III.

Statement referred to in the reply to Rao Bahadur R. V. Vandekar's question regarding refusal of admission to students in the Nasik Government High School.

Standard.	Number refused admission 1930.				Number refused admission 1931.				Number refused admission 1932.			
	Advanced.	Intermediate.†	Backward.	Total.	Advanced.	Intermediate.	Backward.	Total.	Advanced.	Intermediate.	Backward.	Total.
I ..	24	37	61	20	32	2	54	20	25	14	59	
II ..	16	15	31	3	13	..	16	3	1	..	4	
III (Vernacul a r Final).	15	40	55	17	10	1	28	15	19	6	40	
III—Ordinary ..	4	7	11	6	..	..	6	3	6	1	10
IV ..	4	10	14	8	5	1	14	14	5	3	22	
V ..	7	3	10	4	2	..	6	6	3	3	12	
VI ..	2	1	3	5	2	..	7	7	3	2	12	
VII ..	..	..	..	9	7	3	19	17	8	3	28
Total ..	72	113	185	72	71	7	150	85	70	32	187	

†Note.—Separate figures for Intermediate and Backward class pupils are not available for 1930.

DISTRICT LOCAL BOARDS : RATES OF ROAD GRANTS.

*Rao Bahadur R. V. VANDEKAR (Nasik District): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) the rates of the road grants per mile given to the different district local boards in the Presidency for construction and annual repairs ;

(b) what the rates for the same in the Public Works Department are ;

(c) whether it is a fact that the rates in the Public Works Department are higher ;

(d) whether it is a fact that there are also separate grants given to the Public Works Department for current and special repairs, while there are no such grants given to the district local boards ;

(e) if so, whether Government intend to reduce the rates of grants in the Public Works Department as a measure of economy ;

(f) whether it is a fact that the district local board of Nasik had sent a representation, requesting Government to raise the rate of road grants given to it ?

The Honourable Sardar Sir RUSTOM J. VAKIL: (a) No specific rate per mile is laid down by Government. Road grants to District Local Boards are based on several considerations, such as their revenue from Local Fund Cess, expenditure on communications, etc., and the grants vary accordingly with different boards.

(b) (1) The rates for repairs vary according to the traffic conditions from about Rs. 75 a mile to Rs. 2,500.

(2) The rate for construction of metalled roads varies according to the type of country traversed and width of road surface provided, from

Rs. 5,000 per mile to Rs. 25,000 per mile ; but a bridge costing some lakhs may send up the cost per mile of a section very high.

(c) Yes ; as generally in the majority of cases, traffic conditions, and, therefore, the wear and tear on the roads are heavier on Provincial than on District Local Board roads.

(d) No. In both cases grants are given for repairs only. It is at the discretion of the Superintending Engineers and the District Local Boards whether a portion of the grant is utilized on special repairs or the whole is devoted to current repairs.

(e) Such is not Government's policy, unless the financial situation renders it imperative.

(f) Yes.

DISTRICT LOCAL BOARD, NASIK : REPRESENTATION FOR GRANTS
FOR KASARI-BOLTHAN GHAT ROAD.

*Rao Bahadur R. V. VANDEKAR (Nasik District): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government have received any representation from the district local board, Nasik, for a special grant of Rs. 14,000 for completing the construction of Kasari-Bolthan Ghat Road which the Board has undertaken and which is nearing completion ;

(b) whether it is a fact that this work is of greatest utility and would save the villagers of about 20 villages of Nandagaon Taluka in the district from the harassment of octroi duty of the Nizam Government ;

(c) whether Government have received another representation for a special grant of Rs. 6,000 for the causeway on Gohor Nala in Niphad Taluka ?

The Honourable Sardar Sir RUSTOM J. VAKIL: (a) and (c) The points were brought to my notice during my recent visit to Nasik ; but the official representations, which are expected from the Board, have not yet reached Government.

(b) The matter will be looked into on receipt of the representation.

DISTRICT LOCAL BOARD, NASIK : GRANTS FOR VILLAGE
WATER-SUPPLY.

*Rao Bahadur R. V. VANDEKAR (Nasik District): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware of the reduction made by them during the last six years in the grants for village water-supply from Rs. 29,206 to Rs. 2,000 to the district local board, Nasik ;

(b) if so, whether they intend to restore them to their original figure ?

The Honourable Sardar Sir RUSTOM J. VAKIL: (a) Yes.

(b) In their present financial position Government are unable to give any assurance on the subject.

NASIK DISTRICT LOCAL BOARD : EXCISE CESS.

*Rao Bahadur R. V. VANDEKAR (Nasik District): Will the Honourable Minister for Education be pleased to state—

(a) whether Government are aware that the excise cess assigned to the Nasik District Local Board annually is fixed at Rs. 5,247 by Finance Department, Government Resolution, No. 3662, dated 3rd December 1874 ;

(b) whether the Government are aware that the income from excise since 1874 has much increased but the board's share has remained the same ;

(c) if so, whether Government propose to revise the board's share in proportion to the increase in Government excise income ?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) Yes. It is not "excise cess" which is assigned to the Board, but a share of the fixed amount contributed to local boards by way of compensation for the abolition of the one-anna cess formerly levied without authority on excise revenue.

(b) Yes.

(c) No.

TODDY LICENSES : TREE-FOOT BOOTHS.

*Mr. B. P. WADKE (Bombay City, South): Will the Honourable Minister for Education be pleased to state—

(a) whether it was the policy of the Excise Department to locate tree-foot booth licenses in temporary sheds at the foot of toddy-yielding trees ;

(b) whether it is a fact that some tree-foot booth licenses were recently located in permanent buildings in the City of Bombay ;

(c) if so, whether notices were pasted at the new sites and *butaki* was beaten for the information of the people in the vicinity before locating the licenses ?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) The policy of Government is to locate tree-foot booths near the trees that are being tapped. The kind of structure has not been prescribed. They are generally in temporary sheds owing to their shifting character.

(b) Yes.

(c) In the case of tree-foot booths it is not the practice for notices to be posted and *butaki* beaten. Government have, however, issued orders that in the case of booths located in permanent buildings, the procedure of posting notices, beating *butaki* and consulting the excise advisory committee should be gone through as in the case of toddy shops.

TODDY SHOPS : NEW SITES IN BOMBAY.

*Mr. B. P. WADKE (Bombay City, South): Will the Honourable Minister for Education be pleased to state—

(a) whether some toddy shops were recently transferred to new sites without consulting the Excise Advisory Committee in the City of Bombay ;

(b) whether notices were pasted at the new sites and *butaki* was beaten for the information of the people residing in the vicinity of the new sites before locating the shops there ;

(c) at how many places such permissions have been given during the last six months by the excise authorities and who are responsible therefor ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) Yes ; but subsequently the Excise Advisory Ward Sub-Committees have approved of the new sites.

(b) No ; but the usual procedure was followed subsequently.

(c) In all 19 toddy shops were, as a temporary measure, allowed by the Collector of Bombay to be opened in new sites in the same street or in the same locality where the shops were located in the previous year. The new sites have since been approved by the excise advisory ward sub-committees. Out of objections in the case of five shops, those in one case were upheld by Government, while the rest were rejected by the Collector, the excise advisory ward sub-committee having found them, after consideration, to be not genuine.

Mr. B. P. WADKE : Am I to understand that the Honourable Minister first gave permission to the licensees and then consulted the advisory committee and also gave notice and beat a *butaki* after the shops were opened ?

The Honourable Dewan Bahadur S. T. KAMBLI : It appears so.

Mr. B. P. WADKE : Does the Honourable Minister propose to follow the same procedure in the future ?

The Honourable Dewan Bahadur S. T. KAMBLI : In cases of extreme emergency ; not in all cases.

Dr. M. D. GILDER : May I know what the emergency is in opening a tree-foot booth or a toddy shop ?

The Honourable Dewan Bahadur S. T. KAMBLI : When the old licensee is not successful in securing a continuance of his license, then the shop may have in certain cases to be shifted to a new site.

Dr. M. D. GILDER : Does the Honourable Minister mean that whenever a toddy shop has to be removed from one place to another an emergency arises ?

The Honourable Dewan Bahadur S. T. KAMBLI : In some cases it does ; in some cases it does not.

Dr. M. D. GILDER : In all these nineteen cases, was there such an emergency ?

The Honourable Dewan Bahadur S. T. KAMBLI : Yes.

Mr. J. B. PETIT : We are apparently living in an era of emergencies !

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER).

The Honourable Mr. W. F. HUDSON: Sir, I introduce Bill No. XXVII of 1932 (A Bill to confer special powers on Government and its officers for the purpose of maintaining law and order).*

The Honourable the PRESIDENT: The Bill is introduced.

The Honourable Mr. W. F. HUDSON: Sir, I move that this Bill be read a first time. Mr. President, after the *First reading.* impressive speech to which the House has just listened, it will not be necessary for me, I think, to enlarge on the general considerations which have compelled Government to bring this Bill forward. The wider aspects of the situation have already been dealt with in a manner which, I am sure, must have appealed to the good sense of the House. It therefore only remains for me to explain the provisions of the Bill in so far as they require explanation. I do not propose to do this in any great detail, partly because there is very little in this Bill which is new to us and partly because I am particularly anxious that the House should not get into the unfortunate position of the wanderer in a forest who cannot see the wood for the trees. I want the House to try and keep in mind the principle of the Bill, which is the absolute necessity of controlling and checking the civil disobedience movement and its dangerous manifestations. Once that necessity is grasped, most of the provisions of this Bill follow quite naturally.

Mr. President, during the three and a half years that I have had the honour to sit on this bench it has been my duty on various occasions to introduce into this House various small Bills, but it so happens that this is the first time on which I have to bring forward a Bill of first rate importance and it also so happens that this is the last time on which I shall introduce a Bill into this House. No one regrets more than I do that what I may call my swan song in this House should be a Bill of this character. I know also that my honourable colleagues, the Members of the Government, regret as much as I do the necessity of bringing a Bill of this nature. But the logic of events has been too much for us. We now come to this House to ask its support in maintaining law and order, and in keeping in check that subversive and suicidal movement with which, I regret to say, the extreme wing of the Congress has of late years identified itself.

The first sentence of the Statement of Objects and Reasons sets forth the one and only object of the Bill, namely, to provide Government with powers in reserve to deal with the civil disobedience movement, and I find it difficult to believe after the experience of the past three years that there is any one in this House who is not ready and anxious to help Government in every way to keep that dangerous movement in check. I have no wish to recount in detail its unhappy history in this Presidency, but as political memories are proverbially short, I venture to remind the

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House of some of its more sinister features. Does the House remember how in May 1930 a non-violent crowd of at least 3,000 volunteers, armed with wire-cutters and ropes, made a concerted attack on the Dharasana Salt Works, and were only deterred from a second attack when a regiment of troops was despatched from Bombay: or, again, how in the same month volunteers from the Deccan, Konkan and the Karnatak gathered at Shiroda and succeeded in looting 400 maunds of salt? Honourable members who live in Bombay can hardly have forgotten the attack on Wadala, when a crowd of 5,000 attempted to rush the salt depôt, and several police officers were seriously injured. Then again, who in Bombay can forget the gross interference with traffic and with trade that was characteristic of the movement in 1930—the breaking of shop windows, the stopping of tram-cars, the picketing of schools and colleges, the crowds sitting in the road all night, the forcible stoppage of lorries, the looting and burning of foreign cloth, the interminable hartals: in fact, every form of interference with the normal life of the city? It was a state of affairs of which any civilized city should be ashamed, of which, I venture to think, most of the inhabitants of Bombay are ashamed and which they would be most loth to see repeated. But no one who reads the Congress bulletins can doubt for a moment that it would have been repeated this year if it had not been for the Ordinances or that it will be repeated next year if we do not pass this Bill. The same spirit, I regret to say, is there—the same determination to make government impossible—and will undoubtedly show itself in the same disastrous way the moment it gets the opportunity. That opportunity, Sir, Government are determined shall never recur.

Again, Sir, in Gujarat, has any one forgotten the organized lawlessness that disgraced the fair name of that province and brought shame and misery to thousands of its misguided inhabitants? Whole villages contumaciously refused to pay their dues; whole villages went out carrying away their goods and chattels with them. Hundreds of patels were forced by the grossest forms of social boycott to resign their ancestral offices against their will. Every form of social persecution was directed against the police and the magistracy who were trying to do their duty, and in many places they were even denied the necessaries of life.

Again, Sir, even the law-abiding and peaceful Deccan caught the spirit of lawlessness. Large crowds gathered to break the forest laws and to resist the police. At Chankapur in the Nasik District, some of our friends will remember, there was a regular pitched battle at one time, and the District Magistrate, the District Superintendent of Police and a party of police were attacked by a mob of 1,000 men armed with spears and swords.

Sir, I do not think I will continue the catalogue, but there was no part of the Presidency, not even Sind (which is generally remarkable for its political sanity) which was free from this spirit of lawlessness. I have given the House only a few instances, but every one knows that there was trouble and turmoil throughout the countryside. Now,

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I rejoice to say, and I am sure the House shares my satisfaction, there is comparative peace. And, Sir, to what is the change due? Not to the Round Table Conferences—the Congress party loses no opportunity of casting ridicule on them; not to the Communal Award—which every extreme party in the country has repudiated; not even to the impending reforms, which the Congress have already condemned even before they have been formulated into a Bill. No, Sir, the marvellous and blessed change, of which we are all conscious and which has come over the country, is due to the fact that Government, after exercising such patience as no Government had shown before, at last provided itself with the exact weapons to meet the new challenge, a challenge which was never contemplated when the Indian Penal Code was placed on the statute book.

Now, Sir, those weapons we cannot throw away while the war is still on, and every day the Congress bulletin states that the war is still on and will continue till victory is theirs. So be it: Government accept the challenge, and now propose to continue to arm themselves with some of the weapons which have proved so effective during the past twelve months. Some of those weapons are being forged in the Legislative Assembly; the rest, which are specially needed to deal with the particular conditions in this Presidency, are embodied in this Bill.

Now, I will assume, Sir, that all honourable members have studied the provisions of the Bill, and that some of them have even compared them with the Ordinance which is at present in force. If so, they will have seen that in some respects we propose to follow the Ordinance closely, whilst in other matters we have felt justified as the result of nine months' experience in dropping certain of the powers which the Ordinance now vests in the executive. I would specially emphasize the fact that the powers we are taking are powers in reserve, and will either not be applied at all or will be withdrawn as circumstances justify.

Doubtless it will be said that we are asking for a blank cheque and that once we have got it we shall fill it up for the largest amount possible. That that would be an unfair aspersion on the *bona fides* of Government is proved by the history of the last 6 months. When the provisions of the present Ordinance were applied in July last, it would have been perfectly easy for us to apply all of them to the whole Presidency. But as I hope the House is aware, Chapter V which deals with the no-tax campaign was only applied to one district, and Chapter VII which deals with intimidation was only applied to Bombay City and to 8 districts out of a total of 28. Similarly, our present intention is only to apply Chapter III of the Bill to one district where the foolish no-tax campaign still lingers—in spite of the honourable member's efforts to stop it—and I look forward to our being able to withdraw Chapter II also from a large number of districts at a very early date.

Coming now to the Bill itself, it will be seen that Chapter I is the only one that will come into force at once. The three years' period which we put down is intended to cover transition from one Government to another. No one can say at the present moment when the new

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Government will come in. But at the present moment we feel the three years' period will cover the transition period. It is the same period which has been accepted for the Bill in the Assembly, and I understand it is also likely to be accepted in the Punjab. In the North-West Frontier Province their Bill is in force for 5 years. Sub-section (3) clearly shows that the powers are in reserve and are only intended to be used when the necessity arises.

Chapter II reproduces a good many of the provisions of the expiring Ordinance, and does undoubtedly give the Executive very considerable powers. We claim that these provisions have been worked with moderation in this Presidency—Mr. Thomas's speech last March proved that—and as time has gone on, the undoubted tendency has been to make that moderation more pronounced. Magistrates have reduced their sentences—I mean the average of their sentences. The number of persons arrested has steadily decreased from 800 in January to 62 in October, and the number of persons imprisoned in connection with the civil disobedience movement has dropped by over 30 per cent. in the last 3 months. During the time that I have been Home Member I have released a large number of people on parole—either on the grounds of their own health, or because some of their near relatives were seriously ill. Only to-day during the question time I sent a telegram releasing one man on parole. In other words we are doing our best to work these special provisions as moderately as possible, and to create as little bitterness as possible.

In order to make assurance sure and doubly sure, we propose to make an important change in the orders issued under section 3 (1). Hitherto under the corresponding section of the Ordinance we have authorised officers of not lower rank than a Sub-Inspector to arrest without warrant or direct the arrest of suspected persons. When this Bill is passed we intend to restrict that power to the Commissioner of Police in Bombay, the District Magistrates and the District Superintendents of Police elsewhere.

It will be observed also in regard to this Chapter that we have now been able to omit various provisions that were included in the present Ordinance. For instance, the power to commandeer buildings for the accommodation of troops or police, the power to prohibit the sale of arms, and to take possession of arms or machinery, the power to require the assistance of certain persons such as landholders or teachers in educational institutions, and the power to impose collective fines on the inhabitants of turbulent areas have all been dropped.

Chapter III deals with one of the most disastrous manifestations of the civil disobedience movement. The no-tax campaign was pursued with an ingenuity worthy of a better cause, and, as any honest man from Gujarat will admit, did irreparable harm to the people of that province. When the Land Revenue Code was passed, certainly its framers never dreamt that there would be a mass movement to refuse land revenue as a means for bringing government to a standstill. Special measures became urgently necessary to render this campaign ineffective, and

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I am glad to say that almost everywhere they have been successful. But the non-payment of Government dues is a very attractive proposition for everybody, at any rate at first sight, and it is absolutely essential to prevent its recurrence. We are therefore repeating the provisions of the Ordinance against instigation, and also introducing a new provision (clause 19) making wilful refusal to pay a punishable offence. We have been compelled to do this because the leaders of this dangerous movement have found means to evade all the penalties laid down in the Land Revenue Code. I observe from the amendments that have been filed that objection has been taken to sub-clause (2) of this section, and I am prepared to say at this stage that if good reasons are given, Government would be prepared to reconsider this matter. The House will observe that no prosecution is to be undertaken under section 19 except on a written complaint by the Collector or an Assistant or Deputy Collector authorised to act in his behalf, and I hope that will prove a very reasonable safeguard.

I now come to the last chapter, which is very fully explained in the Statement of Objects and Reasons. The points to which I would specially invite the attention of the House are that only a Presidency Magistrate or a Magistrate of the First Class, in other words a magistrate of considerable experience, can try any case under this Act, though under the Criminal Procedure Code a magistrate with lesser powers would have been competent to try offences under sections 15 and 18. Secondly, we are abolishing the Special Magistrates and Summary Courts which have existed under the Ordinance, and leaving all offences triable under the Act to be tried by the ordinary Courts. And, thirdly, we are providing for the extension after the expiry of the Ordinance for the right of appeal for all those who have been tried under the Ordinance.

I do not think I need say much more in explanation of the provisions of this Bill. I have no doubt the Honourable the Advocate-General and the Legal Remembrancer will explain the legal aspects of this Bill.

Sir, I now commend this Bill to the good sense of the House. To many honourable members it may be distasteful, but no honest man will shirk his duty because it is distasteful. The Central Legislature and most of the Provincial Legislatures are taking the necessary steps to replace the Ordinance to the extent which experience in each case has shown to be required. The Bill has already been passed in the North-West Frontier Province, and there is every indication that Bills on similar lines will shortly be passed in the Assembly, and in the Punjab and in the United Provinces. It would indeed be a matter for regret if this Council of ours, which has now for so many years enjoyed a reputation throughout India for sanity and moderation, should be the only one to refuse to arm itself and its executive with powers to combat a warfare which is not of our making, but which has threatened and may yet again threaten to stifle the economic life and retard the political progress of India. But I will not even contemplate such an unhappy contingency. I appeal to members of all parties to assist us in maintaining law and order during the transition period and in giving the new constitution

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a peaceful atmosphere in which to start. I claim that the Ordinance has never harmed any honest citizen—or for the matter of that any active politician who kept within the limits of constitutional agitation. Similarly, this Bill will affect no one who does not attempt to make orderly government impossible, and I therefore commend it with all confidence to this honourable House.

Question proposed.

The Honourable the PRESIDENT: Now before the House proceeds with the consideration of the first reading of this Bill, I should like to point out a few facts for its guidance. There are certain amendments which I have, while dealing with amendments, noted down as amendments of principle, and I should like the honourable the mover of the Bill to see if he agrees with me, or he would like others to be included in the ones that I have drawn up, or whether he would wish to point out that some of those that I have included as amendments of principle could be taken as amendments of detail. The point is important because when once we come to the conclusion that certain amendments are amendments of principle, they must be dealt with and disposed of at the first reading. For that I have drawn up a list, copies whereof were circulated to the honourable members in the morning. I think it is correct that, although the preamble is put at the second reading to the House, an alteration or amendment of it must be taken as an amendment of principle. Therefore, the amendment of the honourable member Mr. More is put down as that of principle.

I am constrained to make a few remarks which apply to one honourable member, and I wish him to take note of them. The honourable member Mr. Patel from Kaira has indicated to his heart's content his inclinations and his attitude towards the Bill by the number of amendments he has tabled. One of them is to the preamble, and, therefore, I am referring to that one amendment and, while doing so, to all his amendments. He has in fact practically argued out his attitude in the shape of the amendments. Those amendments I would not be justified in putting to the House. The honourable member should not be surprised if I did not give him a chance, because his amendments could be classed (if he does not take offence) as frivolous, or as attempts to ridicule the whole Bill. His best course would be to put up as best a fight as he can against the Bill or against any clause he likes. Therefore, his amendment to the preamble will be out of consideration.

The Honourable Mr. W. F. HUDSON: I have no objection to this particular amendment.

The Honourable the PRESIDENT: The second amendment is by the honourable member Dr. Dixit, namely, in place of the word "years," he wants to substitute "months", that is, the period. Now all amendments which refer to the period of a Bill are amendments of principle, and I would ask the honourable member not to push his amendments because they bring the Bill to nothing—I mean the object of the Bill cannot be achieved in months—

Dr. M. K. DIXIT : I will explain, Sir.

The Honourable the PRESIDENT : I anticipate his idea ; if he is so hopeful that the reforms would come into being so soon as that, or that the skeleton of the reforms would be before the country in a sort of a definite form within months, probably he would be right in considering that three months or six months is a sufficient period for this Bill, but with all that I think it would be better for him not to press the amendment.

The other amendments which follow regarding the period are those of the honourable members Mr. Jog, Rao Bahadur Asavale, Mr. Petit, Dr. Dixit, Mr. More and Mr. Surve. I need not go through all these amendments as copies have been supplied to honourable members. Those are the amendments which I wish to deal with as amendments of principle to be dealt with at the first reading.

There is one more thing in connection with these amendments that I must bring to the notice of honourable members. Some of the honourable members have tabled amendments to the effect that a clause should be deleted. The practice that this House has followed has been that amendments for the deletion of a whole clause can be allowed, if they are amendments of principle, at the first reading. If they cannot be held as amendments of principle and are amendments of detail, then, at the second reading, an amendment to delete a whole clause is out of order. The general and the governing principle of the Bill, as has been made clear by the honourable the mover of the Bill, and as is apparent from the statement of objects and reasons, as well as from the preamble, is the conferring of special powers on the executive for the purpose of maintaining law and order, and whether the House considers that as necessary or not would be the governing principle of the Bill. Does the Honourable the Home Member agree with me ?

The Honourable Mr. W. F. HUDSON : I do, Sir, but whether they are exhaustive I could not for a moment say, as there are a good many amendments.

The Honourable the PRESIDENT : 400 of them.

The Honourable Mr. W. F. HUDSON : They are all probably covered by the main ones. Perhaps if any honourable member who has tabled an amendment would like to suggest that his particular amendment is a matter of principle, we should be saved trouble in future.

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Sir, it is with very great reluctance indeed that I do not see my way to agree to allow the first reading of this Bill to go through. It is unfortunate that I am not able to see eye to eye either with the reasoning or the necessity of such a measure to be put on the statute book at this juncture. There may have been mistakes—terrible mistakes—on the part of the Congress or those who stood by that institution, but there may equally have been regrettable mistakes on the part of Government when the ordinances were first introduced in this Presidency on the 4th of January last, but I am more concerned for the future. I do think with the greatest humility that there are certain features which ought really to appeal to members

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on this side. No doubt, unhappy lies the head which has to wear the responsibilities of the Crown, especially when they happen to be subordinate parts of Government, and therefore it is quite possible that the wishes which are exhibited in this Bill may not be theirs. Whatever that may be, we will have to examine certain features of it as I have said. In the first place, the ordinances were issued in the name of His Excellency the Governor-General in cases of emergency and they were only for months, for a short period of six months, enacted once more at the most for another six months and not enacted at all afterwards. If I remember aright, the Parliamentary practice is not to allow such emergency measures to be on the statute book for years but only for months. However, Sir, that is a matter on which I will not dogmatise. I do realise that it is really unfortunate that at this juncture a cabinet which mainly consists of Indians and, to our great regret, represents the minority interests, are introducing a measure of this kind which is likely, as I said, to cut at the root of the rights (even the Congress has its rights) and the development of political reforms which are yet in the making. There are other things. Enough language is there either in the speeches or in the orders issued by Government from time to time or in the administration of the ordinances themselves, which make me feel that it is possible that this engine in the form of this Bill may be used for the political purpose of keeping down a dominant partner in politics, namely, the Congress. I do feel that my fears are not in vain. I wish they prove to be so, but I will cite my own instance. A man of my age, with perhaps his frankness and bluntness, found his own name in the black list, and had it not been for the happy accident that the old Collector returned to the district, I would have found myself in the lock-up, thanks to the good offices of those to whom my name was not very tolerable. Word was sent to me by the Deputy Superintendent of Police that I would be served with a notice on a certain day. When I was co-operating with Government wholeheartedly on the Irrigation Committee, I had to leave that committee with a goodbye and I returned home. On the very morning on which I returned, the Deputy Superintendent of Police was kind enough to come to me and tell me, "An order is going to be served on you at 11 o'clock today." He asked me to be calm and to respect the order. I told him point blank that it was too much to expect that of me, that it was not possible for myself to do that and that I would disobey the order. I know, Sir, that this happened under the orders of the District Superintendent of Police whom the predecessor of our present Honourable Home Member lauded to the skies, because he said that the District Superintendent of Police, Ahmednagar, was the embodiment of what an Englishman ought to be. The whole of this was manœuvred at such a time that the Collectors who came there were only birds of passage; they knew nothing. But the authorities there missed their point only in this way, that Mr. Covernton, our Collector, came back a couple of days earlier, and the whole mischief was nipped in the bud. I am only citing that instance, when the Honourable the Home Member thinks that mistakes on the part of the authorities have been too few. I am appealing to the

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sense of this House to realise that it is possible that the administration of the Ordinances may not be consistent with the self-respect of the people and they may not be administered in a fair way; because there are manifestations which prove to the hilt that that is the case, by the result of cases wherein it was possible to go to a judicial court to seek its assistance. Take, for instance, Mr. Gulabchand Doshi's case. I do remember, Sir, that this gentleman had seen me in my hostel room on the day that he was to go back to Sholapur. I do remember also advising him not to go back, but to seek the orders of the higher authorities here. But unfortunately, the week's time that was given to him passed by. He had to go, and the result is that we find that he got justice; he got justice after four months' incarceration in jail, and the magistrate who convicted him was kind enough to fine him Rs. 20,000 the highest amount of fine inflicted under the Ordinances. And yet, provision is made in the present Bill not limiting the amount of fine to the one which a first class magistrate can inflict, but any amount of fine can be inflicted. May I put it to the Honourable the Home Member, is that power necessary, is that power consistent with the usual criminal jurisprudence which has to be administered in all civilised countries? When the Honourable the Home Member asks us to help him—and certainly he has a right of asking for that particular help from the non-official benches on this side—let me assure him that the moment we find that that kind of weapon is necessary, he will get it.

Mr. President, you will excuse me if I were to say that in the general *intelligentsia* of the whole of India unfortunately—I do not give any reasons for it—an idea prevails which doubts the *bona fides* of Government and the efforts that they are making for giving us those reforms which we desire. There are numerous instances which can be cited to prove it. There have been certain policies, which can be referred to, but which have been really met by non-co-operation. Look at the last picture. After the Secretary of State's statement in the House of Commons that the Round Table Conference method was over, and when he wanted to substitute for it a Joint Parliamentary Committee to decide the fate of India, this motherland of ours, it was because of the fact that some of the prominent members emphatically non-co-operated in such a way that there was no hope of getting them back that His Majesty's Government had to revise the procedure which they contemplated and go back to the Round Table Conference method for the constitutional advance of this country, which is now taking shape, wherein the destinies of this country are being forged, with what success, we will know. I am pointing out these instances, because there is also an opposite side of the picture. Why is it that this civil disobedience movement, or the subversive movement, or whatever you like to call it, has taken this shape and appears irresistible? Does it consist of fools who think that they are able to resist the mighty arm of Government? Are they only idiots and simpletons who think that they will be able to cope with the ingenuities and the weapons with which the Government can forge ahead? I do not think, Sir, that Indians can be classed with those people. Not only

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that, but I do maintain on the floor of this House that for a helpless people like the Indians non-co-operation is a practical political weapon, recognised constitutionally to be such. If it is a constitutional weapon, if in particular circumstances it is resorted to by some people, and if it is said that there are excesses, I say that there are excesses on both sides. I have just cited an instance of Government officers going to the other extreme, which perhaps the Honourable the Home Member might regret with me. So also, there may be instances on the other side. What is the use of citing Shiroda, Wadala or other places which are a history of the past? We ask, and rightly ask, what has been the history of the last twelve months? I do not, for a moment, think, Sir, that the communal riots in Bombay were due to any civil disobedience movement at all. I do maintain myself here the public view that it was due to a certain slackness on the part of Government, who were not able to cope with the particular orgies of murder and arson in a particular way. I am thankful to the Honourable the Home Member, for saying that he has no evidence to show, neither does he mean to say, that the riots in Bombay were a movement directed by the Congress, or were due to its subversive activities.

The Honourable Mr. W. F. HUDSON : I did not mention the subject.

Rao Bahadur G. K. CHITALE : The point that I was making is that you have to be very careful in putting on the statute book such a measure with our consent. The powers of the Governor-General are wide enough, but even such a great dignitary can only enact that measure for a few months. The Government are now trying to put it on the statute book for a number of years with our consent, and posterity will have the right to ask whether we were right in doing so. Therefore, the Ordinances have to be very carefully looked into. The question is whether the ordinary laws of the land, beginning with the regulations of 1827, the Indian Penal Code, the Criminal Law Amendment Act of 1908, the Police Act and its amendments, and the Bill which is taking shape at Delhi, are not sufficient for curbing the first manifestations of a movement which, in the opinion of Government, may be subversive. But, Sir, that is a subject which I shall leave to my honourable friends on my right to deal with. I am only alluding to the general aspects of the measure—how far they touch the people and whether this kind of measure is desirable or not from many points of view. May I again mention that you say that there has been a civil disobedience movement, mostly it has been civil, that there have been no criminal manifestations which are considered to be objectionable? But still, I say, are you or are you not in a chastened mood to see that the era of peace is ushered in as early as possible, so that the reforms that may come may come under circumstances which would permit of hopes of success for them? Are you adding to that peaceful atmosphere by the enactment and taking up of weapons that rattle and make a noise? Is it likely, I say, to enhance your prestige even for sanity, because you yourself do think that unless you get this weapon of offence you will perhaps be drowned? With due humility

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again, I do ask, what is the earnest of your *bona fides*? Efforts are being made in order to get into touch with the only man who has the right and the power to call off the civil disobedience movement. That is recognised by England, the British statesmen, and the people, including the representatives of the European community who are members here, because when they signed the pact of an agreement in order to get the benefits of the cotton trade, they themselves recognised the force of the movement. I should think that they themselves were agreeable to the view that the one man who had the power of calling off the civil disobedience movement was behind the bars, with whom the Government of India and our local Government does not even allow us to confer to see his angle of vision. Is that a position which the present cabinet ought to maintain? And if it does maintain it, what is the use of throwing this measure in our faces, when, as a matter of fact, we are not allowed to function as we ought to. It is the duty of Government, the Honourable the Home Member and the other people, to enact laws for the peace and order, so far as they are concerned. But it is also the duty of the non-officials to try to put an end to the necessity for such laws and create a peaceful atmosphere, in order to see that there is no room left for such a despicable legislation. And to that I say, Sir, Government say 'No'. Government in fact say that they have crushed the Congress movement, that this achievement is due to the handy weapon which they forged on the 4th January last. They say that the police and the officials have behaved so ably that they have no grounds for any complaint. All their heroics are there. Which Government will admit their mistakes? What I am pointing out is this: When you do not allow the ordinary people, the non-officials, to see that better times are ushered in and the civil disobedience movement called off, how can you expect us to help you? What is the use of finding fault with our mentality if we say and maintain that there is no necessity for such a Bill?

Then, again, what appears to me is that Government feel that Congress movement is crushed. If it is crushed—

The Honourable Mr. W. F. HUDSON: No.

Rao Bahadur G. K. CHITALE: If it is crushed, then there is no necessity. But they say that the Congress is crushed in all its outer manifestations, but in its inner manifestations it is alive; and it must be controlled. They want to control it by enacting a measure like this. This measure which is in the form of an ordinance has been in existence for the last eleven months. You yourself admit that this measure is not so wide as the Ordinances; and that it has been narrowed down. If that is so, how do you expect to fight this Congress mentality with the present weapon with its narrow nets? I want to know whether it is only a method to fight any agitation as a result of the new reforms not being found satisfactory by the general public, so that the minority rule may go on for certain number of years more. Let us be frank about it. I think, Sir, that these Ordinances or the principles enunciated in this Bill when they become law would be used against candidates who might stand in

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the name of the Congress. You may be able to curb their agitation, their public meetings and what not. While it is just possible, it would be too late to rue the day. Supposing that the reforms are not satisfactory, then perhaps the agitation may not take the form of a subversion but it will be a grand manifestation against Government which want to arm themselves to get rid of it. God forbid that the reforms should be of that reactionary nature which would put up the whole population against it or which would not appeal to the general intelligentsia of the country. If Government officers use such kind of weapon at that particular stage, the people would be helpless absolutely and at the mercy of the minority. Let us say in the words of the Stoic: "My fear is not anywhere." I read in the newspapers in the morning that the Home Member of the Government of India said that he did not think that the Congress would win with its hands down. I was really surprised when I read what Mr. Haig said that the Congress had no hope of succeeding in the new elections. This proved my fears that they hoped that the Congress candidates will not be able to sweep the polls in the face of these weapons that are now being forged. Even pleading guilty to the charge that the honourable member may level against me that I am putting faith in things which are not true, I want to know how it is possible for the Home Member of the Government of India to say that the Congress will not succeed in the new elections? On the other hand, the Congress is a dominant factor in politics having a perfect organisation to which there have been a large number of recruits. Thanks to the administration of the Ordinances during the last two years, the Congress mentality has been increasing rather than decreasing. With all these facts before him, the Home Member of the Government of India hopes that the Congress in the new elections under the new constitution will not sweep the polls. Yes; it will not sweep the polls for other reasons. If the minority interests are cared for by the mighty Government, if it is necessary for affording more time, it is quite possible that the wish is father to the thought. Apart from it, it would be very suicidal if a dominant party like the Congress is kept out of the new constitution and the minority are allowed to step in in the new cabinet. It would be disastrous from all points of view.

What about the principles of the Bill? The principles of the Bill are direct attacks on individual liberty, property, self-respect and suppression of all freedom, and a savage attack against the most elementary rights of His Majesty's subjects. The honourable member Dr. Dixit gave an instance, which is too fresh in our minds. There might be others also not known to us. But I will cite one more. After the last budget session in February, when I went back I found that there were certain prosecutions pending against some traders for having observed hartal in the form that the shops were open, but it being the next day after the eclipse no transactions were gone through. There were in all nine prosecutions including one against one woman also. When I went there and looked for the authority, I found that a circular order was issued by the District Superintendent of Police and a list was made of the people who contravened that circular order, and out of them 8 or 9 were prosecuted.

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I claimed the honour of appearing for one of the accused in one case, which the magistrate allowed to be tried as a long case instead of in a summary way. I found it was a trumpery case not worth being tried by a magistrate. If you allow me to state it, I brought that state of things to the notice of the District Magistrate, as we were advised by the Honourable the Home Member. I do not want to divulge the confidential document, which is a private document. I was hoping that the prosecution would be withdrawn, because that prosecution ended in nothing. The prosecuting magistrate held that the charge was not proved. Still, a humble keeper of a hotel who had taken out the tables and the chairs in his hotel for cleaning them after the lunar eclipse, which is usual, was selected next for prosecution, because there was no business transacted. The prosecution went on and also that man was acquitted. There was an application by the prosecution to transfer the case from the file of that magistrate. But the District Magistrate being a strong man resisted the temptation and, unfortunately for the prosecution the second case also was not proved. So, the higher authorities of Government do not know the many abuses of this measure in the everyday administration and people like us are helpless to give them any information. When this Ordinance Bill becomes law, it would deter honest people like us, who would like to co-operate with Government to see that the righteousness of the powers is maintained, from doing so. Still, there is no appeal provided for. Only in a few cases, not in all, is an appeal provided for. What is the use of saying that only a man who is sentenced for four years has a right of appeal? We want a right of appeal against every sentence. Why not? Then, why should it be tried in a summary way? We, practising lawyers, know what summary methods are. No doubt, the magistrates who try these cases make notes—

The Honourable Sir GHULAM HUSSAIN: May I interrupt the honourable member? Which is the clause which prevents an appeal against conviction?

Rao Bahadur G. K. CHITALE: I will leave that unanswered at present. We will deal with that aspect later on. Otherwise, it will be endless.

The Honourable the PRESIDENT: The honourable member sticks to his statement that there is no right of appeal in certain cases.

The Honourable Mr. W. F. HUDSON: Under which clause?

Rao Bahadur G. K. CHITALE: Mr. President, you know my temperament. I may be allowed to go on with my speech uninterrupted. Otherwise, I am disturbed. I am old, my memory fails and my line of argument is broken. I have been disturbed even by this. I do not remember things as well as I did before. In 1923, I could have withstood all this. Ten years have had their effect upon me.

I was arguing that there were summary powers to try cases. I know that all conscientious magistrates who resort to that method do maintain

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notes. In many cases there is no appeal or revision, but in a few cases there is a revision by the sessions court. Whenever we have to deal with such revisions in the sessions court, even though the revision petition is filed within a month it is our everyday experience that the learned magistrate who is asked to send up the evidence says that he has got no notes. We know as a matter of fact that that is not true, but we are helpless, because under the law he has not to maintain a record. That is the sort of criminal jurisprudence that is sought to be maintained under this Bill. I should think it takes away with one hand what little liberty is given by the other. I am sorry to note that the presumption of innocence is taken away. The mere fact that it is done under an enactment shows the mentality of the framers, what they have in mind and what they want to do. I maintain that there are enough grounds to say that this measure cannot commend itself to this side of the House.

I would again point out that as we are answerable to an electorate, we cannot possibly allow this measure to go into the statute book. The law-makers of Government have only to be answerable to Government but we have an electorate to whom we are answerable. What will they think if we enact such a sweeping measure? It is stated that there is not going to be any select committee. Government is so sure of its forces that the measure is not in their opinion worth taking to a select committee. But I am afraid that the electorate will then be right in taking us to task if we allow this measure to go through as it is, because there are certain provisions which take away the elementary rights of citizenship. For instance, there is one provision under which non-payment of a Government demand, or the demand of a local body, is excusable only under a plea of poverty. When I read that provision I asked myself, where is the sanity of Government? Can they not conceive of a contingency, other than poverty, or civil disobedience, which may render payment of land revenue or other Government dues impossible? Incapacity to pay revenue dues may arise from acts of God other than poverty. If poverty is to be the only excuse, people may think that this is an unrighteous measure. I may point out what strenuous efforts were made by inamdars in the past to get Government agents to collect their dues for them from the tenants. It is a long and woeful tale, but Government did not go to their help. In this Bill under an emergency Government will go to the help of the landlords. It is no doubt advantageous to the landlords, but it would be very great oppression on the tenants. Be it remembered that the tenants have also been enfranchised. It follows, therefore, that this Bill must be enacted in a responsible manner, and only in cases of emergency it should be resorted to. But it appears to me that this is a hasty piece of legislation undertaken under the orders of higher authorities. If it had been a piece of legislation undertaken at the instance of our Government, which is known for its sanity, the measure would have taken another shape. The fact that these laws are being enacted in several provinces at one and the same time by special sessions shows that there is a mandate

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from the higher authority. The present Members of Government are doing their best to put this piece of legislation through this House.

The Honourable the PRESIDENT: Unfortunately, the tea recess comes in the way and interrupts the honourable member's speech. May I know how long more he is likely to speak?

Rao Bahadur G. K. CHITALE: I will take fifteen minutes more.

The Honourable the PRESIDENT: He has spoken for more than three-quarters of an hour.

Rao Bahadur G. K. CHITALE: I know.

(After Recess.)

Dewan Bahadur D. R. PATIL (East Khandesh District): May I know from the Chair whether deletion of sub-clause (2) of clause 19 would be a question of principle or detail?

The Honourable the PRESIDENT: Of detail.

Rao Bahadur G. K. CHITALE: Reverting for a moment to the point at which I was interrupted and to which my attention has been drawn prominently by the Honourable the Legal Remembrancer, I think that I should place my difficulty before him in order that he may appreciate our difficulty. It appears to me that section 29 and section 30 of the Bill are a little inconsistent. Section 29 lays down:

"The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act."

Then section 30 goes on to say:

"Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act shall be called in question by any Court.."

and so on. The power, as they say, of appeal as given under this Ordinance appears to me therefore a bit illusive. As I said, I have left that point to my honourable friend on my right who has been a Government Pleader for years. But I do remember some point arising under the Ordinance and if my memory is correct, in Phansalkar's case it was held that the order was not appealable, that the High Court even had no jurisdiction, and so on. Well, my friend to the right will be better armed to-morrow when he addresses the House on this particular point, but *prima facie* it does not appear to me that my criticism was not merited. I may be in the wrong. Perhaps the honourable member the Legal Remembrancer will elucidate that point more authoritatively. But at the same time what I was arguing was *prima facie* right. It appears to us, Sir, that the statement of convictions for offences in connection with the Civil Disobedience Movement which has been supplied to the honourable members and which is brought up to the end of July 1932, is a statement of fact. On page 3 of the statement it appears to me that

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there have been up to the end of July about 10,404 convictions. Then they are catalogued under several districts and so on. It also appears that the emergency powers, that is, previous arrests and so on are many. The point that I am making is this, that Government have not proved to the hilt the charge that there is a mentality of civil disobedience generally. We have a population of over 2 crores and I do not wish to omit the women also because some women have gone to jail. So far the people who have taken advantage of His Majesty's jail are only 10,000 or 11,000, or to put it roughly, less than 12,000. Well, it is possible to argue that because of the presence of the Ordinance the progress of the movement is checked. What the House is concerned with at present is this, that the Civil Disobedience Movement has not gone to that extreme end so that a measure of this kind is absolutely necessary. That is the point I am arguing. The Honourable the Home Member has himself admitted that since the re-enactment of the Ordinance from July 1932 the tendency is less and less, and therefore it is permissible to argue that by the end of 29th December when these Ordinances disappear, if certain factors materialise, I hope that by the 29th of December there will be some material conclusion available to every member of this House and to the general public as regards the trend of the reforms which are being hammered at the Round Table Conference and they will be able to see much clearer and much better. What I am pleading is this, that it is a much better policy even for Government than instead of having this obnoxious measure, the obnoxiousness of which they themselves admit, they should, if it is possible for them to do so, create—and the sooner the better,—a mentality which will favour them, which will be able to put confidence in their *bona fides*—whether as a matter of fact they are willing to give central responsibility as well as provincial responsibility or not. I should think that Government will be very well advised in not pressing this measure at this stage. As I have assured the House and the Honourable the Home Member, the attitude of the non-officials should not be misconstrued in any way. We do not want a repetition of the wild scenes that were witnessed in 1930, either of lathi charges on the part of Government or the mass movement which manifested itself. We are perfectly at one in having such peace and order as is necessary and compatible with the administration and functions of Government. As a matter of fact, we will be wanting in our duty and in our responsibility if we were to say “Never mind, we do not care for peace or order.” We know that one day we shall have to bear the burden of the responsibility which the members on the opposite benches are bearing to-day. That is not, therefore, the attitude or mentality with which we are opposing this Bill. But we do feel honestly that it is not an endeavour in the right direction. I think, Sir, the sooner they allow the public men to see Mahatma Gandhi on this particular matter of calling off the civil disobedience movement, the better will it be for us all concerned. We are assured by His Excellency the Governor and also by the Honourable the Home Member that this Bill is not to their liking. They do not want to use these powers. They say, “Let these

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powers be reserved. You lose nothing. Give us these powers, we assure you we will not use those powers or, rather, abuse those powers. If you have faith in us, give us those powers." To that, this part of the House, unfortunately, for good reasons on account of experience and on account of many other matters, says that it is also equally desirous of advancing with the least possible delay.

The last point I wish to make is this. Thanks again to the rigorous measures which are pursued in jails, more rigorous than what they were in the year 1930, if I were to say that Government has succeeded in emasculating and in weakening the brains of this movement who have gone to jail, I do not think that Government would be in a position to contradict that statement. The House will remember that compared to the treatment that was accorded in 1930 to these prisoners, if we compare the numbers that were given A class and the frugality with which A and B classes we now find are given to the political prisoners who have undergone imprisonment in this year, there is such a disparity that not only they want themselves to be armed with this weapon of law, but they want also the further power of physically ruining the leaders of the movement after they come out. I know of individual instances in which Government themselves will have to acknowledge that they have succeeded in emasculating the physique of the people, so that after they come out of the jails after their long imprisonment they would be physically incapacitated at least for the next six months or a year. That being so, why should Government fear that the civil disobedience movement will be carried on with all the old manifestations which ought to be controlled and checked? It appears to me that their fears are groundless. Just as Government is becoming wiser after the event, at least in showing their anxiety to usher in the new reforms as soon as possible, would it be too much if I were to say, why should they not expect also the general public to be wiser; to be wiser after the lessons that they have learnt on both sides? It appears to me quite possible, and I say so quite frankly here, that the real person behind the movement, namely, Mahatma Gandhi, may estrange himself altogether from the political movement. It is quite possible to say that now that he has taken upon himself the great role of a social reformer trying to get rid of the untouchability problem, of which there are a good deal of manifestations in his letters which he has been writing and for which facilities have been given to him by this very Government, in which he has succeeded in easing off the solution of this very difficult social problem. I should think I will not be surprised if the Mahatma takes his hand off the wheel of the political question altogether, and perhaps his decision may be wise. In fact, I do remember Mahatma Gandhi himself stating, when arguing the case of *Purna Swaraj* at the Congress, that he for himself never aspired for any power and that the moment he finds his ambitions are fulfilled, he would relegate them to the younger generation and he would not be like the dictator that he was any further in advancing the cause of the motherland which he has so much at heart. It is under these circumstances that I feel persuaded that this is really the time when

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Government would be very well advised in not pursuing a measure of this obnoxious nature.

The last appeal which I would like to make is this, namely, the very appeal which the Right Honourable Srinivas Sastri made to Mahatma Gandhi when he was in England, when he said, "Oh, Gandhi, have you not the heart to feel pity? Turn over a new leaf. Give up your pessimism." I should like to say to those honourable members who want to see this enactment put on the statute book, "Have you not got the heart to see that a peaceful atmosphere is restored as early as possible?" I am here reminded of the opinion of Mr. Matters, one of the members of the India League, who had come over here and gone back. What impressed him the most was that the lives of Britons, men, women and children, rested in the hand of Mahatma Gandhi. Yet you do not like Mahatma Gandhi to move about to stop the mischief which is certainly a black spot on the memory of India and everybody that counts! But still, Sir, true to his pledge as a State prisoner, Mahatma Gandhi, the moment anybody tries to see what his view is, asks to be silent. But his words, so far as they give expression to his inner mind, are that he is fighting for co-operation, he is pining for it, but what he wants is co-operation on equal terms and not as a subject race. Will the Government rise to the occasion, give him an opportunity to see what is best in November 1932, not in January 1932 when perhaps the civil disobedience movement was forced on him? I may say that I have not heard anything new which was not contained in the statement that was made when these ordinances were promulgated. But they may have had good reasons then. As the Government had argued, the movement in the North-West Frontier Province, the Red Shirt Movement, had as a matter of fact reached great proportions, the readiness with which the no-rent campaign was being pushed through in the United Provinces gave them also another opportunity to say that perhaps the civil disobedience movement was going to manifest itself in that form in this Presidency. May I ask, very humbly, the opposite benches what manifestations in November 1932 they were able to cite so far as our Presidency was concerned——

The Honourable Mr. W. F. HUDSON: I should like to give the honourable member a good many instances, but he objects to interruptions.

Rao Bahadur G. K. CHITALE: The other day our European non-official friends have shaken hands with the trades people, they made up their quarrel; we forged a weapon in the Cotton Contracts Bill which has gone through. Whatever sources of information may be available to Government, they are not available to us, but we see calm all around. Perhaps it is not a calm before a storm, but we do think and hope, for reasons which I have stated with your permission, that Government will see its way to be at least more genial and more kind-hearted in allowing this Bill, if at all it passes the first reading, to go to a select committee.

Mr. C. N. PATEL (Kaira District): Sir, at the outset I wish to say a word as regards the comment that my amendments have brought forth at your own hands. My amendments have been characterised in the first place to be frivolous, and later on, you were good enough to put a better construction on them by saying that perhaps they were meant to bring the Bill into ridicule. Sir, I feel I was condemned unheard. Perhaps the future effects which this Bill, if enacted into law, would have on the people have perhaps been foreshadowed in the case of my amendments to-day. If only I had been given a chance of explaining what was meant by my amendments, I am sure I would have been able to satisfy your goodself that there was nothing like frivolity about my amendments, nor that there was anything calculated to bring the Bill into ridicule through my amendments. In the first place, I say that the Bill is not opportune and it was with a view to emphasise my views on that subject that I sent in these amendments. It was not in a frivolous mood of mind that I sent them in, but I sent them in in all seriousness. I am serious, provided the Government are serious as regards the necessity and as regards the purpose of this Bill——

Moulvi Sir RAFI UDDIN AHMAD: Are not they ?

Mr. C. N. PATEL: They are not, and I will try to demonstrate that they are not; and if they are serious, then all my amendments ought to be accepted by them verbatim. What I submit is this. The Bill is not opportune as I say and it is uncalled for looking to the present state of things. The Bill is calculated to meet the present civil disobedience movement, to keep it in check, to see that the movement perishes. Sir, the test of any Bill, especially when it is brought before the representatives of the people, would be that it is for the people and that it is in the interests of the people. What better test can I lay down for seeing that this Bill is or is not in the interests of the people than by suggesting that a referendum may be made to the people? If the Government are so serious on the point, if they think that the people really want this Bill, they should accept my suggestion, and I am quite sure, Sir, when I state it that 90 per cent. at least of the people will oppose that this Bill should be made into law. If that is so, it is the duty of all honourable members in this House who have any pretensions to represent the masses to oppose this Bill.

Sir, I know that I cannot discuss the statements that have fallen from His Excellency, nor do I propose to do so. But, as most of those statements have been accepted by the honourable mover of this Bill and as he has supplemented the reasons for this Bill with his own remarks, I would try to meet his various remarks in my humble way.

I submit, in the first instance, that, even without the provisions of this Bill or even without the provisions of the ordinances that are shortly going to expire, members in Government service in the mofussil, so far as my personal knowledge goes, do enjoy not only the rights that are sought to be conferred upon them by this Bill, but many more. Sir, it is in these times of alleged hardship to Government servants and alleged interference with public trade that these very Government servants can go and kick anybody with impunity. These are the times when even

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a police officer can enter the private premises of any man, of a dealer, or a merchant who displays a photograph of Gandhiji, smash it to pieces, arrest his son and keep him in jail for six hours, and that too on a New Year's day. I am narrating the incident because it happened in my own place. It was on the first day of Kartik that this incident took place. Sir, in trying to collect land revenue, I can definitely give one instance at least where the District Deputy Collector, being put out by certain persons not having paid their land revenue in time, kicked the man and ordered the dozen or two dozen constables who had accompanied him to give a sound beating to the victim. When these things can happen without the operation of the ordinances and without the officers being invested with the special powers that Government seek to do by this Bill, I see no reason why there should be any such Bill enacted into law.

The Honourable Sir GHULAM HUSSAIN: Will the honourable member name that officer, and say when the incident happened?

Mr. C. N. PATEL: I am prepared to give the name to the honourable member, in private of course; it is no use giving it in public.

The Honourable the PRESIDENT: The honourable member wishes that these details may be given here.

Mr. C. N. PATEL: It was the District Deputy Collector of Kaira, Mr. Farooqi, who with his own hands kicked a man—[Laughter].

The Honourable Mr. W. F. HUDSON: Did he kick him with his hands?

Mr. C. N. PATEL: He kicked a man at the village of Bhumla, and the police constables who accompanied him gave a very sound beating to that man. The other incident that I was referring to—

The Honourable the PRESIDENT: When did this happen?

Mr. C. N. PATEL: I do not know the exact date.

The Honourable Mr. W. F. HUDSON: Does the honourable member know the year in which it happened?

Mr. C. N. PATEL: Last year.

The Honourable Sir GHULAM HUSSAIN: Were you present there?

Mr. C. N. PATEL: I was not. I never said that I was present.

The Honourable the PRESIDENT: The honourable member may proceed.

Mr. C. N. PATEL: If the Honourable the Leader of the House wants more substantiation of these facts, I am prepared to substantiate them.

Recently, Sir, another instance has happened in Kaira district at a place called Heranj in the Nadiad taluka. An excise inspector, by name Dayabhai, went with half a dozen or three-quarters of a dozen rowdies—they were not in Government service—rowdies, I call them—went to the village of Heranj, in search of alleged illicit distillation of country liquor. There, Sir, a man was brutally beaten. Telegrams were sent to the District Magistrate, and there were allegations that a woman was also ravished, but in spite of all these things and the man having had to

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remain in hospital for a number of days, nothing has come out of it. These are instances which show that Government officers, without all these powers having been legally vested in them, can exercise them with impunity!

Some references have been made by previous speakers to incidents of this sort, and I will refer to another incident wherein my own motor car was concerned. That motor car was seized: of course, this Bill wants that Government officers shall have the power of seizing and using, or asking you to take orders as regards the use of motor cars. I shall mention what happened to a particular car of mine. That car was seized—

The Honourable Mr. W. F. HUDSON: When was it?

Mr. C. N. PATEL: Last year. The car was seized under the belief that it was the Samiti or Congress property. The Congress car was absolutely safe somewhere else. My car was in the same compound in which the Congress car used to be. The Congress were not the only tenants of the premises; there were other tenants in the building, and one of the other tenants had a loan of my car. That car remained with Government, and against all principles of justice that car was driven for the use of police servants, for the use of the Collector, and for the use of several other officers, by an unlicensed driver, with the result that it met with an accident, and it was almost smashed to pieces. When I got back that car, I could not say that it was my car, except that the number plate was there. If these things can happen with impunity, if these things can be done by Government servants with impunity, I do not see any reason whatever for a Bill of this type being brought before the honourable members of this House. Sir, instances can be multiplied. I have referred to such instances even before, to show how the powers under the Ordinances have been misused, especially while dealing with processions of young children and even of ladies. Government are not going to be blown up by simple processions of ladies, and yet we had the story repeated on the floor of this House that ladies were molested, that ladies were beaten, that ladies were dragged even by the hair, all for the supposed guilt of having formed themselves into a procession and having marched in procession in the town of Borsad last year! If, Sir, Government officers enjoy all these powers, where is the utility of giving them these statutory powers? Independently of the statute, they have them, and they enjoy them with impunity to their hearts' content. Why give statutory sanction to all these things?

Sir, what is the object of this Bill? The object of this Bill is as stated by the Honourable Mover, namely, that Government want powers to meet the civil disobedience movement. In dealing with the civil disobedience movement, there is no provision whatever in the Bill itself that it shall not affect persons who may be against Government otherwise than as members of the civil disobedience movement. These

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powers, I submit, are not necessary, and if the idea is that there shall not be any demonstration against Government, or that the feeling among the masses is against the present Government, then, Sir, my first amendment, namely, that the real object is that a spirit of loyalty shall be engendered in the masses, that it shall be fostered and that there shall be a show of a spirit of loyalty among the masses, is a right amendment, as that is the proper object of this Bill.

Sir, in the Bill powers are sought to be given to the District Magistrate and Collector to do various things. As a matter of fact, my experience of the working of the Ordinances for two years has been that the District Magistrate and Collector is to a large extent a sort of post office. The report is sent in by the humbler members of the service, and their recommendations are, as a matter of fact, carried out. Rather than use the office of the District Magistrate and Collector, who is generally carrying out the recommendations of the rural officers, I suggest, if Government really want that this Bill should be made into an Act, they should hand over these powers to the real movers of the higher officers, namely, the police officers, the revenue patels, the kulkarnis, etc. As a matter of fact, all these reports that the higher officers are acting upon emanate from those in the lower grades of the service, and if it is their voice alone which has to be considered, why not give the powers to them? That would remove the cloak of its outward appearance and show the Bill in its true colours. As a matter of fact, if at all this House is going to give powers to Government, let us not quibble. Let us look at matters in the true spirit. If you want that the present Government must have these powers, give them the powers to the utmost, with a view that the real object of Government may be gained: and the real object, to my mind, is nothing but to crush all popular movements amongst the masses. If that is the real object—and I do not see any other object—then Government should be armed with all the powers they seek, and not only those powers, but even much wider powers than those. Sir, we are in the twentieth century; we are under the rule of the benign British Government, a Government which prides itself upon being very humane and very civilised. If such Bills are necessary in the twentieth century, and if people who make themselves uncomfortable to the Government, say, by their frank speaking, or by their political views, or by other methods of obtaining political emancipation, are to be crushed down, then we had better revert to the times of the seventeenth or eighteenth century of the English rule in England itself—I think it was the rule of the Stuarts. It would then be treason for any man to say “I do not want this Government to function; I want this Government to change; I want this Government to hand over power to the popular representatives.” All this would then be treason, and for treason, at least history says, the punishment was death, sequestration of property, etc. Well, Sir, we are told that at the time the Indian Penal Code was framed, the present state of things was not in contemplation.

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I just ask the speaker of those words to go a bit further and say, "If that was not in contemplation, let us contemplate it now: revert to our old ways of dealing justice." And if you really want to crush this movement, my amendments, and my amendments alone, will meet the situation. If you are really serious that this movement, that this spirit among the people, should be crushed, there is no go outside my amendments. Unless you take yourself the powers I suggest, you will never meet with success as you want. It was in all seriousness that I submitted my amendments to you and I was really surprised when at the outset you said, Sir, that there was something like irony about these amendments. An appeal has been made to us as representatives of the people that we should help Government by investing them with these powers which they seek. Sir, in the first place, it remains with Government to satisfy us that these are necessary in the interest of the public. Is there any demand from any section of the public that a measure like this is needed? If papers that are in circulation in this province, papers other than the *Times of India*, are any indication of popular voice, then, Sir, the popular voice is certainly against it. If our point of view, I mean the point of view of persons like me who are appealed to as representatives of the people, is to have any weight with Government, they will understand that the people are against it. If people are against it, is it the desire of Government that they want to force this measure on the people, in spite of their voice? If that is so, I want the Government to be frank. Let us once for all have the real motive of the Bill stated. In spite of the voice of the people, in spite of the wishes of the people, you want this Bill to be enacted into law. If that is your wish, I have nothing more to add. Then, of course, I will say, "If the Government carry it by a majority, let them carry it. I have nothing else to do but to vote against it." What I appeal to Government is not to clothe the real objects of the measure in meshes of mere verbiage, but to give out in so many plain words the true object they have got and tell the representatives of the people in this House the real object of this measure. Sir, we were told that no honest man should shirk his duty. I agree that no honest man should shirk his duty. I am prepared to give a certificate of honesty to the Members of Government. It may be their duty to have the Bill here. It will also be their duty to tell us why that Bill is necessary. As I am prepared to concede that they are honest, they will also in their honesty tell us what is exactly passing in their minds when they bring this Bill before this House to be enacted into law. This Council has been certified to have a sanity and sobriety second to none. If that is the claim of this Council, in the name of sanity and sobriety, I appeal to all non-official members of this House to vote against this Bill, unless they are satisfied that this Bill is necessary in the interest of the people.

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[*An Honourable Member*: Officials?] They have got their own mandate.

Sir, we know that as a result of the Ordinance being in force we have got punishments like imprisonments, fines, sequestration of property and so on. All these punishments have proved futile. At any rate, they are not sufficiently strong to deter a man absolutely from pursuing the so-called nefarious activities. So, something more is necessary. We must consider that our forefathers were sensible people and in their wisdom, in ancient times, they had prescribed punishments other than those obtaining in this country at present. They were not insane. If treason was punishable with something more than ordinary imprisonment and heavy fine, it must have been with some object. As I understand, the object in the olden times was that punishment should be so deterrent that the people would not be led into the commission of a particular crime very often. What do we find in these days? Even looking at the civil disobedience movement in its worst aspect, we see that, in spite of the rigour of the Ordinance, the civil disobedience movement in the words of Government Members themselves has not died out. They say that its outward manifestation has ceased. The very fact of bringing this Bill before the House is an indication that civil disobedience movement has not died out. If Government are honest in their claims to kill this movement or in their aspirations to kill this movement, I think they should embody in the Bill the punishments I have suggested in my amendments. You must make it a crime on pain of death to think or breathe a word against Government. You must declare, "Those who are not with us are against us." You must declare, "If you go to any place other than the one where we ask you to go, then you do so on pain of death, on pain of sequestration of property, on pain of losing what you hold dear and near." If Government are serious in their efforts, they must take my amendments as serious and accept them.

France, England and Italy claim to be civilised nations. I have read the histories of these nations. The punishments I talk of existed there till very recently. Only when they became civilised, they gave them up. The present civilised methods do not work in India. So, the only logical proposition is to revert to the pre-civilised times. If we go to the pre-civilised times, there is a need to amend the sections of the Criminal Procedure Code which lay down a particular punishment for a particular type of crime. [*Interruption.*] No, no; I am referring to the present Criminal Procedure Code, which prescribes punishments for a particular type of offence. If you remove those definitions and go beyond the provisions of those sections and substitute for them the punishments that were known to the Romans, the English [*An Honourable Member*: "During the Tudor period"], the Scotch and the French about the 18th century, then you will achieve your object. In those times, the punishments were, beheading an offender, taking out the flesh of the offender with red hot pincers, flaying a man alive, etc. Unless you make the punishment terrible for the offenders, the offenders, or at any rate their followers, will not be deterred from pursuing that particular kind of offence. Sir, these punishments should apply not

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only to those who oppose the law, but those who incite these people to oppose the law should be made to suffer. If Government really feel that this Mr. Gandhi has been responsible for all this evil in this land, is it not up to Government that they do away with the arch mischief-monger? Is it not up to them to punish him rather than punish his followers? Can they do it? If they cannot touch the prime mover of this movement and his lieutenants, Vallabhbhai Patel and others, who are enjoying their lives in the holy prison at Yeravda, leading a princely life, why do you penalise these poor people in the dark recesses of the Kaira and other districts who only follow their words? You make the law general. What is the use of invoking the provisions of 1827 Regulation and so on? Why should you not make a strict law and make everybody punishable under it? Therefore, first deal with that man who is the prime mover. You have not got the courage to do it. You are touching the poor masses, which even a humble sepoy can do. I ask them whether it is not putting the cart before the horse. If you are really serious, why should you not begin it at the other end?

Another suggestion is this. Why do you undertake the burden of keeping all these prisoners? Instead of doing that, you must resort to the punishment I have suggested, so that with the keeping of one elephant you can kill thousands and thousands of people. Then you will be relieved from the responsibility of feeding them and a lot of money will be saved. You will be saved from the duty of engaging warders, jailors, sentries and so on. All these things can be done. That can be done with great advantage to the State. If Government really think that this movement should be crushed, it is not by the methods they are pursuing that the movement will be crushed, but by accepting the suggestions made in my amendments.

Dr. J. ALBAN D'SOUZA (Bombay City, South): Mr. President, in discussing the soundness and acceptability or otherwise of the principle of this Bill, which is "A Bill to confer special powers on Government and its officers for the purpose of maintaining law and order," I feel that it is no use striking at random by taking an ideal view of the situation, which in a way those who have preceded me have done. This is surely not the practical way of dealing with a serious proposition of this kind. I feel that in considering this Bill there are four basic questions which this honourable House will have to ask itself in order to elicit a satisfactory consideration of this Bill. The questions are:—(1) Why is this Bill introduced? (2) In whose favour or on whose behalf is this Bill introduced? (3) What necessity, urgent or otherwise, is there for introducing this Bill? And lastly (4) What are the promptings of our conscience in regard to this Bill? Sir, I would earnestly entreat this honourable House—

The Honourable the PRESIDENT: The first and the third are the same. [*Laughter.*]

Dr. J. ALBAN D'SOUZA: In spite of the howl of laughter that is raised against me, I hope to indicate, when dealing individually with

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these questions, that there is a vast difference between the first and the third. Sir, I would earnestly request this House to treat these questions as an earnest and serious appeal in the first place to their political conscience and then only to their political consciousness. Sir, I wish it to be clearly understood that I address this appeal to the right-wingers just as much as to the left-wingers and to the central benches. I do so for the simple reason, that I believe there is a rather inordinate tendency, more on one side possibly than on the other, to permit political consciousness to ride roughshod over political conscience. In the light of what has happened and what is yet likely to happen in the political arena which we are now surveying for the purpose of this Bill, there is no doubt that only a dispassionate and calm survey can lead to a satisfactory answer to these questions.

Sir, my first question is, why is this Bill introduced? The reason why this Bill is introduced takes us immediately into the question of the history of the ordinances and the lesson that may be learned therefrom. Sir, the Honourable the Home Member has already referred to the ordinances on general lines. On the 1st of January 1932, on account of certain emergencies, four distinct ordinances were promulgated. The first was ordinance No. II, shortly styled "Emergency Powers Ordinance"; the second was ordinance No. III, the Unlawful Instigation Ordinance; the third, ordinance No. IV, the Unlawful Association Ordinance; and the fourth, ordinance No. V, the Prevention of Molestation and Boycotting Ordinance. That was on the 1st of January 1932. On the 1st of July 1932, the Special Powers Ordinance was promulgated. This was a consolidated ordinance, wherein Government included only those powers which they practically found necessary for the purpose of maintaining law and order in the land. A sub-question now arises: Was the consolidated ordinance of 1932 a proper, justifiable and logical sequence of ordinances Nos. II, III, IV and V, which were promulgated on the 1st of January? Sir, I may not make bold to give a direct answer to the question for fear of being misconstrued in a serious manner, but I will answer this question by quoting a report of the *Times of India* on the speech made by Dewan Bahadur Rangachariar who led the opposition when a similar measure was discussed in the Legislative Assembly. I hope I will be in order in reading it. I might have given a summary of it, but it is so important for the purpose of my argument that I hope the House will permit me—

The Honourable the PRESIDENT: Reading from the *Times of India*?

Dr. J. ALBAN D'SOUZA: Yes.

The Honourable the PRESIDENT: That is not permitted.

Dr. J. ALBAN D'SOUZA: Sir, I am prepared to give a summary. He led the opposition in the Assembly. He acknowledged that the ordinances were promulgated by the Governor-General for urgent reasons. He admitted that there was justification for the provisions

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made in the Bill. He congratulated Government on the success, which, by their use of those powers as embodied in the ordinances, they had achieved in restoring order in the land. Sir, I think, on this obvious showing, that the House ought to be with me when I say that it is clear that the consolidated Ordinance No. X was a proper, justifiable and logical sequence of the ordinances which were promulgated in the first instance.

Coming now to the Bill before the House, the "Bombay Special Powers Act," the principle of which is now under discussion, may I be permitted to say that just as the consolidated ordinance was a proper, justifiable and logical sequence of the first four discreet ordinances, in the same manner this "Bombay Special Powers Act" is a proper, justifiable and logical sequence of the consolidated Ordinance No. X? This, therefore, settles the question as to why this Bill is introduced.

I come now to the second question: in whose favour or on whose behalf has this Bill No. XXVII of 1932 been introduced? Sir, if there is one thing more than another which stands out clearly in connection with this Bill, it is this, that it is introduced in defence of the liberty of the people of the land and as a protection against forces that have so often and so seriously hindered even the performance by one of one's ordinary avocations in life. The Bill may very aptly be styled a Bill for the maintenance of *public* peace and order. The previous speakers have quoted instances in support of their arguments. I may be permitted to do the same. I may be permitted to give instances from my own personal experience. Sir, a messenger is sent to the Crawford Market for the purchase of some materials for the home. On the journey homewards with a parcel he is waylaid by a gang of certain persons, and then follows an inspection and confiscation for certain purposes of certain of the articles in the parcel. The owner of the home is living in a land where there is a Criminal Procedure Code, but the Criminal Procedure Code cannot get at this offence in a direct manner. It may be asked immediately why was not the matter reported to the police? For the very simple reason that under the existing law of the land, redress for this and similar offences, if this is possible, would be a most tedious job; in fact it would be "a long way to Tipperary" before redress could be obtained. Further, Sir, instances have also been cited where dhobeas have, under unwarranted pressure, refused to wash clothes, sweepers to wash bath-rooms, and midwives to attend upon parturient women. I therefore trust that the House will admit that there has been a serious and unwarranted infringement of the liberty of the people. There can be no doubt that it logically follows that legislation of the kind that is sought to be enacted is definitely needed.

Coming now to the question of the necessity there is for the introduction or otherwise of this Bill, it has been urged that the forces that necessitated the measures are extinct, and consequently it is not necessary to carry on with ordinances or to incorporate them into the law of the land. Sir, I am not exactly certain that this statement is correct. What is correct is that these forces are now under control, and as long as they remain

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under control, it may appear that it may not be necessary to enforce these provisions. But what guarantee is there, Sir, who here will give a guarantee, that once the controlling powers are removed, the spring that is held under pressure will not rebound to greater heights of lawlessness? Sir, reference has been made to excesses; in fact very much has been made of excesses that have occurred here and there. I need scarcely remind the honourable House that excesses will occur in the best of regulated concerns. For example, excesses in one form or another do occur in connection with well organised water-supply in Bombay. This is surely no reason why one may demand the scrapping of the triplicated Tansa main. Then, Sir, for every single excess there are probably thousands of cases that receive due and proper treatment. Excesses, therefore, must occur. His Excellency the Governor told us in his speech that we have the Civil Procedure Code, under which excesses occur, but no one has suggested that the Code should be abolished. Sir, it is obvious that this question of excesses has been carried too far.

Finally, Sir, dealing with the question of the promptings to us by our consciences in the matter of the Bill, I feel I have already indicated to the House what these are when I cautioned honourable members not to allow their political consciousness to have the better over their political conscience. Sir, I appeal to the honourable House to support the measure as wholeheartedly as they can.

The Honourable the PRESIDENT: There is a desire on the part of this side of the House, conveyed to me through the leader of the Opposition Party, that if possible it would be much better if some members on Government benches speak and help them better to understand the provisions of the Bill.

The Honourable Sir GHULAM HUSSAIN: We cannot bind ourselves. We have every right to speak at any time.

The Honourable the PRESIDENT: The request is repeated almost at every session and the answer is always the same as given by the Honourable the Leader of the House. But in practice it is found that one section of the House waits till the other finishes. But, if the suggestion is accepted—

The Honourable Mr. W. F. HUDSON: If they want any legal point to be discussed, it is for them to set out the legal point. So far the speeches have been made on general lines and, so far as I can see, there is nothing for this side of the House to answer.

Rao Bahadur R. R. KALE: There was something about the question of appeal. There was some interruption. That interruption remained there. There are more than one legal luminaries present in the House and, if one of them shows exactly how we stand, it would be much better.

The Honourable Mr. W. F. HUDSON: About the question of appeal Rao Bahadur Chitale said that his honourable friend would elaborate the point to-morrow. We are waiting for that elaboration.

Mr. J. B. PETIT : I would like to draw the attention of the Honourable the Home Member to another point. There are many members on the opposition side who are not convinced of the accuracy of the plea that the ordinary laws of the land are not adequate enough to deal with the present situation. If either the Advocate-General or the Legal Remembrancer will kindly explain why the Government think so, it will clear the atmosphere and materially help to shorten the discussion. At least I am personally labouring under this difficulty and do not understand how and why the ordinary laws of the land are considered to be insufficient for the purpose.

Mr. G. S. GANGOLI : I would request Government to supply us with a copy of the Bill now before the Legislative Assembly. Unless we know what the provisions of that Bill are and what further powers are necessary, we cannot go on with the discussion of this Bill.

The Honourable the PRESIDENT : What I should point out is that this is the first reading of the Bill and there are certain amendments which must be proposed and placed before the House. If that opportunity is lost, the mover of the amendment will not get that opportunity again. Because it is during this general discussion that a member who has tabled an amendment will get the chance to move it. That must be borne in mind.

Rao Bahadur R. R. KALE : If the amendments are moved and the right of speech reserved so that the discussion may deal both with the amendments—

The Honourable the PRESIDENT : He can move it and criticize the Bill on general grounds.

Rao Bahadur R. R. KALE : Therefore, it would be better if the persons whose amendments have been decided by you as amendments of principle are called upon to move them.

The Honourable Mr. W. F. HUDSON : I thought a good many members would be prepared to make general speeches, but, if there is no such desire, I should be glad to proceed with the amendments in order. Probably in the course of the amendments everything they want to say will emerge.

Dewan Bahadur D. R. PATIL : Some members want to make speeches to-morrow.

Mr. M. M. KARBHARI (Thana and Bombay Suburban Districts) : Mr. President, as a loyal subject of His Majesty I think it my duty to oppose this Bill in all earnestness, because my loyalty prompts me to perpetuate the connections of His august Majesty's family with this country for ever, and I do not want to see any measure being introduced which might subsequently lead to a condition that once existed in Czarist Russia. Therefore, I would very much like to impress upon this House, to think twice and reasonably and sensibly, as has been suggested by the Honourable the Mover of the Bill, before they give their assent to this Bill. Let us not exaggerate; why has this Bill been introduced? For whose benefit is it introduced? And what is sought to be redressed by Government? This Bill is called a Bill to confer special powers on Government and its

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officers for the purpose of maintaining law and order. I would very much like the honourable members on the opposite bench to enlighten me as to what exactly they mean by "law and order". Law, as I understand, should mean the right of conducting the Government for the benefit of the people over which they rule, and, order, to my mind, means a stable condition of things providing for the improvement of the social, moral and economical life of the people. I cannot conceive of the idea of a Government producing a Bill of this kind which is highly detrimental to the best interests of the country. Law and order to my mind, as meant by the present Government, means that we should think and act just as they want us to think and act. If we dare go against them they shall crush us. If this House will find that the implications of this Bill are such, then it is up to us to prove that we are loyal to the Crown and to show that the actions of the Government officers, however high they may be situated, are not justified but are detrimental to the permanent connection of this country with the Royal family. We are known to be a provincial Government. To what extent do we carry the responsibility of a Government? In order to examine the merits of this Government, its budget may be examined to find out what it is doing for the uplift of the people. If in a Government which is so called in the name of the people, we find (for instance in the present Government) that a Minister for Education can complacently draw Rs. 4,000 per mensem and reduce 20 per cent. of the grant for education of the masses, I do not think we carry any responsibility, even if that reduction may be in the name of economy. If we find that in the name of Government we are asked to give more supplementary grants for more police, more jails and more repressive measures, we do not think we are leading humanity to that ultimate goal of civilisation. When His Majesty's Government in England and Scotland are trying to solve the problems of disarmament, our Government of Bombay and the Government of India are trying to introduce measures bringing more armaments into their armoury to crush the political consciousness of the people.

Much has been said about the Congress and the civil disobedience movement. If the civil disobedience movement could be compared to an epidemic, Government must know that they must base their measures on laws of sanitation and scientific explanation to remove that epidemic, and they cannot merely kill the patients affected with the epidemic, because it is just possible that in so trying to check that epidemic in the ways suggested by Government, a greater epidemic may break out in the near future. If it is known that the Congress has been acting in a subversive manner, this honourable House has got to consider why was it and how is it that the Congress was forced to these actions? We may not agree with the Congress, but at the same time, we have got to see what are the reasons for their so acting? And, therefore, if we look to the reasons, we must understand and we must try to explore whether or not the millions of the population who are inhabiting this country are really happy and contented, what is their earning capacity, how they are living and whether or not any advance in their interests,

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social, economic and moral, has become inevitable and pressing. It will interest this House to know that many a time I have heard speeches of benevolence from the opposite side. To cite one instance of benevolence, the Honourable the Home Member draws a pay for one day which, if we go to the country and inquire, we will find, 1,360 people put together cannot draw in one day, because I put the average earning of the people at two annas a day. If such is the economic distress, and if those people are captured by the Congress, is it not up to Government to remove all this distress and all their grievances? Let us examine the motive of the Congress and let us examine against whom the Congress is putting up their fight. It is stated they are fighting against Government. But when they say Government, to my mind the idea is conveyed of the Secretariat and not the real Government. The question between the Congress and the Government was and is that the executive should be subordinated to the legislature. But the executive refuses to yield. When Government refuses to yield, why will not the movement progress further and further? So, if we try to analyse the whole case, we find that it is not the fight between people and people; it is not a fight between India and England, but it is a fight between the ruling bureaucracy that is in power here and the people who are enlightened and who want the bureaucracy to be subordinate to their wishes. That is the whole matter which is at issue. Now, at a time when you of your own accord admit that constitutional change has become necessary, and further responsibility has got to be granted to India, may I know from you if this is the indication (flourishing the Bill) of your mind that you want to scotch and you want to emasculate any political idea for advance that may be in the minds of the people?

This Bill is said to have been introduced in order to curtail the pernicious effects of the civil disobedience movement, but reading through this Bill, any movement or any right agitation conducted on constitutional lines can also be brought under its operation. To my mind the idea conveyed is that no political movement of any kind whatever and no political advance should be attempted by the people. I will only make a reference to the present action taken by certain Divisional Officers in the country. There are Collectors who have been calling loyalty meetings. Many gatherings have been brought about. Do Government believe that they (the people) go to such meetings with a willing consent? The people know what the present bureaucratic administration is; they know how they have got to live upon the wishes of the officials every day from morning to night, and they know that if they do not attend the meetings, they will get into the bad books of the officers who can bring them into trouble. It is no expression of loyalty at all and if Government is going to depend upon such loyalty meetings, I can assure you, Sir, that these very officers are deluding Government into making very sad mistakes. If Government come into real contact with these people, just as I as a citizen come into contact with them, they will realise the truth. You should hear their talk immediately they come away from the so-called loyalty meetings and then you

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will be convinced that these loyalty meetings are not going to help you, but that they are creating greater disaffection in the minds of the people because people have now come to realise that any benefit that can come to the country must come through themselves and cannot come through these officers who have had their innings for the last 150 years. If you are prepared to surrender your portfolio to this side, then we can show that instead of introducing this pernicious Bill, we can stop the whole Congress movement in six months' time by giving the people the various things they want, and by giving them food for their belly. Food is the primary question of humanity. Progress is also a similar question. Supply more bread, give them proper education, give them the necessary industrial education, and there will not be any passive resistance or any other movement which will be subversive of government. If you believe that there are honest people on this side as well as dishonest people—

An Honourable MEMBER : No.

Mr. M. M. KARBHARI : May I not expect that there are honest officers and dishonest officers as well ?

An Honourable MEMBER : No.

Mr. M. M. KARBHARI : Are we to believe in your honesty, or integrity or judgment for all times and that you have become infallible ? Don't you think you also can make mistakes ? Do you really think that the high pay you give to your servants and subordinates is really deserving ? I have heard you giving compliments to the police and to the services. Please go to the country and find out what the real facts are, and you shall find that the case is quite different. I have said in the beginning that as a loyal subject I owe a duty to give my support to any measure that will bring benefit to His Majesty's subjects, but I cannot possibly support any measure that is going to bring more arbitrary powers into the hands of officers who are likely to misuse them. What has happened in Russia ? The same might happen here. If you stop the proper evolution, the germs of revolution will multiply, and what has happened in Russia will happen here. What can be improved to-day by a statesmanlike policy, will be spoilt and aggravated by your so-called wise administrative measures. Therefore, I would earnestly request the Government to consider the whole question from the aspect which I have been suggesting, and try to remove the disaffection from the people as early as possible, for verily I believe that any repressive measures or even any bayonets that may be introduced will not bring peace either to the Government or to the subjects. It is also the duty of honourable members on this side to find out whether they want themselves to be treated or to be used for creating a mentality which, to my mind, would be slavish for any nation. Before we submit to this, I would like to say that if, as Indians, we are not capable or fit to live a civilised life, it is much better that we should be extirpated from one end of the country to the other and let the country be habitated by people who deserve to live. Sir, to-morrow I will not be surprised if this Government were

[Mr. M. M. Karbhari]

to bring in a Bill recommending that because Indians have advanced in civilization and because they have attained political consciousness, every Indian child that may be born should have its tongue cut off and its hands broken off.

The Honourable Mr. W. F. HUDSON: Government will bring in no Bill to-morrow. [*Laughter.*]

Dr. J. A. COLLACO (Bombay City, South): Sir, as another loyal subject of His Majesty, I rise to support the Bill. My regret for supporting the Bill is as profound as that of the honourable mover of the Bill, because, Sir, I also, as a representative of the people, have to face the crowd. But, Sir, I have to do my duty towards my conscience. If ever I had a difficulty in deciding whether to vote or not to vote, or vote for or against any Bill, that Bill is the one now before the honourable House. The issues involved are of such a momentous character that one shrinks from coming to a decision, lest that decision should be a wrong one. The Bill was talked about the whole country. A similar Bill had received a mixed treatment in the Assembly, although it is now passed. People told me that under this Bill no one was a free man. Another gentleman told me that every husband, whilst leaving for his office, had to wish his wife good-bye, lest he may not return home under this Bill. Under the circumstances, I asked myself whether I should be a party in giving into the hands of Government these special powers, which may sometimes be misused and deprive an innocent citizen of his liberty. On the other hand, I had to consider whether the civil disobedience movement carried on by a few hot-headed idealists, with a lot of unemployed young men in their train should lead a sober country by the nose into troubles from which it would be very difficult for the country to extricate itself; and, as I have said, I have decided to support the Bill.

Many honourable members might differ, and differ furiously, from my views, but they are honest views which I have given after mature consideration of all the facts and of my experience in Bombay city. Bombay city has been the chief theatre of war between the Congress and the Government; and the aftermath of that war is ruined trade and industry, and the spread of poverty and indigence among its citizens. The respect and obedience to constituted authority must be supreme. The want of it will destroy the very foundations of social and political order. Sir, the Congress believes in civil disobedience as an effective weapon, whilst Government on the other hand condemn it as a wrong and pernicious principle, and are determined to stamp it out and prevent its revival. Well, whatever I might say against non-co-operation, I must admit this, and every one will admit it, that if there were no non-co-operation, we would not have got what we are getting. I do admit that fact; you cannot overlook it. But I must submit also that the Congress later on had made no efforts to combat the difficulties and setbacks with which we were confronted at every turn to a satisfactory solution; neither did they show any disposition to unravel the complex problems which faced the country, but they wasted their energies on an unsound cause. Given

[Dr. J. A. Collaco]

a sounder cause, they might have carried India far towards self-government.

Sir, I am a little disturbed at the future of our country. Civil disobedience may be an easy weapon to put the Government into troubles and difficulties, but will bring a grim day of reckoning. Sow the wind and be prepared to reap the whirlwind. That is what I say. I support this Bill not for the sake of the present Government. They can well take care of themselves. I support this Bill for the sake of our own future Government. Will these young men, whom you teach to break the laws of the country, forget their lessons so very soon? When after a couple of years you yourselves take the reins of Government in your hands, when you have your own Home Member, when you have your own Police Commissioner, when you yourselves have to maintain law and order, will not this very weapon of civil disobedience be used against you, and then, Sir, will you have the face and courage to put down the very movement which you have been teaching these young men? The chickens will then come home to roost. Sir, the future under these conditions is too dark to be contemplated with equanimity. We have heard the old saying "He who rises by the sword will fall by the sword." But I say, he who rises by civil disobedience will fall by civil disobedience. Civil disobedience has had its day, but if they think they are doing the country any good by pursuing it still further, then I submit, Sir, that it is a marvellous feat of self-deception. I said, Sir, that my dislike for the Special Powers Bill is as profound as that of any other honourable member, but we do sometimes give unpalatable mixtures to cure serious diseases; we sometimes even amputate a limb lest it should poison the whole body. I submit, Sir, that if you leave this disease of the civil disobedience movement untreated, it will eat into the very vitals of the body politic. I do not for a moment believe that this Bill is a permanent cure of the civil disobedience movement, but it is only a symptomatic treatment to give the doctors at the Round Table Conference time to cure it radically and permanently.

We are all for Swaraj; even the Government is. But the only difference is in regard to the methods used in obtaining it. Patriotism is not the monopoly of one class or another. We are all imbued with patriotic and national sentiments. Whilst we have the patriotic fever in a moderate degree, the fever in others is gone so high that it has made them delirious and I am sure this Bill will act as an ice-bag for their heads.

The genuine anxiety of some of the honourable members is the fear of misuse of these powers. I join them in their fear. We all know that the Police officers are not all angels. They may sometimes make a mistake. This is no reason why 99 guilty persons should be let off for fear of convicting one innocent man. We want a definite assurance from Government that these powers will not be abused.

India in her struggle for Swaraj is likened to Ireland by some people. We have the gunmen in Bengal, we have Sinn Feiners in the Congress and we have a MacSwiney who goes on fast. Even in Ireland, which is a Free State, I shall tell you what happened, from my notes. Last year

[Dr. J. A. Collaco]

Mr. Cosgrave hurriedly passed what is called "Constitutional Amendment Act," an Act which far exceeds anything ever proposed by the worst coercion anywhere. Given briefly, the terms of the Act are as follows :—

"Under a military tribunal of five members, only three of whom are necessary to form a court, persons accused of treason, sedition, seditious libel, intimidation of juries and offences against the Fire Arms Act, may be summarily tried in secret session and sentenced to any penalty at the discretion of the court. Under this Act the police and civil guards are also given wide discretionary powers to arrest and question suspected persons at any time during the day or night."

Mr. Cosgrave said whilst moving the Bill that there was a serious conspiracy against the State by certain organisations who by their acts of coercion and terrorism struck terror into the lives of law-abiding citizens. I want to know whether this Bill does not pale into insignificance compared to the Bill passed by the self-governing Ireland. Government will do a public service of inestimable value if they can prevent our country from drifting into Irish conditions.

Sir, I do not think that anyone is satisfied with the present political situation. The people certainly are not, but even the Government are far from being happy over it and are pursuing their present policy because they consider that it is forced on them and there is no alternative policy which they can adopt. The whole of India, whether it be Government, Congress or the people at large, will be extremely pleased if the present situation comes to a happy end by the restoration of friendly relations between every one concerned.

The Honourable the PRESIDENT : The House must help me in getting through the work, which this Bill entails, as quickly as it can, because there are a large number of amendments, about 400 in number, to go through.

Rao Bahadur R. R. KALE : I am prepared to begin my speech to-day—

The Honourable Mr. W. F. HUDSON : It is not fair to the honourable member to divide his speech into bits. The House may adjourn now.

The Honourable the PRESIDENT : The House is now adjourned to 2 p.m. to-morrow, Wednesday, the 23rd November 1932.

Vol. XXXVI—Part II

Wednesday, the 23rd November 1932.

The Council re-assembled at the Council Hall, Bombay, on Wednesday, the 23rd November 1932, at 2 p.m., the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
ADVANI, Mr. P. B.

ALLAHBAKSH, Khan Bahadur

AMINUDDIN, Mr. SAIYID

ANGADI, Rao Bahadur S. N.

ARBUTHNOT, Mr. C. W. E.

ASAVALE, Rao Bahadur R. S.

BAKHALE, Mr. R. R.

BANGI, Mr. A. K. J.

BHURGRI, Mr. J. W.

BIJARANI, Khan Bahadur SHEER MUHAMMAD KHAN

BIRADAR, Sardar MAHABOOBALI KHAN

BOLE, Rao Bahadur S. K.

BRANDER, Mr. J. P.

CHIKODI, Mr. P. R.

CHITALE, Rao Bahadur G. K.

CLAYTON, Mr. H. B.

COLLACO, Dr. J. A.

COOPER, Khan Bahadur D. B.

DAVIS, Mr. G.

DESAI, Rao Saheb B. G.

DESAI, Mr. H. R.

DHALUMAL LILARAM, Mr.

DHURANDHAR, Mr. J. R.

DIXIT, Dr. M. K.

D'SOUZA, Dr. J. ALBAN

GANGOLI, Mr. G. S.

GENNINGS, Mr. J. F.

GHULAM HUSSAIN, the Honourable Sir

GHULAM NABI SHAH, Khan Bahadur

GILDER, Dr. M. D.

GOKHALE, Mr. L. R.

GOVER RORA, Mr.

GREAVES, Mr. J. B.

HAMPTON, Mr. H. V.

HUDSON, the Honourable Mr. W. F.

HUMPHREY, Mr. JOHN

JITEKAR, Mr. HAJI IBRAHIM

JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHRO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MATCHESWALLA, Mr. G. E.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, V. N.,
 PATIL, Rao Saheb V. S.
 PETT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAI, Mr. A. E.
 SHAIKH ABDUL MAJID, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVASANG JORBHAI
 SOLANKI, Dr. P. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SYED MIRAN MAHOMED SHAH
 SYED MUNAWAR, Mr.
 TALPUR, Mir BANDEH ALI KHAN
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINHI
 TOLANI, Mr. S. S.

TURNER, Mr. C. W. A.

VAKIL, Mr. PESTANSHAH N.

VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR

VANDEKAR, RAO Bahadur R. V.

WINTERBOTHAM, Mr. G. L.

STARRED QUESTIONS AND ANSWERS.

TEACHERS LEAVING PRIMARY SCHOOLS UNDER THE CONTROL AND MANAGEMENT OF GOVERNMENT.

*Rao Saheb B. G. DESAI (Kaira District): Will the Honourable Minister for Education be pleased to state—

(a) the number of trained as well as untrained teachers in the local board primary schools under the management and control of Government in the Kaira and Ahmedabad districts who left service during the last five years ;

(b) how many of them have joined the municipal or other service after leaving the local board service under Government control ;

(c) whether Government have made an enquiry into the matter ; if so, with what results ? What steps have they taken in the matter ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) 22 trained and 40 untrained teachers in the Ahmedabad District and 3 trained and 5 untrained teachers in the Kaira District for the five years ending 31st March 1931.

(b) 5 trained teachers from the Ahmedabad District only.

(c) Yes. The inquiry showed that apart from the 5 teachers mentioned in the reply to part (b) above, who left local board service in order to join municipal service and 8 other teachers who resigned for private reasons, the rest did not give any reasons for leaving service. Government consider that no action on their part is called for.

NON-PAYMENT OF TAXES : ARRESTS AND CONVICTIONS.

*Mr. G. S. GANGOLI (Kanara District): Will the Honourable the Revenue and Finance Member be pleased to state with reference to the taluka of Siddapur and with reference to the year 1932—

(a) the number of arrests and convictions of men and women in connection with non-payment of taxes either under the ordinances or under any other law ;

(b) whether any of such arrests were previously sanctioned by the local Government or by the District Magistrate ; if so, how many and by whom ;

(c) the procedure followed in recovering land revenue after the imprisonment of the Khatedars ;

(d) the number of cases in which the ornaments of women were attached from their custody and from their person ;

(e) the number of cases in which resistance to arrests or attachments, if any, was offered ?

The Honourable Sir GHULAM HUSSAIN : (a) No one was arrested for non-payment of taxes. The number arrested and convicted under the Ordinance for instigation not to pay taxes or land revenue is 49 and 46 respectively. There was no such arrest or conviction under the Criminal Law Amendment Act.

(b) No previous sanction of Government or of the District Magistrate is required.

(c) The usual procedure laid down in section 150 of the Land Revenue Code.

(d) Nil.

(e) Four.

Mr. G. S. GANGOLI : The answer to (c) is that the usual procedure laid down in section 150 of the Land Revenue Code was followed. My question was, what was the procedure followed in recovering land revenue after the imprisonment of the khatedars. Does it suppose that some of the khatedars were imprisoned?

The Honourable Sir GHULAM HUSSAIN : The reply is there.

Mr. G. S. GANGOLI : The answer given is that no one was arrested for non-payment of taxes. If the landholders were not arrested for that, may I know for what they were arrested ?

The Honourable Sir GHULAM HUSSAIN : No reply.

RECOVERY OF LAND REVENUE : EXTRA POLICE FORCE AND ADDITIONAL REVENUE STAFF.

*Mr. G. S. GANGOLI (Kanara District) : Will the Honourable the Revenue and Finance Member be pleased to state with reference to the taluka of Siddapur in the district of Kanara—

(a) whether it is a fact that in the month of June 1932 the following officers were acting and were placed there purposely with the assurance of their being confirmed in their posts to use strong measures in recovering land revenue :—

- (i) an acting Collector ;
- (ii) an acting District Deputy Collector ;
- (iii) an acting Mamlatdar ;
- (iv) an acting Special Head Karkun ;
- (v) an acting Inspector of Police.

(b) whether in the year 1932 any extra police force was stationed at Siddapur and whether any additional hands were taken on the establishment which looks to the land revenue collection ;

(c) whether any member of the Government or the Commissioner, S. D., or any agent from the Director of Information visited the taluka of Siddapur after the commencement of the collection work of land revenue in 1932 ?

The Honourable Sir GHULAM HUSSAIN : (a) It is true that the officers mentioned were holding acting appointments, but they were not placed there purposely nor had they been given an assurance that they

would be confirmed in their posts if they recovered the revenue by resorting to strong measures.

(b) Yes.

(c) No.

Mr. G. S. GANGOLI : Is this an indication of how the Ordinances are administered ? All the officers there are acting. Some of them are specially appointed for the purpose, but the reply is that they were not placed there purposely, and the further reply is that not even the Commissioner visited the place. Is that how the Ordinances are to be administered by the local men on the spot, as the no-tax Ordinance applied to that taluka ? They are all acting officers there. The District Deputy Collector is acting, the Mamlatdar is acting, the Special Head Karkun is acting, the Inspector of Police is acting, and even the Collector is acting. Again, not even the Commissioner visited the place. There is the special police force also. Is that how the Ordinances are to be administered ?

The Honourable Sir GHULAM HUSSAIN : They happened to be there as acting officers.

Mr. G. S. GANGOLI : It is not only that. They are special. The Police Inspector was specially appointed for the purpose.

The Honourable Sir GHULAM HUSSAIN : Not all were specially appointed for the purpose.

Mr. G. S. GANGOLI : Who is to supervise them when they are all acting ?

The Honourable Sir GHULAM HUSSAIN : The Collector will supervise, so also the Assistant Collector and the Deputy Collector.

Mr. G. S. GANGOLI : The Collector himself was acting, and he is the fourth or fifth man.

The Honourable Sir GHULAM HUSSAIN : Then we must abolish all acting appointments ?

RECOVERY OF LAND REVENUE : ATTACHMENTS OF NECESSARY COOKING UTENSILS, ETC.

*Mr. G. S. GANGOLI (Kanara District) : Will the Honourable the Revenue and Finance Member be pleased to state with reference to the taluka of Siddapur—

(a) the number of cases in which cooking utensils were attached in the year 1932 for recovering land revenue ;

(b) the number of cases in which milk or other food of daily consumption was attached ;

(c) the number of cases in which food stuffs stored for the monsoons were attached ;

(d) the number of cases in which corrugated sheets of zinc or iron fixed to the buildings were attached and removed ?

The Honourable Sir GHULAM HUSSAIN : (a) to (d) Nil.

Mr. G. S. GANGOLI : The local papers reported every week that foodstuffs, even half a seer of milk, were attached. That has appeared in the local newspapers, but the answer given by Government is different.

The Honourable Sir GHULAM HUSSAIN : A number of things appear in the papers, but they are not all true.

RECOVERY OF ASSESSMENT : REMOVAL OF IDOLS IN THE
SIDDAPUR TALUKA.

*Mr. G. S. GANGOLI (Kanara District) : Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether it is a fact that in the months of June and July last, some non-Hindu subordinate officers of Government entered the inner rooms of the houses of certain Brahmins in the villages of Kelaginamane, Vajgode and Vadgere in the Siddapur Taluka and (in a few cases) even displaced and removed the idols of daily worship from their places of worship in attempting to recover assessment ;

(b) if so, whether such acts were authorised by Government ?

The Honourable Sir GHULAM HUSSAIN : (a) No. The fact is that a Muhammadan Circle Inspector had entered the outer portions of a house belonging to certain Brahmins in Kelaginamane and similar portions of 3 houses of certain Brahmins in Vajgode village in the months of June and July last, but the portions of the houses were such as are usually accessible to the non-Hindus. No such entry was made in Vadgeri village. In all the cases only the Hindu Panchas entered the inner rooms. In no case were idols of daily worship displaced and removed from the places of worship.

(b) Does not arise.

TRANSFER AND RETRANSFER OF PUNJALAL AMBALAL BHAVSAR,
A PRIMARY TEACHER IN AHMEDABAD DISTRICT.

*Mr. J. S. KADRI (Northern Division) : Will the Honourable Minister for Education be pleased to state—

(a) the qualifications, service, and pay of one Punjalal Ambalal Bhavsar before his transfer to the taluka school at Oran, taluka Prantij, district Ahmedabad, and the amounts of postal and attendance allowances he drew as taluka master at Oran ;

(b) how many senior masters were superseded by him when he was appointed taluka master and how long he served in that capacity ;

(c) whether it is a fact that there were many complaints against this master and that it was by way of punishment that he was transferred from Oran to Rojka in Dhandhuka taluka under the orders of the Educational Inspector, Northern Division ;

(d) whether it is a fact that this master secured retransfer to Adalaj in the North Dascroi taluka near his native-place in a fortnight after his stay at Rojka ;

(e) if so, what were the reasons for such an early transfer ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) The particulars required are as under :—

		Qualifications—3rd year trained.
Before his transfer to Oran	{	Service—16 years and 10 months. Rs.
	}	Pay .. 44
At Oran	{	Pay .. 44
	}	Postal allowance .. 8
	}	Attendance allowance .. 5
		:

(b) None. For 2 years.

(c) No.

(d) No. He was transferred from Rojka to Adalaj after three months.

(e) He was transferred to Adalaj at his own request and for his own convenience.

ROADSIDE TREES.

*Mr. G. M. KALBHOR (Poona District) : Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether any trees by roadside or by the side of a tank are grown by Government in this presidency; if so, what the approximate number of such trees is;

(b) whether the number of such trees is increasing or decreasing; if it is decreasing what the reason for it is;

(c) whether Government contemplate planting of such trees in order to increase their revenue;

(d) whether they have any difficulties to contend with;

(e) the approximate cost of planting such trees and maintaining them every year for a running mile?

The Honourable Sirdar Sir RUSTOM JEHANGIR VAKIL : (a) Yes. On roads in the Presidency proper—657,000 trees approximately.

No information regarding trees on roads in Sind is available.

Regarding trees by the sides of tanks—the information required is not readily available and Government consider that the time and labour involved in collecting it would not be commensurate with the value of the information.

(b) No information is available.

(c) Trees on roadside are plants for the purposes of providing shade. As the best shade trees are not usually the best timber-producing trees, Government do not expect revenue therefrom.

Trees round tanks are usually babul, from which Government derive some revenue. The policy of tree-planting on road sides will be continued as funds permit.

(d) Yes, mainly the difficulty of obtaining water in the dry season.

(e) The cost of planting trees on the roadside is approximately Rs. 925 per mile, and the cost of maintaining them till established is approximately Rs. 320 a year per mile usually for 5 years.

Mr. G. M. KALBHOR: Are Government aware that there are some mango trees on the roadside in the Poona district ?

The Honourable Sirdar Sir RUSTOM J. VAKIL: There may be.

Mr. G. M. KALBHOR: If there are mango trees on the road-side, the proceeds from the auction sales of the fruits of those trees have been very small. Have Government made enquiries as to why the proceeds from the auctions of the fruits of those trees are small ?

The Honourable Sirdar Sir RUSTOM J. VAKIL: The money realised is considered to be quite adequate.

ABOLITION OF POSTS OF SUPERINTENDENTS AND PERSONAL ASSISTANTS IN THE EDUCATIONAL DEPARTMENT.

*Rao Saheb P. D. KULKARNI (Poona District): Will the Honourable Minister for Education be pleased to state—

(a) whether Government are considering the question of effecting saving by dispensing with the Superintendents in the office of the Director of Public Instruction and the Personal Assistants in the Educational Inspectors' offices ;

(b) if not, whether there are any special reasons why saving in this direction should not be attempted ?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) No.

(b) Yes. If however the recommendations of the Reorganization Committee result in a reduction of the work falling on the Director of Public Instruction, the situation will be reviewed.

Rao Saheb. P. D. KULKARNI: Will it be reviewed before the next Budget session ?

The Honourable Dewan Bahadur S. T. KAMBLI: We have not yet received the recommendations of the Reorganization Committee, and therefore I cannot say anything on that point.

BOMBAY RIOTS: MURDER OF A HINDU AT THE JUNCTION OF DUNCAN ROAD AND SANDHURST ROAD.

*Mr. N. N. PATIL (Kolaba District): Will the Honourable the Home and General Member be pleased to state—

(a) whether it is a fact that a Hindu, by name Shankar Dada Walekar, was killed at the junction of Duncan Road and Sandhurst Road, behind the round temple near Central Street Lamp on the 15th May 1932 at about 2 p.m. ;

(b) whether it is a fact that at that time there was a Police party near the round temple with an officer ? If so, how far it was from the scene of the offence ;

(c) the names of the officer and the Police constables and the number of the latter ;

(d) whether it is a fact that the distance between the deceased and the Police party was about 70 yards ? If so, how is it that the deceased was not rescued by the Police ;

(e) how many persons have been arrested in connection with this murder and how many have been punished ;

(f) who removed the deceased from the place to the J. J. Hospital, and how he was removed ? Whether in a victoria, or in a motor or on a stretcher ;

(g) in whose name the entry has been made for taking the deceased to the J. J. Hospital ;

(h) whether it is a fact a certain person, whose hands were besmeared with blood and who carried a naked dagger in his hand, ran away from the spot where the deceased was killed to the Bhandari Street in the presence of the Police ;

(i) if so, what is his name and why he was not arrested by the Police on the spot ;

(j) whether any inquiry has been made by the Police in this connection to find out the culprits ? If so, with what result ?

The Honourable Mr. W. F. HUDSON : (a) Yes.

(b) Yes. At the time of the murder the Policy party was engaged in dealing with a riot about 400 yards away.

(c) There were ten constables under Sub-Inspector Amladi. The names of the constables are not on record.

(d) It is not a fact.

(e) None.

(f) and (g) The deceased was removed to the J. J. Hospital in a taxi by Police constable No. 1479/C in whose name the entry was made at the Hospital.

(h) No.

(i) Does not arise.

(j) Yes ; but no trace of the culprit can be found.

NEWSPAPERS : SUBSIDY BY GOVERNMENT.

*Mr. J. B. PETIT (Bombay Millowners' Association) : Will the Honourable the Home and General Member be pleased to state—

(a) whether any subsidy is at present being given to any newspapers in the country from provincial funds either in cash or in the shape of purchase of copies ;

(b) if so, to which papers and how much is given per year ;

(c) the basis on which the subsidy is given ;

(d) the account to which the amounts so given are debited ?

The Honourable Mr. W. F. HUDSON : (a), (b) and (d) A subsidy amounting to approximately Rs. 100 a month is being paid by the Collector of Karachi, with the sanction of Government, to the *Sind Patriot* of Karachi, the expenditure being debited to the head "22-General Administration,—General Establishment,—Contingencies,—Non-Contract

Contingencies"; and copies of the following newspapers are being purchased, also with the sanction of Government:—

(1) *Parikshak* of Belgaum :

(i) One hundred copies by the Commissioner, Central Division, for distribution in the Satara and Sholapur districts for a period of six months at a cost not exceeding Rs. 170 which is debitable to the head "22-General Administration,—Commissioners,—Non-Contract Contingencies,—Central Division";

(ii) Forty copies by the Collector of Belgaum, at a cost of about Rs. 9 a month, debitable to the contingent grant of the Collector.

(2) *Prakash* of Dharwar : Copies are purchased at intervals by the Collector, who debits the cost to his contingent grant.

(3) *Vichari* of Karwar : Copies are purchased by the Commissioner, Southern Division, for distribution in the Kanara District. The cost is debitable to the head "22-General Administration,—Commissioners, Non-Contract Contingencies,—Southern Division." ;

(4) *Nation* of Bombay : Copies are purchased by the Director of Information for distribution to district officers at a cost of about Rs. 75 a month, which is debitable to the head "22-General Administration,—Publicity Office and Translators' Department,—Non-Contract Contingencies."

A sum of Rs. 4,000 has been placed at the disposal of the Commissioner, Northern Division, in the current year's budget under the head "22-General Administration,—Commissioners,—Non-Contract Contingencies,—Northern Division", to meet expenses incurred in connection with *Gujarat Patrika*, other than the cost of printing and paper, which is debited to the head "46, Printing and Stationery".

(c) In order to disseminate correct information on the present political situation and to give an accurate presentation and explanation of the policy of Government and the actions of their officers.

Mr. J. B. PETIT : Is there any other principle which guides the Government in the determination of this question, besides the one mentioned in the reply ?

The Honourable Mr. W. F. HUDSON : I do not think so. I think that principle is sufficient for the purpose.

Mr. J. B. PETIT : It is stated in the reply here that subsidies are given to those papers that give an accurate presentation of the policy of the Government. What is meant by the term "accurate presentation" ? Is it what the Government prepare and put forward, or what the papers themselves consider to be accurate ?

The Honourable Mr. W. F. HUDSON : Both.

Mr. J. B. PETIT : Then what is the Director of Information doing, if it is necessary to give such information ready-prepared to the public press and pay for its publication ? Is it not the duty of the Director of Information to do it ?

The Honourable Mr. W. F. HUDSON : Yes, Sir, but even the Director of Information cannot reach everybody, and there is no reason that I can see why newspapers should not do it as well.

Mr. J. B. PETIT : What is the circulation of these newspapers ?

The Honourable Mr. W. F. HUDSON : I am afraid I must ask for notice of that. I cannot say offhand.

**GOVERNMENT HIGH SCHOOL, NASIK : DISCONTINUANCE
OF ARABIC TEACHERS AND CLASSES.**

*Rao Bahadur G. V. PRADHAN (Nasik District) : Will the Honourable Minister for Education be pleased to state—

(a) how many students in the Nasik High School have taken up Arabic as their second language and what their strength is in each class ;

(b) whether Government intend considering the desirability of discontinuing the maintenance of Arabic teachers and Arabic classes in this school in these days of financial stringency ?

The Honourable Dewan Bahadur S. T. KAMBLI :

(a)	Number of pupils.	Standard.
	7	IV
	4	V
	2	VI
	..	VII

(b) No, as no extra cost is involved. The Special Urdu teacher in the High School teaches Arabic in addition to his own work.

**RETRENCHMENT COMMITTEE'S RECOMMENDATION :
GOVERNMENT DECISION.**

*Dr. J. A. COLLACO for Mr. H. M. RAHIMTOOLA (Bombay City) : Will the Honourable the Home and General Member be pleased to state the reasons why it has been decided by Government not to accept the recommendation of the majority of the Retrenchment Committee that the Judges of the Small Causes Court and Presidency Magistrates, Bombay, should sit for six days in the week and not only for five ?

The Honourable Mr. W. F. HUDSON : It is desirable that the Judges of the Small Causes Court and the Presidency Magistrates should devote one day to preparing judgments and doing other work out of Court which would otherwise have to be done in Court hours.

CASE OF CONVICT CHOTIRMAL.

*Mr. S. S. TOLANI (Western Sind) : Will the Honourable the Home and General Member be pleased to state—

(a) whether Government are aware that about the end of May last Mr. Longman, the junior jailor, and two convict overseers beat Chotirmal, a convict, severely after handcuffing him ;

(b) whether the full details of his injuries are recorded in the case-sheet of the hospital and in his history ticket ; if so, whether a copy of the same will be kept on the Council table ;

(c) whether any action has been taken against the junior jailor and the two convict overseers ; if not, the reasons therefor ;

(d) what Government propose to do in the matter ?

The Honourable Mr. W. F. HUDSON : (a) Prisoner Chotirmal undergoing a sentence for two offences under section 302, Indian Penal Code, on the 1st June attacked a warder, cutting open his head. When the case was being investigated by the junior jailor, Mr. Longman, the convict attempted to assault Mr. Longman and was roughly handled in consequence.

(b) Full details are recorded in the hospital case-sheet, a copy of which is placed on the Council table.

(c) No. They were acting in self-defence against a dangerous prisoner.

(d) Nothing.

HYDERABAD CENTRAL PRISON HOSPITAL CASE-SHEET OF
PRISONER CHOTIRMAL.

No. 191.

Name—Chotirmal Dassumal.

Date—1st June 1932.

Age.		Disease.	Duration of disease.	Occupation.	Locality of residence.	Caste.	Diet, extras and wine.
Years.	Months.						
35	..	Multiple contusions	....	Prisoner.	C. P. Hoz.	Hindoo.	....
Date—		Admitted into the Hospital for the following injuries on his person:— (1) Four contusions each about 4" x 1½" on the right side back (2) Contusion 4" x 2½" on the right shoulder blade (affected part swollen and painful). (3) Contusion 3" x 3" on left side back. (4) Two contusions 4" x 2" on left shoulder blade. (5) Ecchymosis covering the whole of left buttock. (6) Ecchymosis covering the whole of right buttock. (7) Ecchymosis right eye. (8) Few abrasions on left knee. The above injuries are said to have been caused by hunter and ruler. He complains of severe bodily pain. Complains of defective hearing from the right ear. Complains of pain in the chest. Treatment: Paint Tr. Iodine. Hot water bottles.					Diet— D F 2 6/32.

Age.		Disease.	Duration of disease.	Occupation.	Locality of residence.	Caste.	Diet, extras and wine.	
Years	Months.							
35	..	Multiple contusions	Prisoner.	C. P. Hoj	Hindoo.	
Date							Diet—	
2nd June	..	Complains of severe bodily pain. The injuries are all over the body. Injuries were shown to Medical Officer.					C F 7 6/32	
3rd	..	His condition is just the same. He is unable to walk about. Complains of severe bodily pain. 3rd.						
4th	..	His condition is just the same. He is unable to walk about. Complains of severe bodily pain. 4th.						
5th	..	His condition is just the same. He is unable to walk about. Complains of severe bodily pain. 5th.						
6th	..	His condition is just the same. He is unable to walk about. Complains of severe bodily pain. 6th Massage with oil.						
7th	..	His condition is just the same. He is unable to walk about. Complains of severe bodily pain. 7th.						
8th	..	His condition is just the same. He is unable to walk about. Complains of severe bodily pain. 8th.						
9th	..	Feels somewhat better 9th.						
10th	..	Do.	10th June 1932 massage etc.					
11th	..	Do.	11th June 1932.					
12th	..	Do.	12th June 1932.					
13th	..	Do.	13th June 1932.					
14th	..	Do.	14th June 1932.					
17th	..	Do.	17th June 1932.					
18th	..	Echymosis disappearing; but he is not able to walk about. He still complains of bodily pain. 18th June 1932.						
19th	..	Echymosis disappearing; but he is not able to walk about. He still complains of bodily pain. 19th June 1932.						
20th	..	Echymosis disappearing; but he is not able to walk about. He still complains of bodily pain. 20th June 1932.						
					Disch. & Conval.			
					(Id.)			
					M.O.			

THE GUJARATI TEXT BOOK COMMITTEE.

*Mr. PESTANSHAH N. VAKIL (Ahmedabad City) Will the Honourable Minister for Education be pleased to state—

(a) the names of the Members of the Gujarati Text Book Committee;

(b) whether Government are aware of the fact that some of the members of this Text Book Committee do not know the Gujarati language or do not know it so well as to make them competent to pronounce authoritative opinion on the contents of the books submitted for their judgment;

(c) whether there are any members on this Committee representing the School Boards of Gujarat and the Managers and Head Masters of recognized schools in Gujarat, who are mostly concerned with the use of Gujarati books as text-books, prize-books and library-books in schools;

(d) the number of books submitted to the Gujarati Text Book Committee for sanction as text-books, prize-books and library-books in schools during the period between 1st April 1931 and 31st March 1932;

(e) how many of these books have been sanctioned as applied for and how many of them rejected;

(f) whether it is a fact that certain books previously rejected were sanctioned at subsequent meetings of the Committee;

(g) if so, what the number of such books is and what the reasons which led the Committee to reject them in the first instance are?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) They are as under:—

(1) Mr. S. S. Cameron, M.A., Educational Inspector, N. D. (ex-officio),

(2) Miss V. Baptista, M.A., Lady Superintendent, Mahalaxmi Training College for Women, Ahmedabad (ex-officio),

(3) Mr. M. H. Chokshi, M.A., Head Master, P. R. Training College for Men, Ahmedabad (ex-officio),

(4) Miss H. V. Twells, B.A., Inspector of Girls' Schools, Bombay and Northern Division (ex-officio),

(5) Professor V. B. Divatia, M.A., Gujarat College, Ahmedabad,

(6) Reverend G. Wilson, B.A., Manager, I. P. Mission Schools, Ahmedabad,

(7) Mr. I. I. Chudrigar, B.A., LL.B., Secretary, Anjuman-i-Islam High School, Ahmedabad,

(8) Rao Bahadur H. M. Mehta, B.A., retired Head Master, R. C. High School, Ahmedabad,

(9) Mr. H. T. Parekh, B.A., Assistant Secretary, Gujarat Vernacular Society, Ahmedabad.

(10) Mr. D. P. Derasari, B.A., Bar-at-Law, Member, Gujarat Vernacular Society, and a Gujarati scholar.

(b) All members, except one, know Gujarati.

(c) There are members who represent recognized schools and educational institutions, but there are no members specially representing the School Boards of Gujarat.

(d) 136.

(e) 52 were sanctioned, 44 rejected and 4 remained pending during the period.

(f) No; unless they were revised as required by the Committee;

(g) Does not arise.

Mr. PESTANSHAH N. VAKIL: Regarding (b), the Honourable Minister for Education will admit that the answer is cryptic. However, will he be pleased to state what is the utility of keeping on such a committee a member who does not know the language, the books written in which are to be examined and given an opinion upon?

The Honourable Dewan Bahadur S. T. KAMBLI: He is an ex-officio member.

Mr. PESTANSHAH N. VAKIL : Moreover, the answer does not fully cover the query. I asked whether it was a fact that they do not know the language so well as to make them competent to pronounce authoritative opinion on the contents of the books submitted for their judgment ?

The Honourable Dewan Bahadur S. T. KAMBLI : There are so many other members who know the language. It is not necessary that the ex-officio chairman should know the language. He is assisted by so many other members who know the language well.

Mr. PESTANSHAH N. VAKIL : Is it necessary in that case to keep the number at a particular figure ? Why not reduce the number of members on the committee ?

The Honourable Dewan Bahadur S. T. KAMBLI : I would require notice of the question.

PRIMARY EDUCATION : HINDUS IN NASIK DISTRICT.

*Rao Bahadur R. V. VANDEKAR (Nasik District) : Will the Honourable Minister for Education be pleased to state—

(a) the percentage of the Hindu and Muhammadan children attending primary schools in the Nasik District to their respective population ;

(b) whether it is a fact that the Hindus in the district are backward in primary education ;

(c) if so, whether Government propose to bring the Hindus to the level of the Muhammadans by giving them more facilities ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) 3·5 and 9·7 per cent., respectively.

(b) Yes.

(c) This is a matter primarily for the local authority to consider. Government will give due consideration to any proposals which may be submitted to them.

Rao Bahadur R. V. VANDEKAR : It is stated that Government will give due consideration to any proposal submitted to it. If a proposal is submitted asking for monetary help, will it be favourably considered ?

The Honourable Dewan Bahadur S. T. KAMBLI : Before I see a proposal, I cannot say whether it will be favourably considered or not.

Mr. G. M. KALBHOR : Is it a fact that the Poona district school board has sent more than one scheme for compulsory primary education for the favourable consideration of Government ?

The Honourable Dewan Bahadur S. T. KAMBLI : I would require notice of that question.

UNSTARRED QUESTION AND ANSWER.

ABDUL WAHED SCHOOL, POONA : GOVERNMENT GRANT.

Mr. SYED MUNAWAR: Will the Honourable Minister for Education be pleased to state :—

(a) whether the Abdul Wahed Urdu Boys' School, Poona, has made any appreciable progress since the advent of the present management of the school, Anjumane Sunnat Jamat, Poona ;

(b) whether it is a fact that the managers have introduced English classes along with Urdu classes in the school ;

(c) whether it is a fact that the inspecting officers of Government as well as the Ex-Minister of Education have made appreciative remarks about the working of the school ;

(d) whether it is a fact that the managers have at their expense constructed an extension to the school building last year ;

(e) if so, whether Government have given any additional grant to the school for the addition of English classes as also for the extension of the building ;

(f) if not, the reasons therefor ?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) Yes.

(b) Yes. One English class was attached to the school in 1931.

(c) The reports of the inspecting officers are fair. Government have seen a newspaper report containing some appreciative remarks of the Ex-Minister of Education in 1929.

(d) Yes.

(e) and (f) No. No grant was given on account of the English class attached to the school for want of funds. No application for a grant-in-aid towards the extension of the school building was received from the Manager of the School.

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER).

Question again proposed : " That the Bill be read a first time."

Rao Bahadur R. R. KALE (Bombay University): Sir, while complimenting the Honourable the Home Member on the amiable manner and the sweet reasonableness of his speech, I must say that I cannot congratulate him on his performance of the task which, according to him, he had to undertake most regretfully. I can understand that there was no originality of thought which he could bestow on the subject, and his usual clarity and cogency of arguments which have impressed this side of the House on previous occasions and which on one occasion had won me to his side has been lacking on the present occasion. He said very rightly that the Bill merely reproduces something which has been in existence, which is worn out, which has been tried and which is well known to everybody. I would respectfully submit that representations had been made since the promulgation of these Ordinances,

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pointing out the harshness and the drastic nature of these Ordinances by various responsible public bodies not belonging to the Congress school of thought, both to His Excellency the Viceroy and to the Governor of this Presidency, mentioning various circumstances which required to be observed in order to prevent the misuse or abuse of these Ordinances by the exercise of powers placed in the hands of the Police from the highest to the lowest; and the predecessor of the present Home Member, when speaking on the debate on the Address moved by me in the last Budget session, quoted some circulars and some extracts from instructions which had been from time to time issued by Government, and went on to quote from a letter which he said was addressed by one of its most distinguished members, and he quoted it because it revealed the fact that many right-minded and well affected persons are genuinely of the opinion that the Ordinances are being worked harshly, and that full opportunities for explanations and the giving of undertakings which will avoid persons being arrested or prosecuted for disobedience of directions which are humiliating to their self-respect might be given. Under those circumstances, I had thought that, when the Ordinances are now before us in the form of a Bill, there would be some safeguards, that is, at least the essence of those circulars and instructions would be incorporated in the Bill by way of safeguards. I know safeguard is a word, which, as the Prime Minister said on the occasion of the conclusion of the 1st Round Table Conference, is detestable but has to be used in practice in all matters. Now in order to avoid any misuse, no provision has been made in the Bill as a safeguard and therefore the whole Bill is but a repetition or wholesale reproduction of the wording of the Ordinances. If at all there has been any change here and there, I am sorry to say that it is not a change for the better but for worse from a popular point of view, though from the Government point of view it may be an improvement for the better. Now, let us look to the difference between the Ordinance promulgated by the highly placed authority, the Viceroy, and the Bill before us. After all, the Ordinance is an act of an individual promulgated to meet an emergency that has suddenly arisen for which the Government of India Act provides. When, however, those provisions of the Ordinance have come to be embodied in a Bill to be made into a statute law, which is going to represent the collective wisdom of this House, the members of this House will have to consider whether the wholesale conversion of the provisions of the Ordinance into a statute law is a thing which is acceptable to the House, at any rate to this side of the House, because the responsibility resting upon the shoulders of this side of the House is greater. You must remember that we are responsible to our electorates who have sent us here and not responsible to some extra authority. Therefore, we have to be guided by enlightened public opinion in the consideration of this Bill. The Bill was published only on 2nd November and there was very little time for getting the expression of opinion from all the electorates, especially in view of the fact that the Ordinance has served as a gag on the press. Under such circumstances, it is our duty to sound public opinion as

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I have done in my own humble way. What I have been able to gather is that we are taking a very serious responsibility in being a party to this piece of legislation, with which the executive authority will go armed and say: "Here is a law which your representatives have enacted." Therefore, we must first realise our responsibility and then we should proceed to consider the Bill on its merits.

I just want to say that the Bill, as it is, is an encroachment on the fundamental principles of freedom and liberty. Apart from that, it is an invasion of the substantive law of the land, the adjectival law of the land; it also affects some usual rules of the Evidence Act and interferes with the ordinary jurisdiction of the courts. Lastly, it departs from the standard of appropriateness of punishments and ignores the principle that punishment in excess is apt to defeat its own object and produce a reaction of popular feelings. Before I refer to the various aspects of the Bill, I wish to point out that the existing machinery of the law is sufficient to meet the present situation. If I succeed in convincing the other side of the House that the old armoury, supplemented by the measures which are being forged on the anvil of the Legislative Assembly, is sufficient, then it is evident that the old weapons need not be reinforced by this new measure and that the old weapons themselves are sufficient. Then, there is no need to move and discuss amendments. In view of the crop of amendments of which notice has been given, it is doubtful whether this measure will emerge out of the select committee as a new measure or as the old thing itself with some of the amendments embodied in them. That is a separate matter. We have to take into consideration the laws that are being enacted in the Legislative Assembly. The Honourable the Home Member said that the new movement had brought some new phases and they must have new weapons to meet them. What is the Assembly doing now? It is dealing with boycott, picketing, publication in the press and the activities of unlawful associations, by amending the Indian Criminal Law Amendment Act, the Criminal Procedure Code, the Indian Penal Code and the Press Act of 1931. The Assembly is proceeding to amend certain sections of these existing laws which I have mentioned in order to meet the fresh exigencies which have arisen. It is stated in the statement of objects and reasons of the Assembly Bill that the local governments are left to undertake local legislation which may be needed in certain provinces. Evidently, therefore, those provisions which we are called upon to give our consent to are reproduced in Chapter II from clause 3 to clause 16 and in Chapter V from clause 54 to 57 of the expiring Consolidated Ordinance X of 1932. The question before the House is whether these two sets of sections which are contained in Chapters II and V are absolutely necessary. It is stated that the present movement interferes with a certain section of the public and therefore in order to safeguard their rights and liberties this new weapon is necessary. I submit that it is being accomplished already. By the powers which we are asked to give to your executive, there will be the curtailment and infringement of the rights and liberties of a vast section of the population. Is it not our duty to avoid any kind

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of legislation by which absolute powers are transferred to the executive ! The judiciary is asked to part with its functions and the executive officers are taking up those functions which ordinarily belong to the judiciary. In judicial courts you can get a trial, you can be heard and you have the liberty of having your say ; whereas in the case of executive orders, there is nothing of the kind. Under the provisions of sections 4 and 5, you can at once arrest a person on mere suspicion and issue an order restricting his movements. He does not know what the charge against him is. You are stabbing him in the dark. You do not inform him what the nature of suspicion against him is. Therefore, the powers that are sought to be taken in this Bill are very wide and drastic. These are unnecessary, because by the legislation you are having from the Assembly you can issue directions and orders which are calculated to prevent meetings, picketing and processions. But the present measure is very wide and general so as to include anything that will check any kind of activity which may be undertaken even by constitutionalists on the ground it is detrimental to peace and good government. That is my fear and, therefore, I object to this new law.

I now proceed to show the laws that are in existence. First of all, there is the oldest law, namely, the two Regulations of 1827. The Regulation No. XXV is already known and it is under that Mr. Gandhi has been interned. The reason given there is that when—

“ security of the British dominions from foreign hostility and from internal commotion, occasionally renders it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceedings, as when such proceedings may not be adapted to the nature of the case.....”

the man may be interned.

The Honourable Mr. W. F. HUDSON : Does the honourable member prefer that to section 4 ?

Rao Bahadur R. R. KALE : I am coming to that. I hope I shall be able to show that. There is first and foremost this regulation of which section 2 further lays down—

“ The Governor in Council shall fix such allowance for the support of the State prisoner as may seem to him expedient in reference to the prisoner's habits and rank in society, and shall specify at the same time through whose means it is to be paid and how it is applied.”

That is an obligation which is placed on the State. There is another Regulation which is the Regulation No. XII of 1827. I may here be allowed to state that in this Regulation, most of the sections have been repealed and still there is one left which goes to show that Government have kept reserve powers which they can exercise under that. Government say that they are bringing this Bill in order to have power in reserve. That section of the second Regulation says :

“ But the District Magistrate is not precluded from adopting precautionary measures of a more lenient nature, in the case of a person who may be unable to furnish satisfactory recognizance or security for his attendance ; such as, provided the District Magistrate considers them sufficient for the purpose, allowing the party to remain under the inspection of some trustworthy person possessing influence over his conduct, or at some place

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of public resort, under charge of persons in usual attendance there : and similar measures may, under similar circumstances, be adopted to secure the good conduct of a suspected person ; in which case additional restrictions may be made, as suggested by the party's habits, and the evil apprehended, such as prohibiting his leaving his residence....."

What are you seeking by this Ordinance ? You are trying to put restraint on the liberty of a person, you want to see that he does not indulge in any unlawful activity, you are trying to control his residence and his movements and that can be done by resort to this Regulation. My point is that these sections are there, and in them there is no provision under which a man may be required to give parole or to be under the supervision of the police or to report at the police chowki. These regulations were enacted at a time when there was great discontent and commotion immediately after the transfer of power to the East India Company from the Maratha Government of those days, discontent which culminated ultimately in the revolution of 1857. These powers were taken in those troublous times in order to control the movements of suspected persons. Now, you have commotion of a different kind. But the conditions which brought into existence those powers can be said to prevail to-day. Why not then have resort to those provisions which already exist ?

Now, I come to a later enactment, section 144 of the Criminal Procedure Code, and the punishment section, section 188 of the Penal Code. You have to read section 144 of the Criminal Procedure Code and section 188 of the Penal Code together. These are security provisions ; they are not strictly judicial, but are quasi-judicial, partaking more of an executive character, just as the present Bill. The reason of speed is also found there. In section 144 it is stated—

" In cases where, in the opinion of a District Magistrate, immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person "

—the words which follow are the very words adopted in this Bill, namely,—

" to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity or a riot, or an affray."

There you have the right to issue a direction, but with a safeguard, namely, that the magistrate has to issue a notice in manner provided by section 134. Then the man is heard and after a summary inquiry the order is made absolute. Then clause (6) says—

" No order under this section shall remain in force for more than two months from the making thereof ; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs."

Here also there is a safeguard. The punishment for disobedience of this order is provided under section 188 of the Indian Penal Code. The punishment section is important, and I will point out the safeguard under it :

" Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to

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take certain order, with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury....."

My honourable friend opposite (the Honourable Mr. W. F. Hudson) might say that under the Bill mere disobedience is punishable, whereas under the Indian Penal Code it is not; the disobedience must cause or tend to cause obstruction, annoyance or injury, etc. But I would point out the explanation—

"It is not necessary that the offender should intend to produce harm, or contemplate his disobedience likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm."

These words are used deliberately. The statement of the Law Commissioners on that point is very important. They say in connection with this section :

"Experience shows us that it is a disposition which is often found in company with the best intentions, with great activity and energy and with a sincere regard for the interest of the community. A public servant of more than ordinary zeal and industry, unless he have very much more than ordinary judgment, is the very man who is likely to harass the people under his care with needless restrictions. We have, therefore, thought it necessary to provide that no person shall be punished merely for disobeying a local order, unless it be made to appear that the disobedience has been attended with evil, or risk of evil. Thus, no person will be punished for disobeying an idle and vexatious order."

That is the reason. Here we are faced with the complaints and grievances which have been from time to time brought to our notice that officers of Government, from the highest to the lowest, regard themselves as masters of the public and harass the public by the exercise of the powers vested in them by the law. That is borne out by the quotation I have made from the statement of the Law Commissioners. That shows how abuses and misuses of the law will occur. Therein lies the danger of the present law. It is a danger and a menace to the freedom and liberty of people who may be engaged even in very commendable and lawful pursuits. This takes me to the next provision, which is an all-embracing provision, section 124A of the Indian Penal Code. But I leave aside section 124A, because under it there must be a trial and conviction, and we are here dealing with preventive laws where elaborate procedure is done away with and only summary procedure is provided. I quite admit that it may be necessary to have a summary method where the police or the Government are not in possession of enough material to obtain a conviction against a man under section 124A but are in possession of some materials enough to raise a suspicion against him. Of course there must be some materials; otherwise, there is nothing to be said. If there is some material, why not proceed against him under section 108 of the Criminal Procedure Code? The whole chapter under which section 108 comes deals with preventive measures. Section 108 says :

"Whenever a Chief Presidency Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Government in this behalf has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in any other manner intentionally disseminates or attempts to disseminate or in any wise abets the dissemination of,

(a) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, or

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(b) any matter the publication of which is punishable under section 153A of the Indian Penal Code.

.....
such Magistrate if in his opinion there is sufficient ground for proceeding may..... require such person to show cause why he should not be ordered to execute a bond..”

My submission is that “seditious matter” is a wide term and nothing that is really seditious will escape its embrace. Disaffection, hatred or contempt against the Government can be brought under the term. The whole thing is summed up in a note to be found in Gour’s Indian Penal Code at page 705 : Sedition is a very wide term and includes a variety of things, such as popular commotion, obstruction of the law, interruption of public tranquillity, as well as direct or indirect acts or threats calculated to overthrow or even over-awe Government established by law. I submit, Sir, that if there is reason to consider that a person is engaged in any of these activities, an officer of Government can take action against that person under section 108. I challenge any one to say that any of the acts contemplated in this Bill cannot come under any of the categories enumerated here. Those words “disaffection, hatred or contempt” are there. If a person is doing anything to create “disaffection, hatred, or contempt” of Government, and an executive officer of Government has got some evidence of it, he can say “I have some evidence in my possession ; therefore, I shall get at you”. That being so, why not follow the procedure laid down in the Criminal Procedure Code ? Call upon him to show cause, and if he fails to show cause, he can be asked to produce security or surety. Perhaps, it may be said that this is rather harsher than the provision under the present Bill, which instead of providing for security being taken provides for the police to watch over him. My submission is that a man may prefer to enter into a bond himself or to give a surety than submit to the condition of giving parole at a Police station laid down under the ordinances. The conditions laid down in this Bill are also the same as those laid down in the Ordinance. In such cases seven conditions are prescribed.

“(1) shall not attend.....”

Moulvi Sir RAFI UDDIN AHMED : May I know what is the book that the honourable member is reading from ?

Rao Bahadur R. R. KALE : I am reading from the *Bombay Law Reporter*. The case quoted is a recent one, King Emperor *versus* Phansalkar wherein are quoted the usual conditions to be observed by the direction issued under section 4.

(1) Shall not attend, promote, address or take part in any public meeting or any procession or demonstration.

(2) Shall not promote, encourage, or take part in any picketing, hartal prabhat-feri, or similar activity, either directly or indirectly.

(3) Shall not promote, assist, encourage, or take part directly or indirectly in any movement such as civil disobedience, boycott, etc. in furtherance of the objects of any prohibited association.

(4) Shall not wear or exhibit any dress, badge, emblem or flag indicating or appearing to indicate any connection with any prohibited association.

(5) Shall within 24 hours from leaving custody report himself to the police sub-inspector, Pandharpur town, and thereafter shall not without the permission of the police sub-inspector, Pandharpur town, leave the area comprised in the Municipal limits of Pandharpur town.

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(6) Shall not without the permission of the District Magistrate enter the area comprized in the Karmala Taluka.

(7) shall report himself to the officer in charge of Pandharpur town Police Station at the Pandharpur town Police Station, daily at the hours of 6 a.m. midday and 8 p.m."

This last is the condition which I wish to emphasize. This is the pivot on which all the grievances in such cases are based. It is a humiliating condition. My point is that the present Bill, which leaves the Ordinance as it is, will perpetuate the giving of powers by which the executive and the police officer will be able to impose such conditions. That is the gist of my argument. I ask whether it is desirable to allow the executive and the police officers to lay down such conditions, that is, a condition of giving *Hajeri*, a condition which is imposed on persons belonging to the criminal tribes, and on persons who have been convicted of offences as stated in section 565 of the Criminal Procedure Code. The fact that the condition imposes hardship and humiliation on respectable persons has been judicially recognised. In this respect I would refer to the important judgment of the High Court, with which the Advocate-General must be quite familiar. The judgment says :

"That condition was that the accused should report himself to the officer in charge of Pandharpur Town police station three times a day. The condition was presumably imposed under clause (d) of section 4, sub-section (1) of the Ordinance, which enables a direction to be made that a person shall conduct himself in such manner, abstain from such acts, etc., as may be specified in the order."

What I want to point out is how this condition is regarded even by the judicial mind. The judgment further says :

"Section 565 of the Criminal Procedure Code enables orders to be passed against persons requiring them to report themselves periodically to the police, but such an order under that section can only be passed against a person who, having been convicted of a serious offence like theft or house-breaking, is again convicted of a similar offence. In practice such an order is rarely passed against a person who has not had several convictions. Similarly orders to report to the police are also passed under the Criminal Tribes Act against members of such tribes. It is, therefore, clear that such orders are ordinarily passed only against persons who have been proved to be of the very worst character and who in fact are the dregs of society."

This is how the condition is regarded even by the highest judicial officer in this Presidency.

Mr. G. DAVIS : Is that the final judgment of the Court ? Who is the Judge ?

Rao Bahadur R. R. KALE : Mr. Nanavati.

Mr. G. DAVIS : Was there no dissenting Judge ?

Rao Bahadur R. R. KALE : We have nothing to do with the final judgment. We are not concerned with it. My point in quoting the observations of a Judge in that judgment is to show how even by the highest judicial officer in this Presidency—a High Court Judge—this thing is looked upon. This opinion as coming from a High Court Judge is surely entitled to weight. We do not want to see what the final judgment was. The other Judges have not referred to this condition. Probably, being European Judges they are not acquainted with the habits of Indians. They cannot understand exactly the pinch. It is because of the want of knowledge of Indian mentality. I put it to the Legal

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Remembrancer that, if such a condition were to be imposed in his own country, he would understand the hardships better than either myself or Mr. Nanavati. It is the person who lives in the country, who knows the social habits of the people living in the country, that can realise the hardship of such a condition. I merely point this out to show that it is not merely a frivolous excuse for not obeying the condition. Again, what is the object of detaining a man in custody for 15 days? Is any evidence to be collected during these 15 days? No. My point is that, if the ordinary law is such as to secure our object, then why have this Bill? We on this side of the House want to reduce the rigours of the Ordinance and that is the reason why so many amendments have been tabled. That is some indication that the House does not want to give its assent to this Bill as it is. But if, in spite of this indication, Government want to pass this Bill, then we have nothing to say: But I do think that the provisions of the Bill will have to be amended. It might mean spending of much time, but the matter is of such a grave importance that we must waste that time upon it. You are seeking our co-operation. We in our turn ask you to lend us your hand of co-operation so that we can formulate a measure which will by a give and take policy be a reasonable measure. My submission is that this invasion on the subsisting law is unnecessary. At least let us not be in a hurry. Let us wait and see what the provisions of the Bill before the Assembly are. If by the Bill in the Assembly your old law is supplemented, the two together will be quite enough to lead us to the objective we have in view.

I would now only refer to one point about sections 29 and 30 of the Bill. Section 29 says:

"The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act."

I understand that, but, Sir, at the same time, I am unable to follow the wording which is there, namely, "they are not inconsistent with the provisions of this Act".

Section 30 says:

"Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any Court."

I have read the Statement of Objects and Reasons. There it is stated that this clause will prevent orders being challenged in any court except when the legality of those orders comes into question in a proceeding instituted for their breach. The section as it stands is certainly capable of the interpretation that here your Criminal Procedure Code provisions are inconsistent with these provisions. Unless in an appeal you can question the legality of the order, what is the use of an appeal? Such a right of appeal is going to be of no use. That is my point. Our grievance is that in the appeal we cannot question the legality of any order. In this respect I will refer to the same judgment again. It is the

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judgment of the Chief Justice of the Bombay High Court, in which it is stated in reply to an argument that—

“It was then suggested that another defect in the order was that it was not justified by the terms of section 4 of the Ordinance. Apart from other considerations, I think that section 52 of the Ordinance is a complete answer to any argument of that sort, because that section provides that no proceeding or order purporting to be taken or made under the Ordinance shall be called in question by any Court. The Magistrate was, therefore, bound to treat the order as properly made.”

It means that the Magistrate must take it as properly made and proceed to pronounce the sentence.

My point is that this section 30 must be regarded as taking away by the other hand what is given by the first hand in section 29. I therefore submit that this point also should be considered.

My point is that, having regard to all these circumstances and also to the fact that the ordinances have not been administered in a proper manner, I suggest that this measure should not be passed without sufficient safeguards being provided in it for the liberties of the subjects. I do feel that the matter is very important and that therefore I should point out to Government and to the treasury benches that great harm has been done to certain bodies and to individuals, although their activities have not been those of civil disobedience movement but which the lower subordinates by hook or by crook twist into such activities. I may cite one glaring instance which was taken to the High Court the other day, of that Masur matter for which the press of that gentleman was confiscated; the socio-religious institution which he was conducting for twelve years has been confiscated and the gentleman himself was arrested. He did his best to satisfy the authorities that he was not connected with the civil disobedience movement. He immediately gave an undertaking, and yet he was directed to report himself at the police station three miles away with a river in between every day. He said he was willing to do so; but why should he have been obliged to do so? Then it was reduced to once a week later on, but still the restriction is there and he cannot leave his place without permission. He approached the District Magistrate, the Honourable the Home Member, His Excellency the Governor and also His Excellency the Viceroy for redress (I have information to this effect), through men like Mr. Jayakar and Dr. Moonje, but still he was kept in the dark as to the offence alleged to have been committed by him and for which he has been hauled up. His institution has been attached and his press and other articles sold. His movements have been curtailed and he is not allowed to leave without permission. Although he has been conducting his socio-religious movement for the last twelve years, he was not troubled in 1930-31 as he has been troubled this year. He was not troubled in the first civil disobedience movement. This case was brought to the notice of the Honourable the Home Member and the local authorities by myself in my own humble way, but unfortunately the thing is there, no redress has been given. This is an instance of how an abuse can take place. I am of course loth to use strong words, but in a particular case of this kind, I am rather helpless. The gentleman about whom I am

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speaking is a man whose books have been recognised by the Education Department as school books. His book on "Extracts from Ramdas" is allowed to be used in schools. His press has issued thousands of copies of that book and other books on educational propoganda and also propoganda for physical culture. He got together young bachelors to bring them up in the old style institution where Brahmacharis were enjoined to observe celibacy up to the age of 24 or 25 years. I fail to see—

Sir REGINALD SPENCE: We cannot hear anything on this side. The honourable member is going too fast and is not audible at that.

Rao Bahadur R. R. KALE: I was pointing out an instance of a case in my district where action taken under the ordinances led to serious injustice to a certain institution and a certain person, and other persons, which instance I am quoting to support my contention that the giving of uncontrolled and arbitrary powers of an executive nature to lower subordinates, and acting upon their reports without allowing an opportunity to the person against whom that action is taken, has worked great hardship, and therefore this provision should not be allowed to remain in the Act. I have already pointed out several ways in which the measure could be improved.

Sir, I shall now point out one more aspect of the question and then resume my seat. That aspect is about the number of offences referred to in this Bill. I know that people who are pledged to the civil disobedience movement have taken a vow to break laws. Laws must be there for the safety of society. They must be obeyed as long as they are there. Of course, you may try and get them changed if they are bad laws, but until they are there, they must be obeyed. That is, I submit, an essential condition for the welfare of society, but their argument is that such laws as are bad should be broken. They began with the breaking of the Salt Law, because they thought that that law was oppressive. But now, Sir, all that is past. What is the kind of law they are now disobeying? They are disobeying laws, that is, directions given under the law by the police to attend at police stations and they break those directions, that law as you may call them. Government are in the best position to examine the number of convictions for this kind of breaking of laws. But there is nothing to be surprised about, because we know that when people are prepared to break laws which are really bad, then they will be prepared to break laws which are oppressive, humiliating to their self-respect. Are you going to stop this by increasing the number of convictions and increasing the number of offences? I am only appealing to you from that point of view. If the people are not afraid of going to jail, if people are determined to break laws, nothing will prevent them from doing it, and, therefore, by laying down such laws as are more oppressive, harassing and humiliating, you are creating more disobeyers, you are giving them more chances of disobeying because you enact laws which are oppressive on their very face. My point, therefore, is that such kind of legislation is not likely to result in preventing breaches of law and the commission of offences,

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but it will simply go on adding to the number of offences. This new and novel kind of offence which you are now creating will probably be the first to be disobeyed by people who are pledged to that cult. I therefore think on the whole that legislation of that kind which has resulted in the past in these consequences is not likely to attain the object aimed at. My submission is that we should proceed cautiously. It was admitted by Government reports and even yesterday in responsible quarters that the movement may not be dead but it has been brought under check. Very well; my point is, therefore, are these powers necessary in that event? These powers are said to be powers in reserve to prevent recrudescence if it occurs. That is the line of argument. To that my answer is: Wait for a while; let the ordinances expire. It is not that the heavens are likely to fall if they are not continued. Nothing will be lost if you do not immediately have this measure. There are other laws already on the statute book. They are quite sufficient to cope for a time at least with any situation that may arise. Why should you not regard the ordinary laws of the land as containing sufficient provisions for some time? If, however, afterwards you do think that you need stronger measures, you can enact whatever law you want. That brings me, Sir, to the clause 32 about the validity of things done under the ordinance and also to clause 34. I know that in certain cases when rights have become vested by a certain Act, then when a new law comes, you have to safeguard those vested rights which are already secured. But in criminal matters, what is to be gained by continuing prosecutions? Supposing half a dozen people are there against whom prosecutions are pending when the ordinance expires, they will be set at liberty. What does it matter if they are set at liberty? You can always get at them. Where is the need for a validating law? Of course, I know that in certain civil cases where rights are disturbed and hardship is caused, such validating provisions are necessary. Now, why not give a chance to the man who was being proceeded against, after all, on mere suspicion? Give him a chance to behave better. If he again tries to disturb the law, the arms of the law are sufficiently long to catch hold of him. You want me to speak on all my amendments of principle, Sir?

The Honourable the PRESIDENT: The honourable member has three amendments, namely, Delete clause 4, Delete clause 8 and Delete clause 32. He may speak on these.

Rao Bahadur R. R. KALE: With regard to clause 4, I think I have already dealt with it in my general remarks, during which I pointed out the necessity of doing away with this clause, because I do feel that that is the clause which, according to the reasons which I have stated at length and according to my view, has been the clause of complaints, abuse and misuse, and, therefore, I have given that amendment about deleting that clause. I have already suggested that the present law is sufficient. I do not feel that that clause is not necessary. Because a certain section is in the ordinance, therefore it should find its counterpart in this Bill is a line of reasoning which I do not and cannot follow, especially when we have evidence that that clause has been misused and

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abused, and has given rise to a lot of trouble. It is not likely to end in peace but is sure to lead to more unrest and more discontent. That is my reason why I say that we should not have such a law on the statute book.

The next clause is clause 8, about telegrams and post. Under the Post and Telegraphs Act Government have already the power to intercept telegrams and correspondence, and for this reason there is no reason to again have a fresh provision in this Bill. I think under section 26 of Act No. VI of 1898, Government have this power and that can be supplemented by their rule-making power under section 74 to carry out the purposes of the Act. I do not, therefore, see why this clause has come to find a place in this Bill. Therefore this clause should be deleted also.

Then I come to clause 32. This clause looks vindictive, because once you began with the question of prestige and the rights of Government servants or officers, and now you want to uphold that action of yours. Now as the ordinance is lapsing, why not leave the people alone? They will see that a new regime is coming, a new law is coming, and if you do find that there is again necessity for strong measures, you may take fresh proceedings. What does it matter? If a murder has been committed, there is the investigation and you try to find out the murderer. Of course, because the law is broken and a murder is committed, the murderer should not escape. The murder should be investigated and he should be tried and so on. But here, there are only cases of suspicion on which persons have been arrested, and taken into custody and are to be proceeded against. What matters it if some such persons get the benefit of the lapse of the Ordinances? At least they will come to know that the Ordinance regime is over. It will be a sort of signal for people to understand that they have been released because the Ordinance regime is over. They will be told, "Now that the regular law has begun to prevail, if you behave properly you will not be disturbed. That is a minor matter, but I do think it is a matter of principle. I do feel that it was needless to ask that we should pass a provision that pending trials should be continued after the expiry of the Act. That is the only point. I am not in a position to say anything more on that point. With these words, I move these amendments of mine.

The Honourable Mr. W. F. HUDSON: Are not the amendments going to be moved in the order in which they are on paper?

The Honourable the PRESIDENT: The difficulty is there. I am only trying to save the time of the House if possible. After each honourable member has concluded his remarks he will move his amendments. After all the arguments are over, I would put them in the order in which they are to be taken up. Of course, I shall have to explain at the time I put each amendment to the House, as to what the nature of the amendment is. But for the present, this is the only way by which we can save the time of the House.

[The President]

The amendments moved are :—

“Delete clause 4.”

“Delete clause 8.”

“Delete clause 32.”

The Honourable Mr. W. F. HUDSON : Sir, I am not proposing for a moment to make a speech at this stage, but the honourable member (Rao Bahadur Kale) in the course of his remarks suggested that perhaps the discussion of all the amendments might be considered a waste of time. I should like to assure him and the House that Government at any rate do not regard this discussion as a waste of time, and that no attempt will be made to curtail the discussion. The honourable member also rather suggested that perhaps Government wish to rush this matter. We have not the slightest wish to rush the matter.

Rao Bahadur R. R. KALE : I am very thankful for this assurance. My impression was that they wanted to finish up the matter at once.

NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR : Sir, I have studied the character of this Bill, and I find that its provisions are milder in form than those of the Ordinances. Of course, as an outsider and as a layman, what I understand is that the Bill is a very mild form of the Ordinances, seeking to invest Government officials with certain powers to meet their requirements immediately on the termination of the Ordinances which will soon lapse. It is necessary for Government to be armed with suitable powers to meet the emergency which will arise on the expiry of the Ordinances. As a matter of fact, in every province in this country such a Bill has been moved and passed into law. This is only a supplementary Bill, as I understand, Sir, because the main Bill is being considered and disposed of in the central legislature. But every province in this country has promulgated such a measure, for the interests of the people, and therefore it is necessary for this Government also to arm themselves with the powers proposed in this Bill, which is very necessary.

Sir, I do not wish to say very much about the ravages of the civil disobedience movement. Everybody knows how harmful it has been both to the country and its peoples. Sir, the City of Bombay is the second city of the British Empire, the first city in Asia ; but the ravages of the civil disobedience movement has robbed it of its pride and has made it the third city in the British Empire. Then, Sir, imagine the huge drop in the revenues of this great port as regards the exportation and importation of goods. Regarding the textile industry, the civil disobedience movement has harmed it very much. So also the trade of the country has been affected by the movement. Above all, the picketing, boycotts, hartals, etc. have destroyed established trade. I say that no country in the world has ever tolerated such a state of affairs as this country has. The Government have treated us Indians with great patience and tolerance, and have introduced this measure, containing the provisions of the Ordinances in a very much milder form for the preservation of law and order, and I think it is the height of statesmanship on the part of the Government to do so. The civil

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disobedience movement, I might say with your permission and the permission of this House, means treason ; in the eyes of the law, it is treason. Government are only meeting that with a very mild measure in the shape of this Bill, and I would beg of my honourable friends to support the Government and pass the Bill. I shall be very grateful if, in the interests of the country, in the interests of the people of the country, in the interests of the trade of the country, and in the interests of this great Presidency and this great city, they will support this Bill and pass its first, second and third readings.

Mr. J. B. PETIT (Bombay Millowners' Association) : Mr. President, I beg to oppose the first reading of this Bill ; and I know that I am doing so even at the risk of offending the Government, and of being misunderstood by a small though important section of my own countrymen.

Sir, I have very carefully listened to the speech delivered by my honourable friend, the Home Member. I have followed with equal care the speeches of all the other honourable members who have supported him ; and have otherwise done my best to see, and if possible, also to comprehend their point of view. But, I confess, Sir, that in spite of the most persistent and desperate efforts on my part to do so, I have failed to perceive in it, the wonderful panacea for all our present ills that it is credited to be. On the contrary, I see in it, not only the germs of incalculable harm and mischief for the future, but also the possibility of its being used as an engine of oppression and tyranny. Sir, we have had several typical instances placed before us a little while ago, showing how oppressively the powers under the Ordinances have been exercised. There are hundreds of similar instances which are within the personal knowledge of honourable members of this House, but which, for various reasons, will never be made public. So unmistakable and damaging is the weight of such evidence against this measure which the public has rightly nicknamed " Ordinance-bill ", that the more carefully one peruses it and realises the exact significance and implications of all its provisions in the light of this experience, the more irresistibly is one driven to the conclusion, that if this Bill is passed and placed on the statute book,—as I hope it will never be,—it will practically mean the suspension of the constitution, the negation of the rights and liberties of the people, and the substitution of martial law in place of the ordinary laws of the land. I am particularly anxious to give expression to this conviction, because I am neither a Congressman nor a follower of Mr. Gandhi, but a friend of the Government ; and wish to co-operate with them in the solution of their present difficulties. I feel, however, that I cannot do that better than by warning them most solemnly of the seriousness of the step which they are about to take in their ignorance of the real position.

If honourable members will bear with me for a while, I shall try to show them why it is that I have come to this conclusion, and why it is that we should reject the Bill and all that it stands for.

Unfortunately for me, Sir, the Statement of Objects and Reasons, printed at the end of the Bill, departing from the usual practice in

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that behalf, gives absolutely no information as to the necessity and purpose of this measure. It is discreetly silent on these two most important points. The omission is, however, exceedingly significant, and not without its commentary. It is apparent that the Government either have no satisfactory reasons to advance on these points, or that they do not wish to disclose them. But, Sir, when we consider the speech of the Honourable the Mover, or, at least that part of it which dealt partially with the purpose of this measure, in conjunction with the most recent pronouncements of the Secretary of State and the Governments of India and Bombay respectively, it becomes pretty clear that the measure has been introduced for the following three principal reasons:—

(1) That the Presidency of Bombay, in common with the rest of the country, is in a state of revolution, and that therefore all emergency measures which are usually taken throughout the civilised world for suppressing revolutions, have to be taken.

(2) That as the state of revolution still continues, even after the application, for nearly a year now, of all the extraordinary measures permitted by the Ordinances, it is necessary to embody these special provisions in an Act of the Legislature, to deal with the situation, until it is eradicated.

(3) That the laws of the land are absolutely powerless and inadequate to deal with such a situation, and that there is no other way of doing so, except by such extraordinary powers as are embodied in the Bill.

I know that a fourth reason has also been advanced in favour of this Bill, namely, that it is being introduced in the interest and for the benefit of the self-governing Councils of the future. But it is too good and altruistic to be taken seriously. I shall therefore leave it out of account.

Now, Sir, let us pause for a moment to consider the present situation in all its details; and see for ourselves how far and to what extent, these reasons constitute a justification for the introduction of this extraordinary measure. I shall take them in the order in which I have already referred to them.

First of all, Sir, I absolutely deny,—and I am sure every member of this House will do likewise,—that there ever was at any time, or that there is even at present, anything like a revolution in this country, much less in this Presidency. To describe as such, the growing unpopularity of British rule, and the widespread unrest, prevalent throughout the length and breadth of the country, arising out of a combination of deep-rooted causes very different from those which are supposed to exist and are sought to be suppressed by the Bill, is to misread the entire situation and to side-track the main issue which requires to be faced and tackled in a courageous and statesmanlike manner, if the position is to be saved. The three usual concomitants of a political revolution, namely, its disloyalty, its suddenness and its destructiveness, are all, more or less, conspicuous by their absence in the present movement. All those who

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are in close touch with the currents of thought animating the people and who have got their fingers on the pulse of the country, are in a position to say that the present discontent is neither cataclysmal in its origin nor hysterical in its action, neither in the nature of a revolt against the Crown nor pledged to a policy of destruction and bloodshed. It is, on the contrary, a strong, steady, persistent, universal, deep-rooted, and all-pervading feeling against the existing order of things; and as such, can neither be stemmed by the Ordinances nor crushed by repression. It is really and truly, an irresistible "push", as the Germans call it,—a great and mighty wave of National upheaval. The application to it of measures, usually taken to suppress sudden and sporadic revolts or momentary political revolutions, is consequently a blunder of the first magnitude.

Secondly, Sir, we are told that as the revolution still continues, even after the Ordinance-rule of over a year, it is necessary to place these emergency powers on the statute book. This reasoning really begs the question. Instead of proving to us, the wisdom and necessity of applying such measures to the present situation, this argument takes for granted the efficacy of these remedies. Assuming, however, that the present movement is and has all the usual attributes of a revolution,—which, by the way, I deny,—and assuming further that it is susceptible to such remedies, does it stand to reason that the application to it of these repressive measures, for a still longer period, is likely to succeed in crushing it, when a year of persistent effort to achieve that end, has completely failed? This became very painfully evident only the other day, when, in reply to a question put by me, the Honourable the Home Member told the House that the application of these measures to our Province and the enormous expenditure of over Rs. 37,000 per month, entailed by them, were successful inasmuch as "*they had brought peace to the whole Presidency except Bombay City.*" When asked why then these measures were continued, he was forced to make the contradictory admission that "*the movement was yet there, and still active in some places.*" In short, therefore, these answers amount to an admission on the part of the Honourable the Home Member of the utter helplessness of the Government and the inefficacy of the measures they have hitherto adopted. The unenviable position to which the Honourable the Home Member thus committed himself, can be best described in the terms of a famous episode from early European History. During a war between France and Tartary, a French general ordered a soldier to go and imprison a Tartar in the enemy's lines, who was giving them trouble. The soldier, led away by the fond belief that the mission entrusted to him was a child's play and that he would be able to carry it out within the twinkling of an eye, light-heartedly crossed over to the spot and very soon sent out a cry from the enemy's lines, saying that he had caught the Tartar. His general accordingly asked him to bring the prisoner along. The soldier could not do so, and shouted back saying that the prisoner would not come. The general said "All right, then, leave him alone, and you come along yourself." "But he won't let me", was the helpless reply of the French

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soldier. The fact was that *he* had not caught the Tartar, but the Tartar had caught *him*. This, Mr. President, is precisely the position in which the Government find themselves to-day. They seem fondly to imagine that they have cornered the Congress and made it powerless. The fact appears to be just the reverse. It is the Congress that has cornered the Government and made them helpless. If this is not the position indicated by the whole policy of the Government, as exemplified by the answers of the Honourable the Home Member to which I have just referred, I leave it to this Honourable House to judge for itself what else it is and what other interpretation it is capable of, in the light of the facts that have been brought out. If another proof were wanted, the Bill before us, with all its amazing and extraordinary provisions, is one more confession on the part of the Government of the utter helplessness of their policy and the desperate straits to which they have reduced themselves. If it had been their purpose to expose their own obstinacy, ineptitude and lack of imagination, the Bill could not have been more skilfully prepared. It is a dry pedantic effort to obtain the approval of the Legislature to an arbitrary procedure, wholly inconsistent with the big issues of equity and statesmanship, which all Governments with the remotest title to enlightenment and civilization, should invariably keep in front of themselves, as the guiding principles of their administration.

Thirdly, Sir, we are told that the ordinary laws of the land are totally inadequate for dealing with the situation, that there is no other way of doing so, and that therefore this measure must be passed. I should have liked the Honourable the Mover or any one of his supporters, and particularly my honourable friends, the Advocate-General and the Legal Remembrancer, to explain why the ordinary laws of the land are inadequate and insufficient. The Indian Penal Code, the Criminal Procedure Code and the Criminal Law Amendment Act, which between them constitute the Criminal Law of India, together with the different Police Acts and many other special enactments, not forgetting even the several Regulations to which the honourable member for the University (Rao Bahadur Kale), alluded, confer upon the Government such broad and wide powers as to enable them to cope with any imaginable situation under the Sun. But like all constitutional laws,—barring of course the Regulations,—their requirements are rigid and must be complied with uniformly by all. The Government have accordingly to produce evidence and satisfy the Courts of Justice of the malafides and crimes of such persons as are sought to be dealt with under them. All these powers cannot therefore come to their help, unless, at the same time, all the principles of equity and justice, the laws of evidence and defence, and the numerous other safeguards which have to be followed in the Law Courts, have been carefully observed. But the Executive apparently think that all these formalities are beneath them and they have all been therefore ruthlessly brushed aside by the summary powers vested in them by the Ordinances. It will thus become clear to this Honourable House that the powers to deal with the situation *are* there; but it is *this lawless method* that is *not* there. And it is *this* that the Government want *this*

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House to give them by passing this Bill. I repeat and emphatically declare that the powers in the armoury of the Government are already broad and wide enough to deal with even worse situations than the present one, and that therefore there is absolutely no justification for giving these extraordinary powers to the Executive, much less for placing them for a period of three years on the statute-book. I know that the Honourable the Home Member and his supporters dispute this statement. But they have totally failed to make out a case in favour of their contention. I have very attentively followed the speech of the Honourable the Mover in search of his reasons in justification of this conclusion on his part, but have failed to find any. He merely pontifically laid down that the ordinary laws of the land were inadequate and insufficient for the purpose, but conveniently omitted to give any reasons showing why he had come to that conclusion. I have very minutely scrutinised the list of offences to which he referred in his speech as having combined to create the situation which this measure is intended to remedy. There is not a single offence in it, which could not have been dealt with under the existing laws of the land. And, yet this untenable excuse has not only been seriously advanced by the Honourable the Home Member himself, but has also been repeated *ad-nauseam* by his supporters. On the other hand, as against this ex-parte declaration, we have the support of the weighty opinion and authority of a distinguished lawyer and an eminent ex-Judge of the High Court in the person of Sir Abdur Rahim, who has repeatedly declared from his seat in the Assembly that the ordinary laws of the land are absolutely adequate and sufficient to effectively tackle the situation with which the Government are faced. Others, equally competent to pronounce an opinion, have also declared themselves to the same effect in unmistakable terms. Only a little while ago, our honourable friend, the Member for the University (Rao Bahadur Kale), with an unimpeachable array of facts and figures, absolutely knocked the bottom out of this hollow and untenable excuse.

I challenge a contradiction of these facts.

Mr. President, having regard to the considerations that I have urged, I am sure that it will be apparent to this House that the reasons advanced by the Government are absolutely unsound and untenable, and that the measure itself is destined to fail, owing to the fact that it is in the nature of a quack-remedy, based on an absolutely faulty and wholly mistaken diagnosis of the disease. The real cause of the present discontent is of course, very different. Frankly speaking, it is the logical consequence of a long series of grievances from which this country has suffered for over 150 years of British rule. The people now wish for a complete change of these conditions, which have brought about the present situation. The immediate introduction of the proposed reforms, if they confer complete self-government, without unnecessary restrictions and limitations, both in the Provinces and at the Centre, will have the undoubted result of bringing about a substantial change for the better, and of effecting a permanent solution of the prevailing unrest. I referred in detail to this aspect of the question only very recently during the debate on my

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resolution on the reforms at the Poona session. I reiterate now all that I said then, and repeat that nothing short of the immediate introduction of the reforms, without unnecessary and vexatious safeguards, can and will save the present situation.

Whether the reforms come or not in the shape in which they ought to, and whether they will ultimately have the effect which we expect them to produce on the political horizon, is in the laps of the gods. But, meanwhile, one thing is clear, of which we can be perfectly certain; and that is, that no amount of repression will relieve the present situation and clear the country of this dark big cloud which is hanging over its head. Repression has not succeeded in crushing national movements anywhere in the world. Repression failed to do so in Ireland a few years ago. It failed to do so only very recently in Egypt. And unless History is a record of lies, India is not going to be an exception to this universal rule.

Now let us consider another important aspect of this question. In spite of the fact that the diagnosis of the Government is absolutely wrong and in spite of the conviction that the proposed measure will never succeed in achieving the result that the Government expect it to achieve, let us consider the effect of this measure, if passed, not only upon the public activities of the Presidency, but also upon the lives and liberties of the people. When considered in this light, I have no hesitation in saying,—and I do so with a full sense of my responsibility,—that the incorporation of all these extraordinary powers in an Act of the Legislature, will be a positive danger to public safety, and will have the effect of reducing the people of this Presidency to the position of serfs and helots as they are now under the Ordinances. With the whole country almost in a state of siege, with the population practically in fetters, with their rights and liberties constantly in danger of being assailed, with the freedom of speech and thought denied to them, with their movements restricted under pain of imprisonment, with the Press completely terrorised and absolutely gagged, I do not know how else to describe the condition of the people! This, in brief, is the position at present under the Ordinances, even though we are not allowed to know everything that is going on; and *this* is what this House is now being asked to regularise and legalise in the shape of this Bill. If it is accepted by this House, honourable members will have placed the seal of their approval on such an outrageous and unrighteous measure, and will have joined the Government in depriving their fellowmen of their birth-right.

Before I conclude, Sir, I would like to urge a few important aspects of the question upon the serious attention of honourable members of this House, and if I may, also upon the attention of the Government. Shorn of all its verbiage and ornamentation, what does the demand of the Government amount to? In plain language, it is an appeal to this House to agree to suspend the constitution, to repeal the laws of the land, and to instal the Executive in sole and unfettered control. The demand is unthinkable in its conception, medieval in its character, and arbitrary and tyrannical in its incidence. It is absolutely inconsistent with all

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the recognised canons of civilized Government, and totally unworthy of the great traditions of the British people.

I am very sorry, Sir, to have to criticise this measure in these terms ; but, if I appear to have spoken strongly, it is because I feel strongly. I am honestly of opinion, Sir, that it would be positively dangerous to give such unlimited powers to the Executive. We cannot forget that it is *not* men of the type of the Honourable the Home Member and his colleagues in the Government and at the Secretariat that are going to administer the provisions of this Act from day to day, but the rank and file, and particularly the officers of the lower grades of the Police force. And we all know what they are ! [*Interruption.*] I find that there is some doubt in certain quarters on this point. But, honourable members who do not know these facts, are apparently not following the affairs of the country. Under these circumstances, I repeat that if we pass this Bill in its present form, we shall be practically bartering away the rights and liberties of the people committed to our charge ; and it is therefore our clear duty to reject it. If, on the other hand, the Government honestly feel that they should have such extraordinary powers, it is open to them either to get the Ordinances again extended by His Excellency the Viceroy, or to request His Excellency the Governor to certify the Bill.

An Honourable MEMBER : He cannot do it.

Mr. J. B. PETIT : Oh yes, he can do it quite all right if he wishes to do so. When His Excellency the Viceroy first promulgated and then extended the Ordinances, he never consulted the public ; and he is under no obligation to do so now, if he chooses to extend them again. But, I for one would never advise the House to be a party to such an unprecedented and unheard-of enactment.

I would like to ask a few direct questions to the Honourable the Home Member himself and to every other English member of this House, as one man to another. I would like to ask what they have themselves to say about an Executive that cannot govern with the ordinary laws of the land, and can just manage to carry on, only on such conditions as I have described ? I would also like to know from them, if such a state of affairs would be tolerated for any length of time in any well-regulated and civilized Government in the world, notwithstanding anything to the contrary said by my honourable friend, the member for Bombay (North), Dr. Collaco ? His reference to the emergency powers employed by the Cosgrave Government in Ireland, was wholly beside the point and had no application whatever to the case before us. There is absolutely no analogy between the two situations. There, DeValera and his followers were against the constitution accepted by the country ; they had declared war against the Government ; they had openly unfurled the banner of revolution ; they had even formed their own army and were threatening to shoot down every one who did not agree with them, including even the members of the Dail, if they dared to attend its meetings. To compare such conditions with those prevalent here, is, to say the least, utterly grotesque.

Sir REGINALD SPENCE: Has the honourable member ever considered that there is a country in the world called Italy, which is civilized?

Mr. J. B. PETIT: I did not hear the honourable member.

Sir REGINALD SPENCE: The honourable member mentioned civilized countries. There is a civilized country called Italy, and there is a great deal more freedom under the Ordinances in India than under the laws of Italy.

Mr. J. B. PETIT: I am afraid my honourable friend's statement is absolutely incorrect. He is talking at random without a knowledge of the facts prevalent in that country. [*Cheers.*] I would go a step further and enquire whether our English friends would themselves ever stand such a proposal even for a minute, if any Government in England today dared to put it forward. Do they realise and have they considered the fact that, if any Government in England ever dared to do so, it would be unceremoniously swept off its feet without a moment's delay?

Sir REGINALD SPENCE: We have not a Congress party, or the left wing of the Congress party, in England. When the people go out of hand, the Government will take the necessary steps. Witness what they did during the general strike.

Mr. J. B. PETIT: But England has got her Bolsheviks who are worse than the Congress party. And yet the Government have not yet dared to raise their little finger against them! [*Cheers.*] Have they dared to do so? Will they dare to do so? I pause for a reply. . . . I see that there is none. Is it then too much to ask our English friends not to misunderstand us, but to judge our opposition to this measure by the attitude they would themselves adopt under similar circumstances in their own country?

And yet, Sir, we have had this state of affairs here, practically for a whole year already, and are now being asked to continue it for a further period of three years; and that too in the enlightened 20th Century, when the World is supposed to have been made safe for democracy! A great English Poet speaking of slaves, a couple of centuries ago, wrote "*They breathe our air and their shackles fall.*" What an empty boast these words convey, will be apparent to every honourable member of this House, from all the facts that are now within our knowledge! But this is British rule in India today; and these are the methods by which the country is being governed! It is *these* that we are now asked to sanction and adopt in the shape of an Act of this Honourable House. This is the *one* and *only purpose* of the Bill before us.

We must remember, however, that there cannot be a tyrant unless there is a slave. And it is for honourable members of this House to determine for themselves whether they will be slaves or free-men. If they pass this measure, they will have of their own free-will chosen to be slaves! It is now for them to make the choice. [*Prolonged cheers.*]

The Honourable the PRESIDENT: The honourable member is, evidently, not moving his amendments.

Mr. J. B. PETIT : I am sorry, Sir, that I resumed my seat in the hurry of the moment. I am moving them. I have given notice of two amendments of principle, which, according to your decision, I have got to move during the first reading. One of them deals with clause 1 (2) and seeks to reduce the life of the Bill to one year. It is self-explanatory. I accordingly move that :

“ In clause 1 Sub-clause (2), for the words ‘ three years ’ substitute the words ‘ one year ’.”

The other seeks to delete clause 16, which relates to the delegation of powers. I move that :

“ Clause 16 be deleted.”

This clause, I think, is dangerous, and ought to go. I move these two amendments in the hope that the same may be accepted by the House in the event of the first reading being passed. Of course, I am for the absolute rejection of this Bill in the first instance ; but if that cannot be done, I am aiming at the next best thing, namely, the whittling down of the measure to the utmost possible extent.

Mr. V. F. TARAPOREWALA : Mr. President, there is some misunderstanding in the minds of the honourable members of the Opposition party, as I see from their speeches, as to the nature of the Bill and the nature of the Ordinances which are now in existence. The misapprehension of the real position, I believe, has led to a good deal of unnecessary arguments and a good deal of unnecessary hitch. The honourable members seem to think that the ordinances are not the law of the land. That is the first mistake they make. The Ordinances are as much the law of the land, as much a part of the Statutes, so long as they are in force, as any law enacted by the Assembly or by the Provincial Legislature. The Ordinances are in the nature of temporary Acts, just as this Council is also empowered to pass a temporary measure for a particular period or for a prescribed purpose as well as for all time. The only difference between the Ordinance and the Bill which is being presented to you now is that the authority invested with the power to enact the Ordinance is the Governor-General and the authority to enact the Acts of the Legislature is the Assembly and the Provincial Legislatures. But whether the law is enacted or put in force or introduced by an Ordinance by the Governor-General or by an Act of the Assembly or of this House is all the same a statute. Both have the same force and the same validity and both are statutes and laws of the land. The question was raised about it and it was long ago decided by the Privy Council to the effect that the powers of the Governor-General under Section 72 of the Government of India Act are powers of legislation which he exercises in the place of Legislatures. If you once realise that position, then you will see that the present Bill is merely a continuation of a temporary measure, namely, the Ordinance which is now in force up to the end of this year and which the Government wants to extend for a further period. As I stated—and I am justified in stating it as a lawyer—that any Act which is enacted for a short period or for a prescribed purpose and is to lapse after that period is over or that purpose is served, is in the nature of a temporary Act and the Ordinances under

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the powers given to the Governor-General by the Government of India Act are in the nature of temporary Acts. The temporary law which was first enacted by the Governor-General by his various Ordinances in January 1932 was again continued by the Consolidated Ordinance in July last. That was the continuation of a temporary statute binding the whole country. Then what you are asked to do is to continue further that temporary Act for a period of three years—that period will be finally decided when the Bill is passed into law. Therefore, the first point you have to see is that this is not really, as one of the honourable members said, regularising something or legalising something which is not regular or legal now. The whole argument was wasted on this misapprehension of the position in law. There is no regularising, no legalising, you are asked to do. You are merely asked to pass this Bill in continuation of the Ordinance now in force. You are asked to do that only in respect of some provisions of the Ordinance which the Government of India have not thought fit to introduce in the Assembly and for a very good reason. Mr. President, the Governor-General when he first promulgated Ordinance No. II in January 1932 did not apply immediately all the provisions of the Ordinance to the whole of India. The only provisions that were immediately applied to the whole of India were the first section which provided for the extent and commencement of the Ordinance and Section 63 which provided for the amendment of Section 4 of the Indian Press (Emergency Powers) Act, 1931 by which certain further acts were added as coming within the mischief of that section. Those were the only provisions of the Ordinance which were applied to the whole of India. As regards the application of the remaining provisions of the Ordinance it was left to the Governor-General in Council to apply them to any particular province as he thought fit—of course at the request of the Local Government and on that the Local Government was again authorised to notify as to what provisions of the Ordinance should apply and where. A question was raised as to the legality of these provisions. It was laid at rest by the Privy Council. It was again raised and again decided by the Full Bench of the Bombay High Court in the judgment to which my learned friend Rao Bahadur Kale has referred.

Sir, in fact the provisions of the Ordinance were not applied to the whole of India, and why? Because it was then thought by the Governor-General, and very rightly, that some of the provisions may be unnecessary in some parts of India, others may not be. Thus this House will see that there was great discretion exercised and great consideration shown in applying the various provisions of the Ordinance to the various parts of India. As there was the emergency—I am going to deal with that later on. I am only mentioning now to show that the provisions were introduced in the Ordinance with a view to cover all sorts of mischief which disturbed the peace and tranquillity of the land, and which caused disorder in the land and made administration of law and order impossible. But at the same time India being such a vast country it was not known what particular mischief was going on and in

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what part and in what province and what particular provisions would be necessary to meet that mischief. Therefore, the Ordinance, as I was telling the honourable members, although it made provision for all sorts of contingencies was not applied immediately with all its provisions to the whole of India. Then certain parts were applied to the Bombay Presidency, and even then they were not applied to all parts of the Presidency immediately as the Government had a discretion. As observed both by the Privy Council and by the Full Bench of the Bombay High Court, it is in the very interest of the public that a legislation of this nature should not be enforced in all its parts everywhere all throughout India, and it should only be enforced so far as it was necessary as otherwise it would cause unnecessary hardship. Now the Ordinances were again renewed in July and you will have observed that in the renewed Ordinance all the acts which had been pending under the old Ordinances were validated and were continued, and that is the proper procedure which is followed in all temporary legislation which is renewed in a civilised country. In the Houses of Parliament there are many instances of temporary Acts being passed and afterwards it being found that the period for which the Act was passed had not been sufficient and the Act required a further extension it was validated and continued by a new Act and which continued the temporary Act for a further period. Therefore, as I was telling the honourable members, the Governor-General extended by his new Ordinance the provisions of the old Ordinance for 6 months more. That period will be over in a short time. It was then a question as to whether the Ordinance was required for the purposes of peace and tranquillity of the country. Responsible officers of Government have come to the conclusion—and I will explain why—that it is necessary. The only question was as regards the method of passing that legislation and it was considered that now after the administration of the Ordinance for nearly one year the Government can very well go to the various legislatures and ask on the facts placed before them to pass a temporary Act. The Governor-General therefore has not chosen to pass another Ordinance, and you are asked to consider the advisability of continuing this law. The Governor-General himself has so far as the whole of India is concerned—I mean his Cabinet have introduced in the Assembly a Bill embodying certain provisions of the Ordinance which they consider are necessary for the whole of India, and therefore instead of putting every Legislature to the trouble of enacting these provisions the Government of India have for the whole of India provided accordingly in their Bill. I believe the honourable members must have seen the Bill as introduced in the Assembly. They must have seen that the provisions which are embodied in that Bill are really provisions only with regard to offences, that is to say, what the Government of India think is necessary after 11 months' administration of these ordinances in the country; so far as the whole of India is concerned, they think that certain activities which are to be constituted into offences should be dealt with as such. Further, as regards the unlawful assembly, again, the Criminal Law Amendment Act provides

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certain sections which make certain acts with regard to associations offences. They are embodied again as offences under this Bill. Further, section 4 of the Press (Emergency Powers) Act, has been deemed to be necessary to be continued and that is also again introduced, so that if this Bill becomes law, all these provisions will become the law of the land in place of the law which is now existing, namely, the consolidated ordinance.

Mr. President, the honourable members will see how the character of that Bill is different from the character of the Bill here. After 11 months' administration the Government of India and the other provinces rightly think that certain provisions in the ordinances which they had asked for and which they had enforced are not necessary for the whole of India. If honourable members consider this question dispassionately, it means that the Congress has been defeated in the majority of the provinces in India and that so far as these extraordinary powers are concerned, they are not required, at least some of them are not required, in the whole of India. Then in Bombay we have to consider the position as we find it. I am going to tell you what this civil disobedience movement is and how it necessitates the enactment of this law, how the enactment of the ordinances was necessitated by it and how the continuance of the law is necessary. The civil disobedience movement was at its height and was carried on, as has been admitted on all hands throughout India not only by Government officials but by the Congress organs, to its utmost extent in the city of Bombay and in Gujarat. I am not referring to the terrorist movement of Bengal for the moment. Of course the civil disobedience movement is another form of revolution just as the terrorist movement of Bengal is one form of it. We have not of course had it here, but barring the terrorist movement in Bengal, in fact the civil disobedience movement has been carried out to its greatest extent and the utmost mischief has been done by the agitators who have done it in the Bombay Presidency—

Mr. HAJI MIR MAHOMED BALOCH : The resort to harsh measures in this Presidency may bring about a terrorist movement like that of Bengal in this province as well.

Mr. V. F. TARAPOREWALA : When that occasion arises, I can assure the honourable member—

The Honourable the PRESIDENT : The honourable member need not mind interruptions.

Mr. V. F. TARAPOREWALA : I can assure the honourable member who interrupted me that Government will be in a position to meet it. No threats of that kind can intimidate any Government worth the name. Here we are to consider the present position and see what steps should be taken to remedy the present position—

Mr. L. R. GOKHALE : For whose benefit ?

Mr. V. F. TARAPOREWALA : I am coming to the need of the law which you are being asked to enact by this Bill. I am only trying to

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make the legal position clear and to explain that it is a mistake to say that we are having in this Bill something new. There is the law already in existence and we want to extend it for a further period of three years as proposed by this Bill. That is all that this House will do if it accepts the measure.

Some of the honourable members of the Opposition said that the Honourable the Home Member, while introducing this Bill, merely said that he was taking these provisions from the old ordinance but he did not explain to them why these provisions are now necessary. He stated the facts and if they were not appreciated, I am going to tell you again those facts. Those facts have been clearly mentioned, but I am going to show you to-day that in fact those provisions are being introduced in the Bill here and they are not introduced in the Bill in the Assembly because these provisions are absolutely necessary for the peace and tranquillity of this Presidency, because for the particular phase of the movement, the particular way in which it has been carried on in this province, it is necessary that these provisions should be continued for some time more. Before I come to that point, it will be necessary to consider what is the object of these provisions. What was the object when the ordinance was originally passed by the Governor-General and what is the object now in asking this House to pass this Bill so as to continue some of the provisions for some further time? It cannot be denied that the conditions at that time were very near anarchy and I say it advisedly because, after all, if there is no Government functioning, and no Government whose orders, whose laws, whose commands are obeyed by the people, then there is anarchy and nothing else. If the Government's orders, if the Government's laws are disobeyed and disobeyed deliberately with a view to make Government impossible, it is nothing but a state of chaos if the Government lets it go on for a single day. The honourable member Rao Bahadur Chitale said that the civil disobedience movement has its uses and he spoke about non-co-operation in the Round Table Conference and the Government giving in and so on. But honourable members will consider this, that there is a vast difference between non-co-operation of that sort and civil disobedience. The ordinary laws are sufficient to meet the case of any particular individual disobeying the law for the time being. If he says "I am not going to obey this law", then certainly, the law as it stands is sufficient and has power to penalise and punish that person and see that the law is respected. But that is not the case here. The case here is this that an organised body has tried to rake up an agitation in this country rightly or wrongly (I am not going into the question of that now)—it may be right from their point of view, it is wrong from the point of view of these benches— but I am now merely mentioning this and it does not matter whether it is right or wrong. Here is a body of persons who stated that they were going to disobey the laws of the country and that they were going to ask all the people of the country to disobey the laws, why? In order to make Government impossible, in order that this Government may be replaced by something else, in order to overthrow

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this Government. Now honourable members will see that there is a vast difference between the political oppositions in civilized countries where one Government, if it does not do acts which are satisfactory to the people, is displaced by another by constitutional means. The public expresses its displeasure by their vote and Government is thrown out and another Government of the same people comes in. Here that is not the case. Here the aim of the civil disobedience movement is avowedly this. There is no secret about it, the Congressmen do not shirk it. If I may say so without any disrespect to this House, it is only those people who are sitting on the fence who say they are not Congressmen—they have no courage to be Congressmen—who come forward and say “You should allow the Congressmen to do this and to do that; otherwise, how can our grievances be redressed?” Congressmen do not make a secret of it. They say “This Government is impossible, we do not want this Government, we want something else”, and for that purpose they say, “we have no other course but to make Government impossible.” What is the meaning, what is the implication? You make Government impossible by seeing that its revenues are not paid. Revenue is the principal thing on which any Government has to rely for its conduct and for its administration, so that the first thing we shall do is to ensure that as far as possible no revenue is paid to this Government so that they cannot function. Secondly, they say, they will bring about that object also by showing to the people that this Government is effete and unable to function because the agitators issue orders to the people to conduct themselves in a particular manner. For example, in Bombay they issued orders to certain firms and merchants saying “You shall not deal with X, Y or Z. You shall not do this and you shall not do that. You shall not open shops on Mondays, Wednesdays and on Fridays. You shall not do certain other things” and so on. All those things which no private individual or no body of individuals, unless it has the authority of Government and the sanction of the law, has power to do, constitute a much greater encroachment on the liberty and freedom of the people and they were attempted by the Congress, and why? Again with the same object, because if you make trade impossible, then the result is that there is greater depression, there is greater adversity, there is anarchy and the more the people are in difficult circumstances, the more the people are impoverished, the more will they be against the Government. Then the masses cannot reason, they cannot see exactly the why and the wherefore, they do not know what are the world conditions of trade, they do not see why there is depression all over the world, they do not know that the richest countries like Holland and Sweden are now in a state almost of bankruptcy. They cannot see it. These agitators in trying to order the people to do these acts had two objects in view, (1) to create a greater depression and adversity in the people by not allowing legitimate and proper trade and (2) to show to the people “Here we are masters of the situation; we can order people to carry out over behests; this Government is so effete that they cannot stop us from doing what we

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like." As a matter of fact, Mr. President, I can say from my experience as a Counsel of some standing and practice that I come into contact with all sorts of people not merely from Bombay but people from the mofussil also who come for my advice and opinion, and so I come into contact with them. In fact I have discussed this question with those gentlemen who are of the Congress persuasion and they have always frankly said that their whole object is to make Government impossible, to throw people into greater adversity, to show the people that this Government is impossible and that they can never achieve any prosperity at all through this Government. Their sole object is to make Government more and more impossible so that they can overthrow it and have another Government, and when I asked them "What will all this lead up to?", these gentlemen very frankly said "Certainly anarchy and chaos. No freedom is ever achieved, no new life is created without some destruction. Without anarchy and chaos, nothing is going to happen. We are not going to have any rights at all by voluntary gifts from aliens." Those are the frank views of these people, they do not make a secret of them. There are two courses open to Government, either they should abdicate and say "All right, we abdicate, you take the reins of government, and we will take the first steamer back to England and will leave you bag and baggage"—

The Honourable the PRESIDENT: I would advise honourable members to retire now for tea. The honourable member may continue his speech after that.

(After recess)

Mr. V. F. TARAPOREWALA: Mr. President, when the House adjourned for tea, I was just explaining what the civil disobedience movement meant, when it was launched, its aims and objects, and how it was carried out. The movement, in fact, was started in the year 1930, after the Dandi march was undertaken, and in Bombay and Gujarat particularly there were manifestations on a very large scale by the people, showing that they were not only in sympathy with the movement, but that a large number of them were prepared to disobey the laws in furtherance of the movement. I need not go into the details of what happened then, but if things had gone on like that any longer—every day the position was becoming worse and worse—what would have happened? There would have been an end of all Government. In fact, some people thought outside this Presidency that too much latitude was given to these people by the Government here. The Government here exercised its patience and did not want to enforce any powers beyond the ordinary powers, in the belief that, after all, the movement would die down, or that the people would see that in fact that was not the way to have evolutionary reforms, that it was revolutionary. Then came the Delhi Pact, and the movement for a time was at a standstill by consent and agreement of the Congress. Then again, in January, after the return of Mahatma Gandhi to India, and even before that, it was proclaimed from the house tops by the Congress people that, unless their demands were accepted, they were going to start the civil disobedience movement again; and I ask the honourable members to consider, if the ordinances had not

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been enacted, then what would have been the condition of this presidency, leave aside the whole of India, but what would have been our condition here? All trade would have been paralysed. A few persons, dictators, self-styled, self-appointed, self-nominated dictators were trying to rule in a most arbitrary manner. They had no sanction behind them, and there was no appeal from their orders, there was nobody to whom you could go to see whether the orders were proper or not. Here was something much worse than the most tyrannical Government that any country could have, and from one step to another that would have been the only logical sequence.

Then, Sir, it is stated "Oh, these Congressmen wanted to civilly disobey, to show that they were not satisfied with the Government, that they were discontented," and so on. But, Sir, what was the evidence? The evidence was that they wanted to make the Government impossible again, because their demands were not accepted. Even without the consideration of the demands of others, even without a consideration of the public interest, they wanted all their demands to be accepted, and because they were not accepted, they wanted Government to be made impossible, with the view that this Government should be overthrown and they should establish their Government; and in furtherance of that they tried all these illegal methods. But I would point out to this House in regard to those methods that, except in so far as some of them might have come under the ordinary law, a good many of them would not have come under the ordinary law at all. I am going to satisfy this House that there is nothing in the contention of the honourable members who have spoken before me from the opposition benches that the ordinary law is sufficient to cope with the situation. But I now put it to the House, what would have happened? There would have been a repetition of the disorders of 1930, and from strength to strength they would have gone on, for they would have known that the Government were unable to do anything to check them. As a matter of fact, if honourable members have not got very short memories, they will remember that, even before the Ordinances came into existence, there was actually a talk in the movement of establishing a parallel government in India, and the Congress agitators actually mooted that point; they thought they were all ready, that they were prepared and the people were going to follow them. Now, what is the meaning of a parallel government? Just imagine. I would ask honourable members to consider, can there be two governments in a country, and if there are two governments, what is the position? The position is going to be nothing but anarchy and chaos. There cannot be two parallel governments in a country. A parallel government meant that, in anticipation of this Government abdicating and going away bag and baggage from the shores of India, they were establishing their own government. That was the condition of affairs when the Ordinances were promulgated by the Governor-General. The honourable members on the opposition side said "Oh, but you are on the horns of a dilemma. Why? Because, if you say that by these methods you have crushed the Congress agitators, then why do you want

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another Bill? If you have not crushed them, then what is the good of this Bill?" But the honourable members who put forward these contentions forget that, after all, these methods have succeeded in the greater part of India, and because of their success it is necessary that all the fruits of that success should not be frittered away. Otherwise, what will be the position? Here I would like to tell honourable members what has been said to me repeatedly by some of the leaders of the Congress. There was nothing said in confidence, because they as a matter of fact proclaimed it outside also. After the Ordinances were promulgated, they said "Oh, Government cannot go on with these Ordinances; in six weeks they will come down on their knees; they cannot govern like that." The six weeks passed. Then they said "Now for more than three months they cannot pull on. These Ordinances cannot be renewed." Great lawyers in the Congress camp—I do not mean any disrespect to them—there are some persons on the side of the Congress who are really eminent lawyers—said that the Governor-General had no power to renew the Ordinances under section 72 of the Government of India Act, and that immediately they came to an end, there would again be such a recrudescence of the activities of the Congress and the civil disobedience movement that within one week the Government would come down on their knees, that it would be impossible for Government to carry on the administration for even one week. That was what the illiterate, the uneducated masses, the followers of these leaders were asked to believe. They were told that after the lapse of three months more, Government would be helpless. They said "We will be able to show such a manifestation of the disobedience of the laws, and put the Government in such a position that it will be impossible for them to carry on for more than a week." Then like a bombshell came the renewal of the Ordinances for a further period of six months. They thought that matters might be taken to a law court, but nobody dared to take it to a law court, and nobody disputed it. And then they were kept in check.

Now, I ask honourable members to consider this mentality. What does it mean? Even now things are not settled, and unfortunately it is aggravated by the conditions of depression which we are sharing with the whole world. People are out of employment, people are suffering in poverty on account of retrenchment in Government services, in the salaries of their staff which was necessary, and also in the other services retrenchment has become necessary, and this particularly after having seen such good days in the period of boom and thereafter. In those days money was flowing like anything in the land. As I heard one witness in an action say, in fact in those days people in Bombay thought that they could pick up a handful of dust and turn it into gold. That was how things were going on in those days in Bombay. Now of course people have come down; trade has declined, partly owing to the depression, no doubt. But all that was taken advantage of by these agitators, and the depression in trade was further increased by the agitators. Not only that, but they tried to show that they were the real governing body,

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and Government could do nothing at all. They could order the merchants and traders to do what they liked. Of course, they did not touch—very wisely, I suppose—the lawyers, because the lawyers are, in a way, the mainstay of a movement like this, or any movement where words and not action are required. [Laughter.] So that, they did not tell the lawyers to give up their practice. They told the Bardoli peasants not to pay the land revenue to Government. They told them “Let your lands be confiscated. You will get them back when this Government ceases to function.” They told the patels “You resign your posts, so that Government will not be able to function.” But they did not tell the pleaders to give up practising in the courts of what they called an iniquitous and effete Government. The pleaders assisted in the administration of the law. Of course, they are also suffering now from the effects of the depression, the agitation and the consequent difficulties. The monetary, financial and other difficulties of Government have had their effect upon everybody, even upon the legal profession. But the pleaders were not touched by the civil disobedience movement; they were secure in their practice. But all the others, as a matter of fact, were forced, tyrannised, coerced.

My honourable friend Mr. Petit said that if this Bill is passed, under the Ordinance *Raj*, as he called it, you will be reduced to the position of serfs. I say with confidence, if honourable members will consider the position to which people in Bombay and Gujarat were reduced by the Congress, it was a position of much greater serfdom, because there was no sanction for it, there was no appeal from it. And, who are the persons who are exercising these powers of the Congress? They are people, I should say, whom one never knew before. They came into notoriety simply because of this movement. These men have neither the education, nor the training, nor the standing, nor any stake in the country so as to make them responsible for their deeds. They are mere agitators who have sprung out of this movement. Do honourable members consider them as men having any stake in the country? They are the persons who issue orders. Even now they say with triumph that they are making the people obey their orders. Immediately the Ordinance is removed, all check is removed. They say that then they will start the civil disobedience movement on a much larger scale. Of course the people are actuated by the idea that as soon as the present Government is done away with, under the Congress Government they will not have to pay any land revenue and by the mere magic wand of the Congress being waved over them they will have plenty of money and prosperity. That is the idea on which these poor people, the masses, are fed, and are misled to carry on the struggle. Their point of view is that if this struggle is carried on to such an extent as to make the present Government impossible, then the Congress will succeed and the present Government will fail. That is their idea in renewing the civil disobedience movement again. Are honourable members of this House prepared to allow that? If these checks are removed, there will be a recrudescence of the movement and there is no doubt about it. If

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honourable members dispassionately consider, they will admit that, if this check is removed, the Congress agitators are bound to mislead the poor people again more vigorously to continue their activities and this will gather increased strength in view of the world depression. Then the irresponsible and self-appointed persons not bound by any law will issue orders and ask the people to obey them. Do honourable members consider that this is a position with which any citizen will put up? Do honourable members think that the people of this province should be subject to such misrule and tyranny for want of an organised Government? Now, the civil disobedience movement does not manifest itself outwardly and traders who have courage say: "You have no authority to issue orders to shut our shops. We will not close our shops." If this legislation is not enacted, what will be the effect? There will be anarchy and chaos. If this legislation is enacted, what will be the effect? I request honourable members to bear in mind that this is only a temporary measure. I lay stress on that point. Don't go away with the idea that this measure is going to be permanently placed on the statute book, or that you will be condemned by posterity if you allow it to be passed. You are now asked to provide a preventive measure. It is not for punishment. The whole fallacy in the arguments of the opposition was this. This law is not meant for the punishment of offenders. If you consider this Bill it really provides for prevention of offences which otherwise—I am going to point out—would not come under the ordinary law as offences at all. If these acts are allowed to be committed, many of them will not constitute offences and Government will have no power to take action under the ordinary law. Then the irresponsible people will be ruling the country and everything will go to rack and ruin.

One honourable member asked why we should not wait and see. Such a policy under the present circumstances would be suicidal and fatal. I may give you an analogy. It is just like a man putting a bomb near himself and igniting the fuse and asking: "Will it explode? Let us wait and see. It is just possible it may not explode." Where the facts are clear, we ought to take no risks. Otherwise there will be anarchy and chaos. There will be no Government at all. You cannot allow that position to continue even for a single day. The new Reforms will come into force in a year or so. Whether the Reforms come or not, the agitators should not be allowed to have their own way. They may accept the Reforms or not. After all, nothing is perfect in this imperfect world. A Government, after all, is a human agency and is liable to human faults. It can make mistakes. They have committed mistakes in America, in spite of the fact that they have a republican government and enormous resources. Whether the Reforms are satisfactory or not should not influence you to saying that if the Reforms are not satisfactory they would be entitled to throw the Government out.

Another honourable member suggested that they must have a peaceful atmosphere for the Reforms. I ask honourable members to consider whether it is their idea of peace that one party should sit with folded

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hands while the other party is doing things in any way it likes. Peace means peace on both sides. It cannot be one-sided. [An Honourable Member: Does it exist in the Ordinance?] It does; I say with confidence, because it is the Ordinance that has maintained peace in this land. If the Ordinance had not been promulgated, there would have been no peace and irresponsible persons who have no stake in the country, no qualification, no training, would rule the country and we would have been in a much worse position than China. Are these people really fit to rule over a country like this?

Coming to the Bill, I wish to point out that the idea of the Ordinance Bill is that it should prevent the commission of offences and not to punish them. In the Congress movement, there are people who cannot think for themselves and so are led by the agitators. These people can be easily misled. If such a circumstance is created which is beyond the control of Government, the Congress party will take advantage of it to create such a feeling and the masses will be taken in. The Ordinances originally do not punish—

An Honourable MEMBER: Are there no provisions for it?

Mr. V. F. TARAPOREWALA: There cannot be a provision. If honourable members will just consider, there cannot be a provision for the prevention of an illegal act. As a matter of fact some of these activities are such that even when they have been made they do not come under the ordinary law.

Mr. G. S. GANGOLI: Then insert the words: "That this Act is only to prevent."

Mr. V. F. TARAPOREWALA: If the honourable member knows the construction and interpretation of an Act, he must know that all the provisions should be construed as a whole but not a word here and there. You have to see what the provisions are. I am going to ask you to consider the provisions in the light of my remarks. The first idea of this Bill is prevention of crimes. Take sections 3 and 4 which are really the bone of contention and which are stated to be encroaching upon the freedom and liberty of persons of this presidency. The Honourable the Home Member has already told you that the powers under section 3 were not to be exercised by any officer lower in rank than a District Superintendent of Police. Within the last eleven months of the administration of the Ordinance the powers could have been exercised by a sub-inspector—

Rao Bahadur R. R. KALE: Any officer.

The Honourable Mr. W. F. HUDSON: Government issued a special order under the Ordinance mentioning "any officer not lower in rank than a sub-inspector."

Rao Bahadur R. R. KALE: The wording there is "any officer". It is vague.

Mr. G. DAVIS: Any officer authorised by Government.

Mr. V. F. TARAPOREWALA: This can be considered later on. After all, honourable members do not think that Government is going to go back upon what they have stated. The Honourable the Home Member has given an assurance. As a matter of fact Government are as anxious as honourable members that nothing is done beyond what is absolutely necessary. You must not be obsessed by the idea that Government derive any pleasure by repressing or prosecuting people or by putting them in jail. [*An Honourable Member: Past experience.*] But not a single instance has been quoted to prove that past experience. I can say from my own experience and from the evidence of Congressmen themselves that in the administration of the Ordinance within the last eleven months, at any rate in the Bombay City, that the sections of the Ordinance have been administered by the Commissioner of Police with the greatest moderation and discretion. The administration of the Ordinance is above reproach and not a single person has been arrested under section 3 who was not in some way or other involved in this movement and took part in those activities, and again after arrest refused not to do so in future. I ask honourable members to consider this.

Let us, first of all, consider the object and then go to the machinery. The machinery is human and is liable to abuse. I admit that also. But before going to the machinery, let us consider the provisions themselves. Honourable members will see that these provisions are primarily meant for preventing offences being committed, not for punishing the offenders. Under clause 3, if an officer of Government is satisfied—and there must be reasonable grounds for that officer to believe so—that a person takes part in illegal activities or is about to do so, then the officer is given power to arrest him, and after the arrest to detain him in custody for fifteen days. Under this Bill it is fifteen days; under the Ordinance it was for a month. Then, he cannot be detained in custody for more than fifteen days without the orders of the Local Government. And every arrest has to be reported to the Local Government under this Bill as well as under the Ordinance. Honourable members must remember that as a matter of fact it is only responsible officers who are authorised to do this, so that a person who is about to take part, or who has taken part and is likely to take further part, may be prevented from doing so. And what is the best way of doing so? Put him in custody for fifteen days. Power is taken to keep him in custody for a period of two months under the Local Government's orders. That is done advisedly. Because when he is arrested he is asked, and if he says that he is not taking part in the civil disobedience movement or in any of these activities which are meant to overthrow Government, he is never detained in custody. Of course there may be exceptions. But in Bombay I can say with confidence that not a single person who was arrested was detained in custody if he gave this assurance. If he gave that assurance he was immediately released. He has not to give any assurance in writing; mere oral assurance is enough.

Mr. L. R. GOKHALE: Is there any evidence on record for that statement?

Mr. V. F. TARAPOREWALA : I ask the honourable members to give me a single instance where a person was detained after he gave an assurance. I challenge honourable members to give any instance. .

Mr. L. R. GOKHALE : Any record with the police for that ?

Mr. V. F. TARAPOREWALA : The Police Commissioner does not even keep a record ; he does not take the assurance in writing. As a matter of fact, I may tell you on the evidence of the Congressmen themselves that in Bombay City the Act has been administered with the greatest possible moderation and discretion, and not a single person has been arrested or detained who has not been a party to this illegal activity of civil disobedience, and the persons who have been sent to jail or detained in custody have been persons who have taken part in illegal activity. Now, an honourable member said that all the people are with this movement, and all the people are taking part in it. How is it then that only such a small number is in jail ? If Government officials are fond of putting people in jail or of harassing them, why is it that so few people are in jail ? Even of those who were detained in custody, we know of instances where they have been released even before the expiry of the period laid down, because of the assurance given by them. Those persons who did not give any assurances, it is clear, must have been of that persuasion : they said " We will disobey ; we do not care ; we are prepared to go to jail." In that case, after the two months are over, action is taken against them under clause 4. So that, clause 3 is the machinery, if I may say so, for ascertaining whether a particular person is taking part or is going to take part in the future. He is asked about it. If he does not give any assurance that he would not take part in the movement, he is detained for fifteen days, so that he is kept out of mischief for fifteen days ; he is allowed to have his own food and clothing. Then, the local Government can order his detention for two months, and then he is released. Clause 4 provides the other machinery, again a preventive machinery. Honourable members will see that clause 3 has nothing of a judicial nature about it. The detention of a person in custody is done under the executive order. Then under clause 4 (1) if the local Government or the District Magistrate; if authorised by the local Government—the Commissioner of Police in Bombay comes under the definition of " District Magistrate"—if satisfied on reasonable grounds that that person still intends to take part in this activity, has the power to serve on him an order under clause 4 (1). The only thing which was criticised was the order to report. No one can criticise the order " You shall not take part in the civil disobedience movement." Is there any honourable member here who will say that a person should not be told that he should not disobey the law so as to overthrow the Government ?

Rao Bahadur R. R. KALE : Nobody questioned that at all.

The Honourable the PRESIDENT : That is what the honourable member himself said.

Mr. V. F. TARAPOREWALA : Of course the order to report may be different in different cases. My honourable friend Rao Bahadur Kale

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has quoted Mr. Gulabchand Doshi's case. The order in the case of Mr. Doshi was that Mr. Doshi should report at his own residence to the Deputy Inspector of Police. The Deputy Inspector of Police should go to Mr. Doshi's place—

Rao Bahadur R. R. KALE: If he was attending the High Court, why should he report to the police?

Mr. V. F. TARAPOREWALA: I am only pointing out to the honourable members that in fact the orders are not the same in all cases. As pointed out in the full bench judgment the orders are not the same. I will tell the honourable members why. In cases where it is found that in fact reporting every day is not necessary, the order is modified; reporting every week is provided. We want to see that the person on whom the order is served is not taking part in any activity; therefore, he has to report. What is there humiliating in reporting? I cannot understand; I really fail to understand. [*An Honourable Member*: Hear, hear.] If the honourable members will allow me, I say with responsibility that the objection to reporting is owing to a sort of squeamishness. It is due to the old idea that it is humiliating to go and report to a police officer. He is as much an officer of Government as any one else, as the Chief Justice of the High Court or the District Magistrate or the Commissioner of Police. What is there derogatory in a person going to a police station and reporting himself? I see nothing at all. [*Interruption.*] It is said that only criminal tribes are asked to so report. After all, honourable members will consider the special circumstances. Each and every one is not asked to report. It only follows upon a person being found on reasonable grounds by the responsible executive authorities to have taken part in the civil disobedience movement or to be intending to take part, and his refusing to give an undertaking that he will not take any part. It is only then that an order is served. Clauses 3 and 4 are complementary; the two go together. Clause 3 provides for investigation. We have known of instances where a man, after arrest, has been released on his giving an assurance that he is not at all concerned with and that he is not taking any part in the activity:

Rao Bahadur R. R. KALE: I have quoted the instance of the arrest of the Masur man who has given every undertaking, but still there is the order.

Mr. V. F. TARAPOREWALA: I do not know the facts. Of course I know them so far as the case came before the High Court, because I appeared for the Crown.

Rao Bahadur G. K. CHITALE: Even in that case, the order was proper?

Mr. V. F. TARAPOREWALA: In which case? Masur case?

Rao Bahadur G. K. CHITALE: In Mr. Gulabchand Doshi's case.

Mr. V. F. TARAPOREWALA: I admit that in Mr. Gulabchand's case, the order was wrong. But, after all, you do not have to consider this. I am only trying to show the preventive character of the clause.

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Whether the order in a particular case was proper or not should not be considered. After all, in such legislation there is bound to be hardship. As I said, human agency is never perfect, and whatever you do there may be some cases in which hardship may be caused. But because injustice may result in some cases, somebody may be caught hold of unnecessarily. You cannot say "Let the whole lot of these agitators go unchecked, allow them to preach their doctrine of anarchy in the country and make government impossible."

Rao Bahadur G. K. CHITALE: Cannot the chances of injustice be minimised ?

Mr. V. F. TARAPOREWALA: The Honourable the Home Member has assured the House that Government are anxious that the provisions should be such and should be so administered that no hardship is inflicted on any innocent citizen. A citizen who does not take part has merely to give an assurance to that effect and these sections will not be put in operation against him. I am only pointing out the preventive nature of this. This preventive nature is not covered by any Code. This object of prevention cannot be achieved by any existing law. With regard to the punishment of offences, I am coming to that immediately. First of all, you have to see that these are executive orders, and not judicial orders, and the object of the order is entirely for the protection of the public. The object is that such persons as do take part in these activities should be put out of the way. That is the sole object. They should not be allowed to continue their unlawful activities. That object has been achieved by the Ordinances for the past eleven months. Although honourable members talked about innocent men being caught hold of, they have not given any instances except that of the Masurcase—

Rao Bahadur R. R. KALE: The person was prepared to give the undertaking; he stated it in his petition to the High Court.

Mr. V. F. TARAPOREWALA: I do ask honourable members to consider that in the administration of these Ordinances for eleven months, there may be one solitary case where a mistake has been made. I do not admit that. After all, honourable members must remember that in these matters things must be done confidentially, and you must have trust in your officers. That is why only responsible officers are invested with these powers, and you must trust them. After all, in these cases, it is not a judicial court; it is not meant to be a judicial court. Evidence is not to be taken on oath. The reasonable grounds are to be ascertained and information gathered by responsible officers who are entirely able to weigh them. Further, after he has got the information he orders the arrest. Then the man is before him and he can explain. In solitary instances, injustice may be done. I do not say that all are perfect. Everyone, even the very best of lawyers, make mistakes in their judgment; even the High Court's decision is reversed by the Privy Council; and if there was a higher court the judgment of the Privy Council in some cases may be reversed. I am trying to point out to the honourable members that mistakes may be made; a man may honestly come to

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one conclusion on the evidence before him, while another person may come to a different conclusion. But that is not the criterion. But only if honourable members come to this conclusion, that there is no state of anarchy or that it is not going to continue, and that the continuation of the ordinances by this Bill is being asked for from these benches merely to harass the people and that there is not the slightest justification for this, then only can they consider these provisions as an encroachment upon the liberties of the people. But if they are meant for restricting the unlawful activities of these agitators, even though a mistake may have been made in a few cases, I submit with confidence that the honourable members will disregard that and see the whole administration of the Ordinance. Then, as I pointed out, it is with a view to prevent a person from taking part in the movement that an order is served on him. Why a person disobeys the order? He disobeys it because he wants to take part in the civil disobedience movement. What other reason can there be? Because originally he does not give the assurance. Therefore the order is served on him and when he disobeys that order such disobedience is constituted an offence under the Ordinance and in this Bill. Under the ordinary law I quite admit that you cannot give powers to the executive to arrest a person and serve this order. It is because of the circumstances and the existence of the particular condition in this country—for that the best remedy is prevention and not punishment, because by the time the man is punished he will be in a position to spread the poison. He will be free to preach his anarchist doctrine. He will be free to fool and induce the people to believe that government is wrong and he is right. Every day the man is free, until you try and punish him the mischief is increasing. One man fools 100 persons and they in their turn spread the poison. Now in fact the evidence on which the Police Officer would arrest a person would necessarily be of a confidential nature, and I submit with respect that if these conditions exist even after the period of 3 years this House or the successors whoever they may be will be prepared to continue—and I say with confidence—and will be justified in continuing these provisions for a further period, till there is peace, till the movement has come to an end. Of course there is no restriction on political activities. My honourable friend Rao Bahadur Kale said that it is a gag on the press. I read the *Free Press Journal* and the *Bombay Chronicle* every day. I do not see that they are gagged. All Government measures are criticised and their points of view are put forward. The question of Dominion Status, Self-Government, the Federation and all other points are discussed fully and all points of view are put forward. There is no restriction on their liberty. All proper political activities go on and there is not the slightest restriction put upon them. Who are these persons who have gone to jail? A majority of them are hirelings. A majority of them are irresponsible persons. Some of them are my best friends. [An Honourable Member: "Are they also hirelings? Are the pleaders hirelings?"] No, no. Not at all. I did not say that the pleaders are hirelings.

Moulvi Sir RAFIUDDIN AHMAD : What do you say ! Pleaders or leaders ?

Mr. V. F. TARAPOREWALA : My honourable friend said pleaders.

The Honourable the PRESIDENT : Order, order. I think the Honourable the Advocate General is dealing very seriously with the clauses. He has taken a very long time. But the subject matter in his hand perhaps requires it. But, if the House is so minded as to minimise the time, the interruptions should stop and the Advocate General should proceed with the technical side of the subject. If he enters into details, interruptions are bound to follow. If he deals with the technical side of the subject, I think time would be saved.

Mr. V. F. TARAPOREWALA : I bow to your ruling, Sir. I will come to the provisions of the law. Take the criminal law as it stands. Rao Bahadur Kale said that the law was sufficient to meet the present emergency. He first cited Bombay Regulation No. 1 of 1827.

Rao Bahadur R. R. KALE : I cited two Regulations, No. 1 and No. 12.

Mr. V. F. TARAPOREWALA : Yes, but I cannot deal with the two Regulations at one and the same time. Regulation No. 1 speaks about State prisoners. Is it seriously contended on the other side of the House that all these persons should be treated as State prisoners and should be so detained ? Would it be any proper functioning of the law ? This Regulation is meant to provide for cases of serious nature, of exceptional nature. I ask the honourable members if they wish that Regulation to be enforced in the case of all these agitators ? I say with confidence no. If the lawyer puts forward this contention I do not think he puts it forward any seriously. The Regulation is only out of question with regard to meeting this present emergency.

Now take Regulation XII, section 27. In that Regulation it is stated in the preamble that it is a regulation for the establishment of police throughout the Zillas subordinate to the Bombay Presidency and for providing rules for the administration and for defining the duties and powers of all Police authorities and servants. Now in the old days in 1827 this was an enactment for the establishment and administration of Police officers. Now section 27 is not repealed. Section 27 says that a District Magistrate is not precluded from taking precautionary measures of a more lenient nature in the case of a person who may be unable to furnish a satisfactory recognition or security for his attendance. Now, there the attendance is before the District Magistrate or before the Police Officer for a particular purpose.

Rao Bahadur R. R. KALE : Further on something is said about restricting the movements in particular ways.

Mr. V. F. TARAPOREWALA : What are the movements here ? I submit with confidence that the Regulation of 1827 has no bearing on the question. It cannot be enforced against these persons. It is merely a part of the Police administration and in the administration of the Police the Police are given certain powers. As a matter of fact Government do not want the Police Officers to exercise the powers this way. But Government want certain safeguards to be put and the powers to be exercised

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by certain responsible officers only. There is another fallacy again about it. If the provision is there it has been legal all these 100 years. No one has raised a cry against it. Then it is no question of encroaching upon the freedom and liberty of the public. Rao Bahadur Kale must be congratulated on his research. But I submit with respect that that cannot apply in the case of these persons and it cannot be effective. I say that it is only with regard to the Police administration and the movements there referred to are only with regard to Police administration. For example, a Police officer would not be able to restrict the movement of a person who goes to a trader and says "you shall not deal with such and such person." It is only the person who comes within the purview of the Police that can be restricted and not every citizen.

Then the next provision referred to by my honourable friend was section 144. Now section 144 is with regard to regulating of meetings and processions and also with regard to rights to properties where the parties threaten to take the law into their own hands. Then the Magistrate has power to issue certain orders.

Rao Bahadur R. R. KALE : I refer to clause 3 of section 144.

Mr. V. F. TARAPOREWALA : How can that apply to a person who says to people "do not pay the rents"? How can it apply to a person who says "do not trade with X.Y.Z."? Section 144 is with regard to conduct of persons in public and if there is any danger to the peace then the Magistrate has power. Here there is no such question. Here there is danger to the whole country by the conduct of an organised mass of people. Section 144 can have no bearing on this case. Section 144 can have no possible application to this and it cannot be enforced. These orders are also temporary and in urgent cases they can be made by the Magistrate and as I say, the whole scope of the orders is something which cannot be applied to the actions which are to be stopped here. It is not merely a person's going to a particular place that is going to be stopped, it is the other activities which are much more mischievous and which are not going to be stopped in any other way.

Now as regards section 108 of the Criminal Procedure Code and section 124A of the Indian Penal Code, my honourable friend Rao Bahadur Kale says that the former section contains power to prevent the dissemination of seditious matter and that it covers cases which are sought to be covered by the provisions of this bill. Suppose a person says to an agriculturist "Don't pay the land revenue assessment." Would he be disseminating seditious matter? I ask the honourable members to consider this question in all seriousness. Is it said that that person can be hauled up under section 124A? You have merely to look at the wording of that section to see that you cannot do so, and I go further and say that under section 108 you have to lead evidence as to the man's intention and all that sort of thing. Again, section 108 is limited purely to seditious matter coming under section 124A of the Penal Code. Going to a person and saying "Don't pay land assessment" is not disseminating seditious literature. Again, if that is done, the learned pleaders, with

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all their subtlety and ingenuity, will go to the High Court and say "This is not the meaning of the section. These people are oppressing us, they are trying to enforce provisions which are not at all applicable".

Those are all the provisions and I submit, Sir, with confidence that the ordinary law was never meant and designed to cover the present emergency in the Presidency. The ordinary law was meant merely for the punishment of offences. Here we want activities which are not by themselves an offence under any provisions of the law as it stands now to be made an offence because they make government impossible. We want to prevent them and for the prevention of those activities we want the present Bill. They (those activities) will be a new offence constituted by this measure under which those persons will be punished, will be put out of the sphere of mischief. The provisions of the Criminal Procedure Code and the Indian Penal Code, as I said, were not meant for this contingency and I say that even if a part of it may be said to be covered by them, you have to see the whole, and, moreover, if the honourable member Rao Bahadur Kale says there is already a provision, then, where is the objection? It is really—

Rao Bahadur R. R. KALE : The objection is to the new provision.

Mr. V. F. TARAPOREWALA : If the new provision gives the same powers as before, there cannot be any objection.

Then as regards clauses 29 and 30, to which objection was taken by the honourable member, I may point out to the honourable members that clause 29 is quite clear. It provides for appeals from all orders and dispenses with special courts under this Bill. The ordinary courts which were trying these offences will continue to do so and all the provisions of the Criminal Procedure Code are made applicable to them. In fact the provisions of that Code will apply *ipso facto*, and there cannot be any question that there can be no appeal.

As regards clause 30, it has been stated to be contradictory as restricting the powers given under clause 29. Clause 30 only refers to the executive orders and so judicial proceedings cannot be restricted, and this clause is the reproduction of section 59 of the first ordinance referred to in the Full Bench judgment. It merely reproduces that section 59 and only provides for orders which are executive orders—

Rao Bahadur R. R. KALE : Which executive orders? Is an order under clause 4 covered by this?

Mr. V. F. TARAPOREWALA : Certainly, because it is an executive order.

Rao Bahadur R. R. KALE : But it is not to be questioned at the hearing of any appeal?

Mr. V. F. TARAPOREWALA : The honourable member will excuse me. He has not seen the point. In fact an executive order itself is not appealable, you cannot come in appeal from that order and that was decided in the Masur case to which the honourable member referred.

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Against the order itself there cannot be an appeal, but if the order is disobeyed and that offence is tried and the magistrate convicts, then there is an appeal. In that appeal if it is held that the order is made *intra vires* of the Act, then it cannot be questioned and the Full Bench decided and decided very rightly that you cannot go into the merits of the order, they are executive orders, you cannot go behind the order, but if the order is *ultra vires* of the Act, then certainly the High Court can consider, the High Court will decide, and the High Court as a matter of fact in the Full Bench case did consider whether the order of the District Magistrate which was served on the accused at Bijapur was a valid order, and if they had come to the conclusion that it was not a valid order which could be passed under section 4, the conviction would certainly have been quashed. The disobedience of such an order is an offence and if a person is tried on that, the High Court is entitled to go into the validity of the order, and certainly that is not prohibited—

Rao Bahadur R. R. KALE : I want to know whether the legality of the order can be questioned or not under this Bill.

Mr. V. F. TARAPOREWALA : Yes, certainly, if the order is *ultra vires* of the Act.

Rao Bahadur R. R. KALE : Are the legality and *ultra vires* the same ?

Mr. V. F. TARAPOREWALA : Legality in the sense that you cannot go into the merits of the case, but if the magistrate has acted outside his—

Rao Bahadur R. R. KALE : Jurisdiction.

Mr. V. F. TARAPOREWALA : My honourable friend will remember the judgments in revision in cases under section 144 prior to the amendment of the Criminal Procedure Code. It was held that although it was specifically provided under the old Code that there could be no revision from orders under section 144 the High Court had power to interfere where the magistrate had no power to act under section 144. It was held that in such a case the order was *ultra vires* and that the High Court had power to set it aside. It was further held that if the magistrate has acted under the section, then no court, civil or criminal, could go into the question of the validity or otherwise of the order so far as the merits of the order were concerned. I say, Sir, that clauses 29 and 30 are really independent clauses. I can assure the House that clause 29 gives the right of appeal from all convictions under this Bill to the proper courts, the District Court in some cases and the High Court in revision, and in some cases, direct appeal to the High Court, as the case may be, e.g., from the Presidency Magistrate in the Bombay City. Can I speak on the amendment, Sir ?

The Honourable the PRESIDENT : Yes, if he likes to reply, he can do so, to the legal part of it.

Mr. V. F. TARAPOREWALA : Sir, as regards clause 4, I have already dealt with it.

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As regards clause 8 which relates to posts and telegraphs, the argument surprised me. The argument of the honourable member was that there is already a provision, why have another? That means that there is no restriction on the freedom by the proposed clause at all. He says, if that is not sufficient, amend it or alter it. You can do it by this Bill, then where is the harm? By this Bill, honourable members are asked to do something which, as the honourable member Rao Bahadur Kale himself says, is already there and which, if it is not sufficient, should be done. He in fact asks this House to pass this provision so that there will be no question about it.

As regards clause 32—

The Honourable the PRESIDENT: His point was slightly different. As the honourable member the Advocate-General is answering that point, I might point out that the point raised by the honourable member Rao Bahadur Kale was whether it is a fact that there is a provision under the Postal and Telegraphs Act to this effect, and, if there is, why should this be repeated here? The original point was that the ordinary law of the land was sufficient to meet the circumstances as they arise, if not entirely at least in respect of some clause; in this particular clause 8, for instance, that is what he pointed out. Now, the honourable member the Advocate-General would perhaps enlighten the House by either saying that that provision does not exist or, if it does exist, why this should be repeated here.

Mr. V. F. TARAPOREWALA: I submit, Sir, that it does not exist and my honourable friend himself admitted that all the powers taken in clause 8 do not exist in the Postal and Telegraphs Act, and therefore that can be altered and amended. That was his argument. We here are providing for something more than is contained in the Postal and Telegraphs Act, we are providing it here in this place and therefore there cannot be any objection to this provision either in principle or otherwise. This is a proper provision for meeting the contingency which we are contemplating to meet by this Bill.

Now as regards clause 32 bearing on the validity of all the acts and proceedings taken under the ordinances, I have already pointed out to the honourable members that this is a temporary Act and really a continuation of the temporary ordinance, and therefore it is a just and proper provision to validate all the proceedings and acts done under the Act. Really the object of this is to continue so that no mischief can be made during the further period by the Congress. That is the very object. It is not as if we are going to have two purposes, it is really a continuation, as I pointed out in the very beginning to honourable members.

I submit to honourable members with confidence that this is really a question which affects the safety, peace and tranquillity of the presidency, our lives, our property, our freedom and this Bill will ensure freedom of person and property to us. That is the only real object, namely, to prevent the agitators from making government impossible, as otherwise

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all the persons in the presidency, the masses themselves would suffer, and so this Bill is really intended for their protection, and I commend it to the acceptance of the House. [*Applause.*]

Dewan Bahadur D. R. PATIL (East Khandesh District): Sir, as the honourable member the Advocate-General stated that we require safety of peace and tranquillity, I do not think that there is a single member in this House who will disagree with him. So far so good. Sir, as we find from the Statement of Objects and Reasons, this Bill has been brought forward by Government only with the object of getting all necessary powers in reserve to deal with the civil disobedience movement. We know that Government wanted to introduce into this Bill certain provisions of the Ordinances, as they thought it was necessary in the interests of peace and tranquillity. Sir, clause 19, as has been admitted by the Government in the Statement of Objects and Reasons, is altogether a new provision. Nobody would like that there should be chaos and disorder in the country. Everybody would like that all the laws must be obeyed by all the people of this presidency. It has been stated by me on many an occasion here that I am not in favour of the civil disobedience movement. I still stick to that opinion. But I do not think Government will be well advised to go beyond the object of putting down the civil disobedience movement. I can understand that Government want peace and tranquillity. Coming to the question of land revenue assessment, it will be said by Government that, unless and until Government are safe in securing income from land revenue government cannot be carried on. That is perfectly right. But, so far as the provisions of the Land Revenue Code are concerned, I think Government have been vested with sufficient powers to enforce payment of land revenue. In that connection, I should like to refer to section 150 of the Land Revenue Code. It says:

"An arrear of land revenue may be recovered by the following processes:

- (a) by serving a written notice of demand on the defaulter under section 152;
- (b) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 153;
- (c) by distraint and sale of the defaulter's moveable property under section 154;
- (d) by sale of the defaulter's immoveable property under section 155;
- (e) by arrest and imprisonment of the defaulter under sections 157 and 158."

Now, I beg to submit that Government must get land revenue from the cultivators. But if any cultivator makes any default in paying the amount of the assessment regularly, I think the various provisions which I have read out just now to this House are quite sufficient to safeguard the interests of the Government so far as land revenue is concerned. Everybody knows that the cultivators are loyal to Government, and it is the experience of Government also that, even during these days of the civil disobedience movement, excepting the solitary instances of Bardoli and some other places in Gujarat and one or two places in the Southern Division, all the cultivators have been loyal to Government. If that is the state of things, I do not understand for a moment why Government like to introduce clause 19 in the Bill. It is known to all that the agriculturists have remained loyal to Government

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and so far as I know of my own district, even if there were reasonable grounds for the people to think that they were entitled to suspensions, still, when they were called upon to pay the land revenue under pressure from Government officials, without the least hesitation they paid it. That is the state of things. If that is so, I think Government should be kind enough not to press for the insertion of this clause into this Bill.

Sir, there are other provisions also about which some exception can be taken. But they are questions of detail, and I do not want to go into them now. I am very anxious specially for the deletion of clause 19. Now, Sir, if we look to—

The Honourable Mr. W. F. HUDSON: The whole of clause 19?

Dewan Bahadur D. R. PATIL: Yes, Sir. As regards sub-clause (2), there is that presumption of guilt. It is indeed very curious that Government should introduce the principle of presumption of guilt. What is the presumption as regards guilt in the ordinary law? I think the Advocate-General, the Remembrancer of Legal Affairs and all the lawyer members of this House will agree with me when I say that it is a fundamental principle of law that an accused person is presumed to be innocent till he is proved to be guilty.

The Honourable Sir GHULAM HUSSAIN: May I interrupt the honourable member? I should like to remind him that the Honourable the Home Member did say so. He did refer to that matter.

Dewan Bahadur D. R. PATIL: Yes, that is so, and I thank the Honourable the Leader of the House for bringing it to my notice. He is perfectly right that the Honourable the Home Member did say so, and I really thank him for it.

Sir, I do say that clause 19 should altogether disappear. And why so? Because, if Government wanted to have some provisions against lawbreakers, I could have understood the viewpoint of Government. But, Sir, you know very well, and the whole world knows, that the agriculturists of this presidency, including even Sind, are all loyal to Government; and in the matter of the collection of land revenue, there are sufficient safeguards, as I have already stated, as the authorities can have recourse to section 150 of the Land Revenue Code. When all these powers are vested in them, I do not understand for a moment why Government should be eager to have this provision against the poor agriculturists. The cultivators have been loyal to Government, and I am sure they will remain so in future. Now, Sir, take the case of the civil disobedience movement. It may be rampant or rather predominant in towns and big places, but so far as the villages are concerned, it is not so. I think all the Collectors know very well that except in the cities or towns in the districts, the villagers are loyal to Government. If that is so, then why do you want to have this provision against the agriculturists?

The Honourable Mr. W. F. HUDSON: Has the honourable member ever heard of a taluka called Bardoli?

Dewan Bahadur D. R. PATIL: Yes, Sir, I have heard of the well known Bardoli Taluka. I say there might be certain places of that kind, but they are very few and far between. I think out of 100 persons there may be 2 persons who may resort to civil disobedience or other mischief, but the remaining 98 persons are quite loyal. Because 2 men are disloyal, therefore you take the precaution that the 98 persons who are loyal to you should not be trusted for their continued loyalty. Is this fair ?

The Honourable Sir GHULAM HUSSAIN: May I interrupt the honourable member ? I think he has not read the Bill carefully. It is not going to be applied to the whole of the Presidency. The areas to which it will apply will be those where there will be civil disobedience. This is clear in the Bill itself.

The Honourable Mr. W. F. HUDSON: I am sure it would never have been applied, and never will be applied, to the honourable member's own district.

Dewan Bahadur D. R. PATIL: I know very well that it is left to the Government to see and decide what provision of the Bill should be made applicable to a particular area. If Government find that a particular village has proved mischievous or is playing into the hands of the people who want to start civil disobedience, then and then alone the provisions of the Bill will be applied to the village. But my point is why should you distrust the loyal cultivators ? Why should you not have faith in them ? Why should you not think that they will remain loyal to Government as they have done in the past ? By the insertion of a new provision of clause 19 people naturally think that Government want to distrust the cultivators. Do not think, for a moment that the villagers will ever be disloyal to Government. I assure you that they will never be so. If that is so, it is then in the fitness of things that Government should trust them. I come now to clause 18. I will just illustrate a case. Suppose that the agriculturists on account of bad season and irregular rains have poor crops in the fields and are thus unable to pay the land revenue. Suppose further that under the rules they are entitled to suspensions. If we people hold a meeting in a village and ask the people to tell what their grievances are so that we may put up their case before Government, then we may come within the purview of clause 18, on account of the over anxiety of revenue of ours in the matter of collection of land revenue, though we are acting honestly. So my submission is that clause 18 should be so clearly worded that it will apply only to those persons who act in furtherance of the civil disobedience movement. If we think that the people have made out a good case we can take the matter to the Collector. But the Collector is not the only authority. There are others below him who may haul us up. No doubt, we can approach the Collector afterwards and inform him what has actually happened. Then, he will say: "Nothing is the matter; go away." I request Government not to apply this provision which is intended for people who are engaged in unconstitutional agitation to the agriculturists. Once Mr. V. N. Patil had been to the Collector of my District. There is a jahagirdar in Badgaon Peta. His tenants did

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not pay the land revenue. The jahagirdar reported the matter to the Collector that the tenants did not pay the land revenue at the instance of the civil disobedience people. The moment the word "civil disobedience movement" was uttered, the tenants were arrested. The honourable member Mr. Patil went to the Collector to represent the matter to him. The Collector said: "Don't talk to me about it." That is the state of affairs. I have placed all these facts before Government with all sincerity and I request them that they should trust the agriculturists. If Government find that the agriculturists are disloyal, they are at liberty to adopt any measure. Under all these circumstances, I hope the Honourable the Home Member will in his reply say: "In view of the loyalty of the agriculturists, who have been loyal to us, who have been paying large revenues to Government and who have been the pillars of the country, the Government are pleased to delete clause 19." I hope my appeal will not fall on deaf ears and I shall be glad to receive that reply from the Honourable the Home Member.

There are certain amendments. As regards the preamble, the honourable member Mr. More has moved an amendment.

The Honourable the PRESIDENT: He has not.

Dewan Bahadur D. R. PATIL: He is going to move it. In my opinion, there ought to be some improvement in this way that this Bill is meant only to deal with the civil disobedience movement started by the Indian National Congress. There must be some such provision. I think I have made a very reasonable request. I appeal to Government that they will be kind enough to accept the loyalty of the agriculturists and not to think for a moment that they will become disloyal. Let Government have implicit faith in the agriculturists who will always remain loyal to Government.

The Honourable the PRESIDENT: I want honourable members again to help me in one respect. I want those honourable members who have tabled amendments which are put down by me for the first reading to place their amendments before the House, if they wish to move them. I presume from their silence that they do not wish to move them as I find honourable members who have not tabled any amendments rising to speak. I desire that honourable members who have tabled amendments should take the earliest opportunity to move them.

Rao Bahadur G. V. PRADHAN: May I know whether we are to wait to speak on the Bill till all the amendments are moved?

The Honourable the PRESIDENT: If any honourable member has got any particular ground to urge in support of an amendment, I will give him an opportunity to speak, even if he has already spoken in the general debate. But he has to confine himself to that particular amendment and he will not be given another chance to traverse the whole ground again and speak on clauses.

Mr. J. G. MORE (Sholapur District): Sir, the question of paramount importance before this honourable House is whether the powers sought by Government as embodied in this Bill are quite necessary to safeguard

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the prestige of Government and to check and control effectively the civil disobedience movement. To this my answer is that these powers are not at all necessary. If you look to the history of past events and judge the present as to what it is, then I think Government need not have these powers which they seek in the present Bill. The civil disobedience movement is almost dead, I might say, throughout the presidency and especially in Maharashtra it has left no trace at all on the minds of the people. So far as Gujarat is concerned, Government themselves admit that the situation has been effectively brought under control. Another district has been pointed out by Government with a view to seek these powers. That is the district of Kanara where, as Government say, there is no-tax campaign. I do not know anything about Kanara myself. His Excellency the Governor has toured in that province very recently and nothing untoward seems to have occurred. So, when there is peace and order everywhere where is the necessity on the part of Government to bring in such a piece of legislation which gives extraordinary powers to Government to proceed against anybody as they like.

What is the scope of the present Bill? To my mind the scope of the Bill is such a wide one that it covers all sorts of activities, political, social or religious. Every community and every sort of political agitation will come under the provisions of the Bill. There is not a word in the whole Bill which restricts its application to the present civil disobedience movement which is organised by the Indian National Congress. If we read clauses 3 and 4 together with clause 14, then we can see that the powers covered by them are wider than what the Government had under the ordinances. They wish to repeat and enhance the powers which they enjoyed under the ordinances. Under clause 3 any man can be arrested. It is not made clear that only a man who is engaged or is about to engage in furtherance of the civil disobedience movement organised by the Congress can be arrested. Every man about whom Government have suspicions can be arrested, and this power can be given to the District Magistrate, the Sub-Divisional Magistrate or a First Class Magistrate. When a man is arrested, the reasons for arrest will be known only to the authority who may order the arrest. Those reasons will not see the light of day; they will be kept confidential among the papers of Government's confidential record. If Government mean to restrict the application of the Bill to the civil disobedience movement, why do they not make it clear in the provisions of the Bill? Why not restrict it to that movement and make it inapplicable to other movements in which every citizen has a right to participate in the best interests of the people? Under clause 3, a man may be kept in custody first for 15 days, then under the orders of the local Government for two months, and then he can be released on parole. If we take stock of what has been done during the past 10 or 11 months, we can conclude that Government will as soon as a man is released ask him under clause 4 to go out of the Presidency or confine his movement to a particular place, and impose certain conditions on him, such as parole—that he should present himself before the sub-inspector of police thrice, twice or once a day—so that

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he will be driven to the length of breaking those conditions. And as soon as he breaks those conditions then proceedings can be taken under clause 14 of the Bill, under which he can be punished with two years' imprisonment and an unlimited fine. The fine is not limited to any amount; he may be fined Rs. 10,000, Rs. 20,000 or Rs. 50,000 or any amount. That is a very horrible provision. We have bitter experiences on record. There are many cases in which persons having no connection with the civil disobedience movement have been sent to jail. Their only offence was that they broke the parole conditions imposed by Government. I can cite one from my own district. In the first phase of the civil disobedience movement—I mean in 1930—one man named Mr. Phansalkar, a respectable gentleman and a pleader of Pandharpur who belonged to the Congress—and he still belongs to the Congress—but not to that section of it which takes part in the civil disobedience movement, was agitating, constitutionally agitating. When powers were given to the magistrates, the local magistrate who happened to be on inimical terms with him, made false reports to the District Magistrate. Then, he was prosecuted under the ordinances; he defended his own case; the magistrate who reported against him was cited as a prosecution witness; Mr. Phansalkar cross-examined that magistrate. In spite of all that, he met his fate and he had to go to jail. Now, in January last, when the second phase of the civil disobedience movement began, he was arrested simply because he was convicted during the first phase of the civil disobedience movement. He was arrested, taken to Sholapur, kept in custody for a while and parole conditions were imposed on him; and he was released. He was to present himself twice a day before the Sub-Inspector of Police of Pandharpur. I do not belong to the party to which he belongs. But as I knew the man perfectly well, I went to the District Magistrate, Mr. Knight. It must be admitted to the credit of Mr. Knight that he was disposed to hear me thoroughly. But he said that he could not do anything, because the record,—the reports of the police and of the mamlatdar—was against him and he could not go against it. He wanted to have an assurance from Mr. Phansalkar.

The Honourable Sir GHULAM HUSSAIN: Hear, hear.

Mr. J. G. MORE: Yes, certainly. I went to Mr. Phansalkar and told him that the District Magistrate wanted an assurance from him. He was prepared to give an assurance, but meanwhile the period of parole was extended; and so he thought it quite unnecessary to approach the District Magistrate and broke the parole condition and went to jail. Before the Magistrate before whom he was tried for breaking the parole condition, he gave in writing a statement to the effect, "that he was a Congressman, that he did not believe in the civil disobedience movement, that he was law-abiding citizen and that he was all for lawful agitation for the uplift of his country." In spite of that statement, which was an assurance or an undertaking, he was convicted and he is now rotting in jail.

Moulvi Sir RAFI UDDIN AHMAD: Where is he now?

Mr. J. G. MORE : In Bijapur Jail.

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN : How many years has he been sentenced ?

Mr. J. G. MORE : One and half years : Now, this is a case which is on record. I cite that to show that in spite of the assurances given by the Local Government, he has been sent to jail. Government have not observed the assurances they have given to the public.

Then there were cases in which juvenile offenders were concerned. The parents of some of the offenders gave undertakings for their good behaviour and apologised to the Superintendent of the Reformatory School, the District Magistrates concerned. In spite of these assurances those offenders were kept for about four months and were not released. In that connection I sent in a question to Government, and during the last session Government released certain of those offenders. If Government meant to observe their assurances why were these juvenile offenders detained in Jail for four months when their parents themselves had tendered their assurances ? There are many such cases. If Government will be pleased to appoint an enquiry committee to go into the records of all cases that have cropped up, and if the confidential reports are disclosed to the committee, I should think that the committee will bring to light many cases in which injustice has been done by Government officers. So we should not rely on these assurances.

The powers under the Act are so wide that any political movement can be brought under it—any social movement, any religious movement. Say, for instance, the Depressed classes are agitating. They are agitating for their rights. A situation may develop in a district. The Government may think it undesirable to allow that movement to go on and under the powers that they may get under this Bill they will at once check the activities of those persons who are agitating, because Government will say ' your acts are not in keeping with the peace and safety '. So you are to be arrested and you are to be detained in custody. Any political movement can be brought to an end. Take the case of Mahomedans. They are agitating for the uplift of their own community in their own way. We know as well that the Hindus and Mahomedans have come to clashes. But if it happens in a district that there is a small minority of Mahomedans and some Mahomedans are agitating for the betterment of their community and if there is a magistrate who is not a Mahomedan he may go on reporting against them and may even say that such and such Mahomedan is helping the congress movement. [*An Honourable Member* : " For example Malegaon. "] I do not know what happened at Malegaon. The Government will believe in whatever the Collector reports or says, and on what principle ? The principle is that he is the man on the spot, he is a responsible Government officer and he must be believed. Government consults nobody. Whatever the Collector reports the Government believes in readily. And when it is believed, then the fate of the Mahomedan or Mahomedans may be brought under the clutches of this extraordinary piece of legislation. Take the instance

[Mr. J. G. More]

of the non-Brahmin movement. There are many magistrates who are Brahmins. They naturally dislike the non-Brahmin movement. When the Brahmin Magistrate is thus empowered, he will say to himself 'here is a golden opportunity for me. Let me take advantage of it'. And he may report stating that the particular activities of a particular person or a body of persons are not in keeping with peace and safety and so the non-Brahmin may be brought in the clutches of this Bill. [Dr. P. G. Solanki: "Both are Hindus"]. Again, if the magistrate is a non-Brahmin and if a Brahmin agitates, he may not like his agitation—however law-abiding the Brahmin may be. He will report that this Brahmin is following the civil disobedience movement. A report may go to that effect to the District Officer and the District Officer may take steps under the present contemplated legislation. In short, everybody's fate is concerned in this extraordinary legislation; whether he legally and constitutionally carries on his agitation for the uplift of the masses or whether he takes part in the civil disobedience movement, the Bill makes no difference.

Further, I would submit to Government to take into consideration what effect the Congress movement has produced upon the mentality of the people. The movement is not successful. I do not believe in it. It is not in the best interest of the country and so far as politics is concerned I think the movement will be unsuccessful. That is my conviction. But apart from that if you go on bringing such pieces of extraordinary legislation, that will play a great havoc upon the mentality of the people and it is unwise on the part of the Government that their sympathies should be permanently separated, that people should begin to think that they should have no co-operation with the British people in India. Is it wise that Englishmen in India should accept a policy which will ultimately drive the people to such a length that they will begin to hate the English people? It is not wise to introduce such a legislation and give a turn to their mentality which will ultimately affect adversely both Britain and India. Government have sufficiently checked the civil disobedience movement. That has been admitted by Government in their speeches yesterday and to-day. Then where is the necessity of bringing such an extraordinary piece of legislation arming the Government with powers to check any movement whether constitutional or unconstitutional? They should think twice before they take this Bill to a division.

But I think to all appearances the Bill is likely to get passed. If I read the situation of the House correctly I think the Bill is likely to go through the first reading and when it goes so then it is incumbent upon the representatives of the people here to see that the application of the Bill is restricted to the civil disobedience movement organised by the Indian National Congress only. Let us take so much care if not more. Government must give an assurance to the House that the Bill will be applicable only to the civil disobedience movement and not to any other movement. That assurance must be incorporated in the Bill.

Now with that view I have moved certain amendments. Through oversight I have made a mistake in my first amendment to the preamble.

[Mr. J. G. More]

With the permission of the Chair, I say that the amendment to the preamble that I have tabled should be, after the word "officers" and before the words "for the purpose of". Then the preamble will read like this:

"Whereas it is expedient to confer special powers upon Government and its officers only in reserve to deal with the Civil Disobedience Movement organised by the Indian National Congress; and whereas the previous sanction of the Governor-General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows".

The Honourable the PRESIDENT: Then the honourable member's amendment should also be to omit the words "for the purpose of maintaining law and order."

Mr. J. G. MORE: No, no. Those words ought to be there.

The Honourable the PRESIDENT: Then you have not read it properly, please read it again.

Mr. J. G. MORE: I will, Sir.

"Whereas it is expedient to confer special powers upon Government and its officers only in reserve to deal with the Civil Disobedience Movement organised by the Indian National Congress for the purpose of maintaining law and order; and whereas the previous sanction of the Governor-General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act: It is hereby enacted as follows:"

I think it is all right now.

The Honourable the PRESIDENT: Quite.

Mr. J. G. MORE: I think I need not give further arguments in support of this. The argument is there in the Statement of Objects and Reasons, and the very words which are stated in the Statement of Objects and Reasons I have incorporated in the amendment. However, I should speak something in support of this amendment.

The Honourable the PRESIDENT: The honourable member has spoken.

Mr. J. G. MORE: There is a certain reason still to be given in support of the amendment and so I may be allowed.

The Honourable the PRESIDENT: Yes.

Mr. J. G. MORE: Besides what I have stated already, another argument can be advanced in favour of the amendment. Government want extraordinary powers under this extraordinary legislation to check the extraordinary movement in the country. I think that if they want extraordinary powers, then it is also incumbent upon Government to take extraordinary precautions to see that these extraordinary powers are applied only to the particular movement which they wish to bring under control and check. If they go beyond that, which however I think is not their intention—then they might misuse those extraordinary powers given for a special purpose. With that view, I move the first amendment.

I move the second amendment as below:—

"Clause 1, sub-clause (2). Substitute "one and half" for "three".

[Mr. J. G. More]

The ground that is advanced by Government is that they wish to have the three years' life to cover the period of transition. Nobody knows what that period of transition is. Government themselves are not sure about the time which will be covered by the constitutional transition period. There are other amendments ranging from three months to one year. I think if Government are willing to accept my amendment and if they are not disposed to accept the other amendments, they may let the Bill remain in operation for one and a half years.

Then I move the following amendment :—

Clause 1, sub-clause 3. After the words "Governor in Council" and before the word "may" add the following :—

"with the approval of the Legislative Council".

I move a further amendment as under :—

Clause 1, sub-clause (4). After the words "Governor in Council" and before the word "may", add "after the necessary assent of the Legislative Council under sub-clause (3)".

I move the following amendment as well :—

Clause 3, sub-clause (2). Add the following proviso at the end of the clause :—

"Provided further that the general order issued by the Governor in Council shall be subject to the approval of the Legislative Council and the Legislative Council shall have power to add, alter, modify or cancel it altogether".

I now come to another amendment which I move as under :—

Clause 4, sub-clause (1). In line 3rd after the words "is about to act" and before the words "in a manner", add "in furtherance of the Civil Disobedience Movement organised by the Indian National Congress and".

I move now the following amendment :—

Clause 4, sub-clause (1). Delete "or in furtherance of a movement prejudicial to the public safety or peace."

Sir, I do not think I need repeat my arguments in favour of all these amendments and so I place them before the House for its acceptance.

Questions proposed.

The Honourable the PRESIDENT: The House is now adjourned to 2 o'clock to-morrow, Thursday, the 24th November 1932.

Thursday, the 24th November 1932.

The Council re-assembled at the Council Hall, Bombay, at 2 p.m., on Thursday, the 24th November 1932, the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ACHREKAR, Mr. A. B.
 ADVANI, Mr. P. B.
 ALLAHBAKSH, Khan Bahadur
 AMINUDDIN, Mr. SAIYID
 ANGADI, Rao Bahadur S. N.
 ARBUTHNOT, Mr. C. W. E.
 ASAVALE, Rao Bahadur R. S.
 BAKHALE, Mr. R. R.
 BALOCH, Mr. HAJI MIR MAHOMED
 BANGI, Mr. A. K. J.
 BHUTTO, Sir SHAH NAWAZ
 BHUTTO, WADERO NABIBAKSH ILLAHIBAKSH
 BIJARANI, Khan Bahadur SHER MUHAMMAD KHAN
 BIRADAR, Sardar MAHABOOBALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CHIKODI, Mr. P. R.
 CHITALE, Rao Bahadur G. K.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Saheb B. G.
 DESAI, Mr. H. R.
 DHALUMAL LILARAM, Mr.
 DHURANDHAR, Mr. J. R.
 DIXIT, Dr. M. K.
 D'SOUZA, Dr. J. ALBAN
 GANGOLI, Mr. G. S.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GHULAM HYDER SHAH, Mr.
 GHULAM NABI SHAH, Khan Bahadur
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.

HUMPHREY, Mr. JOHN
 JAM JAN MAHOMED KHAN, Khan Bahadur
 JAN MAHOMED KHAN, Khan Bahadur
 JITEKAR, Mr. HAJI IBRAHIM
 JOG, Mr. V. N.
 JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHQO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MATCHESWALLA, Mr. G. E.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHAIKH ABDUL MAJID, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dr. P. G.
 SPENCE, Sir REGINALD

SURVE, Mr. A. N.

SURVE, Mr. V. A.

SYED MIRAN MAHOMED SHAH

SYED MUNAWAR, Mr.

TALPUR, MIR BANDEH ALI KHAN.

TARAPOREWALA, Mr. V. F.

THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI

TOLANI, Mr. S. S.

TURNER, Mr. C. W. A.

VAISHAMPAYAN, Dr. V. G.

VAKIL, Mr. PESTANSHAH N.

VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR

VANDEKAR, Rao Bahadur R. V.

WADKE, Mr. B. P.

WINTERBOTHAM, Mr. G. L.

UNSTARRED QUESTIONS AND ANSWERS.

CLERKS FROM THE KARNATAK DIVISION : TRANSFER TO EDUCATIONAL OFFICES, POONA.

Mr. A. J. BANGI (Southern Division): Will the Honourable Minister for Education be pleased to state—

(a) whether any clerks from the Karnatak have been transferred to any of the Educational offices in Poona ;

(b) if so, whether it is a fact that they are experiencing any difficulties as regards the education of their children ;

(c) whether they are put to considerable expense on account of their visits to their native places in cases of urgent necessity ;

(d) if the answers to (b) and (c) are in the affirmative, whether Government intend to re-transfer them to the Karnatak Division ;

(e) whether the clerks can be transferred with their grades ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) Yes.

(b) and (c) One of the clerks in question applied in April 1929 for a transfer to the Southern Division owing to domestic difficulties and various other reasons. His request was granted. Another clerk applied in May 1929 for a transfer to the Southern Division mentioning the difficulties referred to by the questioner. He was, however, informed that the transfer was not then possible.

(d) and (e) It is not possible at present to transfer any one of them unless a suitable opportunity occurs.

ENGINEERING DEPARTMENT : RECRUITMENT OF MUSALMANS

Khan Bahadur GHULAM NABI SHAH (Thar and Parkar District): Will the Honourable the Home and General Member be pleased to state—

(a) whether Government intend to take up 50 per cent. Musalmans in the Engineering Department on the occasion of the amalgamation of the Barrage with the Public Works Department ;

(b) whether they are aware that the amalgamation of the Barrage with the Public Works Department is the proper occasion when the

proportion of Musalmans could be brought to correspond exactly with the policy proclaimed by them in their circulars ;

(c) if not, whether they intend taking any action to give practical shape to their policy declared from time to time ?

The Honourable Mr. W. F. HUDSON : (a) Efforts will be made to work up the 50 per cent. proportion, efficiency and qualifications being duly considered. The 50 per cent. rule does not, however, apply to special or technical appointments.

(b) No.

(c) *Vide* reply to (a) above.

LANDS IN SIND : SUPPLY OF WATER BEFORE AND AFTER BARRAGE.

Khan Bahadur GHULAM NABI SHAH (Thar and Parkar District) : Will the Honourable the Home and General Member be pleased to state—

(a) for how many acres of land one cusec of water used to be given before Barrage ;

(b) for how many acres the same quantity of water will be allotted after Barrage ;

(c) whether it is a fact that it has been proposed to give one cusec of water for greater area than hitherto ;

(d) if so, how Government can justify that more water is given for the same area and therefore land revenue assessment is increased ?

The Honourable Mr. W. F. HUDSON : (a) On the pre-Barrage canals, duties varied considerably as they were dependent mainly upon the character of the inundation. A reference to the annual Irrigation Administration Reports will show the results obtained.

(b) The duties adopted in the project for the Barrage canals are 36 acres for rice, 72·5 acres for dry kharif (cotton, etc.) and 145 acres for rabi.

(c) There will be a steady and assured supply of water throughout the year, instead of the pre-Barrage low, fluctuating and precarious supply, with the result that very much better duties will certainly be obtainable than previously.

(d) *Vide* reply to clause (c) above.

MAHAD SWADESHI LEAGUE.

Mr. L. R. GOKHALE (Poona City) : Will the Honourable the Home and General Member be pleased to state—

(1) whether Government are aware that a league called "Mahad Swadeshi League" has been established since May 1932 ;

(2) whether it is a fact that the league is a non-political body having no connection with the activities of the Congress ;

(3) whether it is a fact that the President of the league declared in the meeting held for the purpose that the league had nothing to do with any of the political activities of the Congress ;

(4) whether it is a fact that the District Magistrate of Kolaba has issued notices to two of the workers of the Swadeshi league, viz. (1) Tukarm Savlaram Pansare and (2) Moreshwar Gopal Rahalkar in

June 1932 under section 4 clause 1 of Ordinance No. 2 of 1932 directing them to report to the police every evening and also ordering them not to leave their homes between sunset and sunrise ;

(5) whether it is a fact that the notices were issued to the said two workers because of their having started the Swadeshi League ; if not, whether Government intend to declare that the District Magistrate of Kolaba did not issue the notices because of their activities about Swadeshi ;

(6) whether Government are aware that the Swadeshi movement is purely an economic movement and is not in any way connected with either the boycott of British goods or other non-co-operation movement ;

(7) whether Government are aware that the Swadeshi Movement is the only movement which supplies a common platform for all those who are interested in the economic well-being of India irrespective of their political opinion, religion, creed, caste or colour ;

(8) whether Government intend issuing orders to the various District Magistrates to protect honest Swadeshi workers from being harassed ?

The Honourable Mr. W. F. HUDSON : (1) Yes.

(2) Government are not aware that this is so.

(3) No.

(4) Yes.

(5) No.

(6) Government are aware that there have been many instances in which the swadeshi movement has been very closely linked with the boycott of British goods and other such non-co-operation movements.

(7) No.

(8) It is not the policy of Government to interfere with *bona fide* swadeshi workers, and the local officers are fully aware of that policy. The necessity of issuing orders for the protection of such workers does not, therefore, arise.

GIRLS' SCHOOLS, KARACHI : GRANT-IN-AID.

Mr. GOVER RORA (Karachi City) : Will the Honourable Minister for Education be pleased to state—

(a) (i) the names of approved primary girls' schools in Karachi on 31st March 1925 before the transfer of control to the local authority ;

(ii) the number of pupils on the rolls ;

(iii) the expenditure in each school ;

(iv) the grant-in-aid that each of them received and the corresponding figures as on 1st April 1929 and 1st April 1931 respectively ;

(b) whether there has been a progressive reduction in the grant-in-aid received by the girls' schools in Karachi ;

(c) whether it is a fact that Government have reduced grants of girls' schools by 50 per cent. recently ; if so, from what date ;

(d) what was the necessity for giving girls' schools grants at 18 rupees per girl and boys' schools at 12 rupees per boy formerly ;

(e) whether that necessity has ceased to exist ;

(f) whether it is a fact that the Church of England Zenana Mission School, Karachi, had to close its doors because of reduced grants ;

(g) whether Government have any intention of revising their policy regarding grants to girls' schools ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) The accompanying statement gives the information required.

(b) No.

(c) Yes ; from the year 1930-31.

(d) The object was to encourage the opening of more girls' schools by offering a special rate of grant for such schools.

(e) Yes, in most places.

(f) Government understand that the closing of the school by the mission authorities was due partly to the reduction in grant and partly to shortage of mission funds.

(g) No.

*Particulars of grant, etc., paid to the Aided Primary Schools within
Karachi Municipal limits during 1924-25, 1928-29
and 1930-31.*

Karachi Municipal limits during 1924-25, 1928-29 and 1930-31.

Grant paid during			
1924-25.	1928-29.	1930-31.	
8	9	10	11
Rs.	Rs.	Rs.	
7,064	1,920	1,180	
2,245	2,955	2,110	
2,329	1,482	1,424	
1,135	2,064	1,960	
1,680	4,000	3,186	
939	2,338	1,654	
3,536	4,262	2,814	
2,826	792	852	
1,861	3,985	3,003	
2,492	2,646	2,475	
1,757	1,753	1,387	
2,271	2,520	1,869	
1,186	1,258	987	
1,323	1,620	977	
600	1,492	1,212	Converted into A Class school after the transfer of control.
800	765	*198	Converted into A Class school after the transfer of control but again treated as B Class school in 1929-30. *Paid Rs. 66 more which will be recovered by Local Authority in 1931-32.
200	156	200	Paid Rs. 32 more which will be recovered by Local Authority in 1931-32.
34,244	36,008	27,488	

LOCAL BODIES IN SIND AND PRESIDENCY : APPOINTMENT OF ENGINEERS.

Khan Bahadur JAN MAHOMED KHAN (Sukkur District): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government have issued any orders to district local boards to employ qualified engineers for official supervision of works ; if so, whether they will be pleased to place a copy of those orders on the Council table ;

(b) whether it is a fact that they have issued orders to the Commissioner in Sind while reviewing the reports of the administration of local boards, that he should compel the district local boards in Sind to employ engineers and that in case of non-compliance the Government grant for road maintenance and constructions should be withheld from such local boards as do not employ engineers for execution of works ;

(c) whether Government grant of any district local board has so far been withheld for non-compliance ;

(d) the names of district local boards in Sind and in the Presidency which have not yet complied with Government orders and the action they intend to take in the matter ;

(e) the names of the district local boards which have—

(i) employed two officers, namely Chief Officer and Engineer, separately ;

(ii) employed only one officer, namely a qualified engineer, to perform the duties of the chief engineer and chief officer ;

(f) whether Government have held that it is necessary to employ two officers for efficient discharge of duties ;

(g) if the reply to (f) is in the negative, what steps Government propose to take with the powers of control possessed by them under the Act to stop any wasteful expenditure on establishment in the boards referred to in (e) (i) above ;

(h) whether it is a fact that they have issued a resolution or order that if any district local board desires to employ a single officer only that officer should have engineering qualifications, and if so, whether they will be pleased to place a copy of that resolution or order on the Council table ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : (a) In their Resolutions reviewing the Annual Reports on the Administration of Local Boards in the Bombay Presidency, including Sind for the years 1925-26 and 1928-29, Government have impressed on the Local Boards the necessity of appointing qualified engineers.

(b) No. Attention is invited to the last sub-paragraph of paragraph 16 of Government Resolution No. P. 52, dated the 30th September 1930, where the Commissioner in Sind was requested merely to *advise* all the District Local Boards in his charge to engage qualified engineers and to inform them that if the state of affairs continued without improvement, Government would have to consider the question of withholding or cutting down the grants given to them for local public works.

(c) No.

(d) The question does not arise since advice does not amount to an order.

(e) (i) The following District Local Boards have employed two separate officers, as Engineer and Chief Officer :—

In Sind, Karachi and Thar Parkar,

In the Northern Division, Kaira, Surat and Thana.

In the Central Division, all the Boards.

In the Southern Division, all except Kanara.

(ii) The following District Local Boards have employed one officer both as Chief Officer and Engineer :—

In Sind, Sukkur, Larkana and Nawabshah.

(f) No.

(g) No exceptional steps.

(h) Government have not issued such a resolution or order.

URDU TRAINING SCHOOL : ANNUAL EXAMINATION PAPERS.

Mr. J. S. KADRI (Northern Division) : Will the Honourable Minister for Education be pleased to state—

(a) whether it is a fact that the papers set at the annual examination of the Urdu Training Schools for the First Year Class are different at Ahmedabad and Poona ; if so, what are the reasons therefor ;

(b) whether they intend to take any steps to have the same examination papers set for both the training schools in future ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) Yes ; the curriculum is the same, but the papers which are translated from the Gujarati and Marathi papers set at the respective local Training Colleges for men, differ. A common examination would not be convenient. It would involve separate papers for History since at one centre the history of Gujarat and at the other that of Maharashtra is taught and for the optional vernaculars, and in the case of other papers, considerable care would be necessary to see that the questions are not of local interest and the terms used are familiar to all. It would also be necessary to adopt common text books which is not in all cases advisable.

(b) No.

REVERSION FROM INSPECTING TO TEACHING LINE.

Khan Bahadur A. E. PATEL (Northern Division) : Will the Honourable Minister for Education be pleased to state—

(a) whether it is a fact that Mr. H. A. Desai, Probationary Deputy Educational Inspector, Ahmedabad, has been reverted to the teaching line as an Assistant Master ? If so, what were the reasons for his reversion ;

(b) what was his permanent grade in the Inspecting Line ;

(c) whether Government are aware that this policy of frequent reversion of persons from the Inspecting to the Teaching Line is a great injustice and hardship to the latter ;

(d) the number of Assistant or Deputy Educational Inspectors who have been reverted to the teaching line during the course of the last 8 years ;

(e) whether Government intend to reconsider Mr. Desai's case and to reinstate him in the Bombay Educational Service ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) Mr. Desai was not probationary Deputy Educational Inspector, Ahmedabad, but was only officiating in that post. He was reverted as an Assistant Master owing to lack of administrative capacity.

(b) He held a lien on a post of Assistant Deputy Educational Inspector in the grade of Rs. 200—10—250.

(c) There is no such policy.

(d) 4 Deputy Educational Inspectors and 23 Assistant Deputy Educational Inspectors. These figures include officiating men.

(e) Mr. Desai's future depends on his own work and conduct.

CONCESSION OF COUNTING COMPLETED YEARS OF SERVICE WITH HIS MAJESTY'S FORCES : EXTENSION TO MEMBERS IN THE SERVICES OF LOCAL GOVERNMENT.

Sir REGINALD SPENCE (Bombay City) : Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether the concession of counting " completed years of service with His Majesty's Forces rendered after attaining the age of 20, up to a maximum of four years " for seniority and increments, granted by the Secretary of State for India in Council to the members of the All-India Services, has been extended by the Bombay Government to members of the services under their control ;

(b) if not, why not ;

(c) whether Government have received memorials from any members of the services under their control for the extension of this concession to them ;

(d) if so, the number of persons to whom this concession has been granted and the number of persons to whom it has been refused ;

(e) whether Government intend to consider any cases of this nature including any which have already been refused, from amongst the members of the services under their control and which are placed before them ?

The Honourable Sir GHULAM HUSSAIN : (a) and (b) The assumption made by the Honourable Member that the concession referred to was given to *all* members of the All-India Services for service rendered after the age of 20 is not correct. There is no general rule or order issued under which the concession of counting military service towards seniority and increments is allowed to members of the services under the control of this Government. However the following orders have been issued :—

(i) In the case of the Subordinate Police Service, Indian ex-soldiers enlisted in the Police Department within twelve months of their discharge from the Army have been allowed to count their previous military service towards increments. The twelve months' interval

between the military and police service mentioned above was relaxed in certain hard cases of ex-soldiers under the powers vested in this Government by the Government of India. From 30th September 1930 Government have laid down that military service rendered after attaining the age of 20 years alone should count for increments. Headquarters Sub-Inspectors of Police were brought within the above category and were allowed the concession to count their military service as commissioned officers for purposes of increments.

(ii) Ex-soldiers employed in the Jail Department have been allowed to count their previous military service towards increments.

(iii) Some temporary Bombay Medical Service officers had volunteered for military service during the war and the question of allowing these officers to count their services rendered in the Military Department for promotion and increments under the civil rules is under the consideration of Government.

(c) A memorial was received from an Extra Assistant Conservator of Forests, in regard to the counting of war service for purposes of increment but he was not allowed to count his war service towards increments as he was rewarded for his war service by his admission to the Bombay Forest Service. No other memorials were received by Government.

(d) and (e) Do not arise in view of the reply given to clause (c).

LOCAL BODIES IN SIND AND PRESIDENCY : APPOINTMENT OF ENGINEERS.

Mr. A. N. SURVE (Bombay City, North): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government have issued orders to district local boards to employ qualified engineers for official supervision of works, if so, whether they will please place a copy of those orders on the Council table;

(b) whether they have, in reviewing the reports of the administration of local boards, issued orders to the Commissioner in Sind that he should compel the district local boards in Sind to employ engineers and that in case of non-compliance the Government grant for road maintenance and constructions should be withheld from such local boards as do not employ engineers for execution of works;

(c) the names of district local boards in Sind and in the Presidency which have not yet complied with Government orders in the matter and what action Government propose to take thereon;

(d) whether Government grant of any district local board has so far been withheld for non-compliance of orders;

(e) the names of the district local boards which have—

(i) employed two officers, namely, a Chief Officer and an Engineer;

(ii) employed only one officer, namely, a qualified Engineer, to perform the duties of Engineer and Chief Officer;

(f) whether Government have held that it is necessary to employ two officers for the efficient discharge of duties;

(g) if the reply to (f) is in the negative, what steps Government propose to take to stop any wasteful expenditure on establishment in the boards referred to in (e) (i) above ?

(h) whether it is a fact that Government have issued a resolution or order that if any District Local Board desires to employ a single officer only that officer should have engineering qualifications ;

(i) if the reply to (h) is in the affirmative, whether Government will be pleased to place a copy of that resolution or order on the Council table ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : Attention is invited to the reply* given to a similar question put by the Honourable Member for Sukkur District.

LANDS IN RATNAGIRI DISTRICT : ASSESSMENT.

Mr. V. A. SURVE (Ratnagiri District) : Will the Honourable the Revenue and Finance Member be pleased to state—

(a) the total acreage and assessment of land producing summer rice and other crops in each taluka of the Ratnagiri District ;

(b) the total acreage and assessment of land which has been assessed for nalachad or natural moisture in each taluka of the Ratnagiri District ;

(c) the total acreage and assessment of Bagayat land in each taluka of the Ratnagiri District ;

(d) the total acreage of summer crops raised by the water of a river, stream or nala by means of a budki or pumping plant ;

(e) whether the lands mentioned in (a) to (d) above have been specially assessed at the time of the original survey after taking into consideration the water facilities or whether they have been assessed as ordinary lands ;

(f) whether the lands have been classified and shown in prati-books specially according to the relative water facilities in each village ;

(g) the maximum rate of assessment for land having natural moisture in the village of Malgund in taluka Ratnagiri ;

(h) the maximum assessment for an acre of best rice land in that village ;

(i) the assessment for an acre of land which is irrigated by a budki or pumping plant in that village ?

The Honourable Sir GHULAM HUSSAIN : (a) Government regret they are unable to supply this information since the time and labour involved in its collection is incommensurate with its public utility.

(b) This information is not available in the village accounts or the survey records.

(c) The area and assessment of Bagayat lands in each taluka in the district is given below :—

Taluka or Mahal.	Area.		Assessment.		
	A.	g.	Rs.	a.	p.
Vengurla	2,853	0	23,182	0	0
Malvan	3,299	0	25,813	11	0
Deogad	749	0	6,518	0	0
Rajapur	40	25	406	0	0
Ratnagiri	1,291	31	6,656	4	0
Sangameshwar	106	0	489	0	0
Chiplun	299	0	458	4	0
Khed	2	29	9	9	0
Dapoli	1,436	0	11,226	0	0
Guhagar	752	8	4,298	2	0
Mandangad	256	13	2,276	10	0
Total	11,085	26	81,333	8	0

(d) Such area is very small, but information for each taluka cannot be compiled for the same reasons as mentioned in reply to clause (a) of the question.

(e) The lands mentioned in clauses (a) to (d) of the question have been specially classified at the time of the original survey according to relative water facilities.

(f) Yes.

(g) Rs. 11-4-0 per acre.

(h) Rs. 11-14-0.

(i) Rs. 11-14-0.

INAM VILLAGES IN RATNAGIRI DISTRICT : INAMDAR'S RIGHT TO SELL OR MORTGAGE.

Mr. V. A. SURVE (Ratnagiri District): Will the Honourable the Revenue and Finance Member be pleased—

(1) to place on the Council table—

(a) a list of the inam villages in each taluka of the Ratnagiri District, the inamdars of which have no right to mortgage or sell them ;

(b) a list of the inam villages which have been sold or mortgaged in each taluka of the district ;

(c) a list of the Devasthan inam lands and villages in each taluka ;

(2) to state—

(a) whether the worshippers have a right to sell or mortgage Devasthan inam lands and villages ; if so, which are such lands and villages ;

(b) whether the village of Math-Dhamapur in taluka Sangameshwar is an inam village given to God Someshwar ;

(c) whether the Gurao worshippers have sold or mortgaged any land in that village ?

The Honourable Sir GHULAM HUSSAIN : (1) (a) A list of such villages is appended.

(1) (b) and (c) The time and labour involved in collecting the information will be out of proportion to its utility from the point of view of the public. Government therefore regret that they are not prepared to furnish it.

(2) (a) No.

(2) (b) Yes.

(2) (c) No.

List of inam villages in the Ratnagiri District, the holders of which have no right to sell or mortgage them.

Taluka	Name of villages.
1. Dapoli	1. Pangari. 2. Raotoli.
2. Khed	1. Ambdas.
3. Chiplun	1. Pedhe. 2. Kutare.
4. Guhagar Peta	1. Adur. 2. Velneshwar.
5. Sanganeshwar	1. Nive Budruk. 2. Kond-Ambedu. 3. Math-Dhamapur.
6. Ratnagiri	<i>Nil.</i>
7. Rajapur	1. Dhopeswar. 2. Gothne-Devache. 3. Kajirda. 4. Valvad. 5. Talavde. 6. Kolamb. 7. Tulsawde. 8. Karak. 9. Javalethar. 10. Hatade. 11. Moor. 12. Miland. 13. Tamhane. 14. Saodao.
8. Deogad	1. Kamte. 2. Kinjavde. 3. Kasba Salshi.
9. Malvan	1. Achre. 2. Majre Gaudwadi. 3. Chindar. 4. Trimbak.
10. Vengurla Peta	<i>Nil.</i>
11. Mandangad Peta	<i>Nil.</i>

LOCAL BODIES IN SIND AND PRESIDENCY : APPOINTMENT OF ENGINEERS.

Mr. B. P. WADKE (Bombay City, South) : Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government have issued any orders to district local boards to employ qualified engineers for official supervision of works ; if so, whether they will be pleased to place a copy of those orders on the Council table ;

(b) whether it is a fact that they have issued orders to the Commissioner in Sind, while reviewing the reports of the administration of local boards, that he should compel the district local boards in Sind to employ engineers and that in case of non-compliance the Government grant for road maintenance and constructions should be withheld from such local boards as do not employ engineers for execution of works ;

(c) whether Government grant of any district local board has so far been withheld for non-compliance ;

(d) the names of the district local boards in Sind and in the Presidency which have not yet complied with Government orders and the action they intend to take in the matter ;

(e) the names of the District local boards which have—

(i) employed two officers, namely, Chief Officer and Engineer, separately ;

(ii) employed only one officer, namely, a qualified engineer to perform the duties of the engineer and chief officer ;

(f) whether Government have held that it is necessary to employ two officers for efficient discharge of duties ;

(g) if the reply to (f) is in the negative, what steps Government propose to take with the powers of control possessed by them under the Act to stop any wasteful expenditure on establishment in the boards referred to in (e) (i) above ;

(h) whether it is fact that they have issued a resolution or order that if any district local board desires to employ a single officer only that officer should have engineering qualifications, and, if so, whether they will be pleased to place a copy of that resolution or order on the Council Table ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : Attention is invited to the reply* given to a similar question put by the Honourable Member for Sukkur District.

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER).

Question again proposed : " That the Bill be read a first time."

Mr. R. R. BAKHALE : Mr. President, the issues involved in this Bill are so vital and so serious that I consider that I shall not be justified in giving a silent vote on this motion. I therefore propose to make a few observations on this Bill and I may begin by emphasising the reference that was made yesterday to the fact that this Bill does not stand by itself and that it is a continuation of and supplementary to another Bill which is being discussed in the Legislative Assembly. These two Bills embody most of the provisions of the Special Powers Ordinance under which and under similar predecessors of which we have been governed since January of this year. That the provisions of these Ordinances

* Printed in to-day's Debates.

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were and are repressive will not be denied. I do not think that even their warmest supporters can possibly dare to contradict this description of the ordinances. That they were and are very drastic is admitted even by the Secretary of State for India. Neither the Government of India nor the Government in England deemed it possible to disguise the character of the Ordinances. As it had not been possible for them to do so, they made a frank confession that the powers they had taken unto themselves were very stringent and drastic. What is true of the Ordinances is equally true of the two Bills which seek to embody most of the provisions of the Special Powers Ordinance. This similarity in character between the two types of these measures is however accompanied by two very dissimilar features which are very material and therefore deserve notice.

The first is that the Ordinance has the demerit, on the face of it, of being an executive law and, for that reason, Parliament which conferred upon the Governor-General the power of superseding the legislature and on his individual responsibility of making and promulgating a law deemed it prudent to restrict the powers in two ways. Firstly, there must be an emergency which justified the head of the executive in superseding the legislature and promulgating a law on his own responsibility and, secondly, the law so promulgated by reason of its exceptional nature should not be enforced for a period exceeding six months. If the exceptional powers taken by the executive unto themselves are to be continued beyond a maximum period of six months allowed by Parliament, then according to the view held by some of the eminent lawyers, they have to go before the legislature, because the state of affairs which existed for six months or more cannot, without doing violence to the English language, be described as an emergency. And yet the Ordinance promulgated in December of last year and January of this year were re-promulgated at the end of June in another name, as if the state of affairs which had already lasted for more than six months and which the Governor-General expected to last for another six months could be described as a state of emergency. Now, Government have gone one better. Having claimed in the loudest tones nothing short of a victory for the Ordinance regime, they feel so nervous about the situation in the country, they are so distrustful about the attitude of the people towards themselves and their capacity to govern the people with satisfaction to the people under the ordinary law which is neither meagre nor merciful, that the Ordinances once promulgated and renewed six months later as one consolidated Ordinance are now to be made a part of the permanent law of the land for a period of three years. The position, therefore, is this. The two essential conditions which the Parliament thought it essential to lay down, namely, the existence of an emergency and the limiting of the period, have been dispensed with, and yet we are solemnly asked to support a measure which the Governor-General can make and promulgate on his personal responsibility only in times of grave emergency and only for a maximum period of six months. In the absence of these two conditions, I am inclined to think that Government have made the

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measure before us more dangerous by giving it the form of a Bill to be gone through the legislature."

The second dissimilar feature between this Ordinance and this Bill I had better refer to in the language of one who is as eminent a lawyer, who is as eminent an advocate, as my honourable friend the Advocate General—a person who was a Judge of the Calcutta High Court, who was a Member of the Executive Council of the Bengal Government, a person who has occupied several positions in several Commissions and Committees, a man who now occupies the position of the Leader of the Independent Party in the Legislative Assembly, I mean, Sir Abdur Rahim. This is what he said in opposing the Criminal Law Amendment Bill being referred to the select committee in the Legislative Assembly. He said :

"Sir, what is the Bill that is brought before us? It is a Bill to replace the Ordinances. The Ordinances being an emergent measure, this ought to be an emergent measure also. Has it been brought before us as an emergent measure to meet only an emergency, unless by emergency is understood something perpetual and eternal? Will the Honourable the Home Member say that the condition of India is such that we must have emergency measures for all time? Is it a chronic disease of India? It has been suggested by the Honourable the Law Member and, following him, by the Leader of the House, that we can amend this Bill in Select Committee. But the two things are totally different. The ordinary law of the country exists for the purpose of meeting ordinary normal conditions. An emergency measure, as the phrase implies, means that it is needed for only a particular occasion to meet a certain specific evil. This Bill is a mere copy of certain provisions of the Ordinance which was passed by the Governor-General in exercise of his prerogative."

I emphasise this point—

"But we are asked now to add to the ordinary criminal law of the land, provisions which, I submit with entire confidence to the House, are absolutely inconsistent with the principles of criminal jurisprudence, even as prevalent in this country. The importance of this measure, the serious character of its effects on the lives of the citizens, on their most cherished rights, on their rights of personal protection, and personal liberty, on their rights of property, on their rights of association are all of a character which cannot be said to be at all slight, or which can be brushed aside as something unimportant. Now, a measure of this magnitude and importance and seriousness can only be passed by us if we find it absolutely necessary to meet a condition of things which exists at the present moment and if we had the support of public opinion. As regards public opinion, it was admitted by the Honourable the Home Member who presented his case in a way which has been fully appreciated by everybody on this side of the House—he himself admitted that it is no use sending the Bill for circulation, because, as he said with a smile, "We know what the verdict will be of the public." I ask him, as an Englishman whether that is not enough to dispose of this Bill altogether. If public opinion is against it, does he expect us to defy public opinion? We are here in order to represent and voice public opinion, to din it into the ears of the Government; and are we to be the persons to be asked to act contrary to public opinion? Is not this enough to show that this measure is wholly unjustified and cannot be forced down upon us? The officials are in a different position."

The Honourable the PRESIDENT: Does the honourable member propose to read the whole speech?

Mr. R. R. BAKHALE: It extends over whole pages; I am reading only a few sentences.

"The officials are in a different position. I understand that they can defy public opinion and they have often done it. But our position is very different. No, I say, we are not in a position to support this measure, as admittedly public opinion is hostile to it."

It has been claimed that the Government would be meeting a commonly made demand that if emergency powers are required, they

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should be obtained by legislation. I am reminded here of the story in which a husband after having separated from his wife, expressed a desire for re-union. The wife in responding to the wishes of the husband, said: "Well, my darling, I am perfectly willing to stay with you, but before I do so I present you with my two kids." [Laughter.] The claim made by Government might have some force if they had brought forward this legislation as soon as they decided to arm themselves with emergency powers or, if the legislature was not sitting at the time, they had brought it forward at the first opportunity. But they did not do anything of the kind. The ordinances were promulgated and re-promulgated. Their policy was clear: they did not want to consult the legislature as far as they could. It may be a doubtful point as to how many times the ordinances can be issued by the Governor-General. But the fact that Government re-promulgated them shows that they took the view that they could promulgate the ordinance as many times as they saw a necessity for them. If that is so, why are they not having an ordinance for the third time? The answer seems to be plain. As the period of the latest ordinance is about to expire, it seems to have been decided that it would be too much of a public scandal to re-promulgate it for the third time and to say that a state of affairs which had already existed for nearly 12 months and which they apprehended and expected would last longer, could yet be described as an emergency in the English language and with the further object of making these stringent measures last for at least three years, they have decided, with a show of deference to constitutional form of government, not to promulgate it once more, but to make it a law passed by the legislature, [An Honourable Member: Hear, hear] which means that the representatives of the people are asked to share the responsibility. If the Governor-General dreads to promulgate the ordinance for the third time, may I say in all humility, we dread it still more? Besides, the Government of India could have passed one law containing all the provisions of the ordinances that are required, but they took the responsibility for only a portion of the ordinances and left the rest to the provincial governments. What is the idea? The idea seems to be that the Government wants not only the members of the central legislature to be involved in this affair, but they want also the members of the provincial legislatures to share this serious and terrible responsibility in order to show to the world that they have the support of the legislatures behind them.

May I here make an enquiry which I consider to be relevant to the consideration of this Bill? May I know whether this Bill owes its conception and birth entirely to this Government or whether the Government of India and/or the Secretary of State have a share of responsibility in this affair? Did the Government of India leave it genuinely to the discretion of the local Government to proceed by way of a supplementary Bill or did the Government of India tender advice—to use language more flattering to the susceptibilities of the eminent gentlemen occupying the Government benches than saying, plainly, issue directions—that they must introduce such a supplementary Bill? If it

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was merely a tender of advice, did the local Government believe that the Bill was necessary, that the whole of the Bill was necessary and that every part of the Bill was necessary? Did they make any representation to the higher authorities, in case what they received was more than a tender of advice, that they would be far better off without this legislation than with it? If discretion was given to them and they deemed it fit to exercise it in this particular manner, how comes it that there are similar Bills in almost every other provincial legislature which bear such close family resemblance to the Bill before us, that we are inclined to the conclusion that there is a common paternity, that the parents of this Bill are not really to be found in this room and that it is not the product of the joint labours of those who compose the Bombay Government, their Secretaries and Legal Remembrancer? If it is claimed that it is their product, it is a very peculiar product, because all its parents happen to be of one sex and they are as many as more than two. Is it the product of the labours of these gentlemen, or, in order to find out who its real father is, have we to proceed to Delhi or Simla or even across the seas? I wonder whether the Honourable the Home Member can enlighten the Council on this highly interesting question.

The object of the Bill is stated to be "to provide Government with all necessary powers in reserve to deal with the civil disobedience movement." The Honourable Mr. Haig, the Home Member in the Government of India, has stated in his statement of objects and reasons appended to the All-India Ordinance Bill:

"though the ordinances have enabled local Governments and their officers to control the movement, its organisers have not yet abandoned their attempt to paralyse Government and to coerce law-abiding citizens. * * * The experience of the last two years"

He further proceeds—

"and of previous movements on the same lines shows that, in the absence of certain of the powers at present existing, it is no difficult matter to start or revive such subversive movements."

The Government's position is briefly this. Firstly, there is a subversive movement, the civil disobedience movement, which must be put down; secondly, although the movement has been controlled, its organisers have not abandoned it; thirdly, the absence of some of the powers at present existing may facilitate the civil resisters to start or revive the movement; and fourthly, it is, therefore, necessary to provide Government with these powers in reserve. Let us briefly examine these points and see how far they are valid, and whether the measures proposed are likely to achieve the object Government have in view.

There is hardly anyone in this Council, I take it, who supports the civil disobedience movement in any shape or form or even sympathises with it. At any rate, I do not. We are all opposed to it, because we honestly believe that apart from the violent disturbances it creates in the economic life of the people, the movement is not calculated to advance the political progress of India. We further believe that the hardships and miseries

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the movement inflicts upon the people are quite disproportionate to the results it is likely to achieve. There can therefore be no doubt that those who take this view will always support such measures as are calculated to stop lawlessness and to uphold the authority of law and order. What the constitutionalists have been insisting upon is that the causes underlying the movement must be first diagnosed. Once the diagnosis is made and remedies adopted to root out those causes, remedies can be adopted to deal with the disease effectively under the ordinary law of the land. Yesterday, we expected that the learned Advocate General would enlighten lay people like myself on the question as to whether the ordinary law was sufficient to meet the present situation or not. No doubt, he gave us a long political sermon, but he failed, I say with all respect, to convince us on the point on which alone we expected sufficient and adequate information from him. Fortunately for us, he is not the only legal luminary in India; we have authorities of equal eminence, and we are in a position to quote what some of those legal luminaries have to say on this point. With your permission, Sir, I shall again quote Sir Abdur Rahim and show what an ex-Judge of the High Court and an ex-Member of the Bengal Governor's Executive Council has himself stated. He has admitted that the present law is enough and adequate and there is absolutely no necessity to proceed with any emergency legislation. As, Sir, the point whether the ordinary law is adequate to cope with the situation or not is very important, I beg your permission, if you will allow me, to read an extract, which is a little lengthy, but not too lengthy. I have tried to abbreviate it, delete the unimportant or irrelevant passages; I shall quote only such relevant sentences as are necessary, without the risk of being charged with misquoting him. I do not want to misquote him.

The Honourable Mr. W. F. HUDSON: May I ask whether it is from a law report or a legal document?

Mr. R. R. BAKHALE: It is the official report of the Legislative Assembly Debates.

The Honourable Mr. W. F. HUDSON: A debate, not a judicial pronouncement.

Mr. R. R. BAKHALE: Speaking of the Criminal Law Amendment Bill, Sir Abdur Rahim said as follows:

"The Bill is entirely directed against what is called civil disobedience, which again is identified with the Congress. *** Now, let us see what civil disobedience means. I wish civil disobedience had been defined. *** Sir, as I understand the phrase, civil disobedience means disobeying or violating the law. *** If the law is disobeyed, there is a sanction forthcoming; there is the civil sanction as also the criminal sanction. So long as the law is there, it cannot be violated by any one with impunity. He either has to pay damages to someone or has to pay fine or go to jail or even undergo the sentence of death. Now, what is the Congress creed? Civil disobedience. What is the procedure they adopt? They openly follow a certain line, they openly defy certain of your laws, they often do not put up any defence. Is not that a fact to show that they are only too glad to be arrested and sent to jail? Their one idea or policy, whether you agree with them or not, is to fill the jails. They say: 'You cannot fill jails all the time because you cannot feed us all the time.' They are prepared to fight Government in that way so that by

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creating financial difficulties so many lakhs would have to be spent, Government will have to construct new jails as most of them are over-crowded. They want to create public opinion against Government by compelling Government to send people to jail. That is the very thing they want and, by this measure, Government want to help them by sending more people to jail. I want Government to seriously consider this. If they are going to make laws of this nature, undoubtedly very stringent and inconsistent with the principles of law under which we have been living so long, then what are the Government doing? They will be creating public opinion in favour of the Congress, the Congress will say that 'Government are not satisfied with sending us to jail but they are sending to jail also those who do not belong to the Congress and so, come and join us.' Government are enacting a measure against public opinion, a measure which cannot be justified by the nature of the whole law under which we are living for centuries. Government are abolishing the rule of law for which even Sir John Simon said we, Indians, ought to be thankful to the British Government.

"This Bill is directed not against any acts of civil disobedience but against the movement itself, not against any particular manifestations or against any particular acts but against the whole movement itself. That is the very purport of the bill. Those who framed the bill knew the difference between civil disobedience movement and certain acts which come under the ordinary law. The object was to strike at the root of the movement, not against particular manifestations or acts. Indeed my contention is that you should confine yourselves to certain specific acts. Now, Sir, I find that most of the offences sought to be made punishable by this bill can be met by the ordinary law. There may be one or two provisions in the bill—just one or two clauses—which perhaps supply a lacuna, and if they are to be retained, they may be retained with amendments, but if you take the rest of the provisions of the bill, I say they are amply provided for in the provisions of the different Acts such as the Indian Penal Code, the Criminal Procedure Code, the Police Acts, the Press Act and other Acts. Now, Sir, there is a provision in the Penal Code against conspiracies. Any two persons or five or more conspire to commit an illegal act—mind you not even an offence but an illegal act—and they become liable to be punished for the offence of a conspiracy. If it is a body of persons whose objects to commit illegal acts or to violate the law, they will come within the definition of a criminal conspiracy and become liable for such a conspiracy. Then we have a number of sections and a whole chapter devoted to what is called abetment. If any person abets any one to violate the law and thus promotes civil disobedience movement or abets an illegal act in any way by words or gestures, then in that case there is the Penal Code and the abettor is punished. There are other sections which have been utilised in dealing with what is known as sedition in this country and by amendments as my honourable friend the Law Member is perfectly aware the definition of sedition has been considerably widened and widened also by the interpretation of courts to the effect that if you do any act likely to alienate the affection of the people towards Government, then in that case you are liable for sedition. Again, Sir, you have got provisions in the existing law for dealing with class hatred. If anyone does anything by which class hatred is aroused, then in that case you have provisions dealing with it. Then there is the law against an unlawful assembly and any assembly which has for its object the disturbance of peace or the commission of a crime is an unlawful assembly and is punished under the law. There is another somewhat more important section, namely, section 144 of the Criminal Procedure Code. The Honourable the Law Member is truly aware that the first non-co-operation movement was dealt with not under any ordinances but under the ordinary law and the object of the Congress of filling the jails was more than amply fulfilled. What was that movement? That movement was not essentially different from the present civil disobedience movement. How was that movement dealt with? By the ordinary law as I have said and mainly by section 144 of the Criminal Procedure Code. Therefore, I say that there is nothing in the civil disobedience movement which cannot be checked and which cannot be punished by the ordinary law."

It is a matter for great regret that Government have never applied themselves seriously to make a correct diagnosis of the disease or at any rate, having made that diagnosis, they have taken so long to adopt proper remedies to root out its causes that the magnitude of the symptoms has practically put out of sight the root causes of the disease, and Government are using all their powerful machinery in removing the symptoms. The treatment has proved to be worse than the disease and Government has created, I submit with all respect, more Congressmen

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than the Congress itself would have been able to do. I am not alone, Sir, in holding this view and in making this remark. I have another authority of a person who is a great leader of the Non-Brahmin Party, a person who was twice a member of the Round Table Conference, a person who was twice a responsible Minister in the Bombay Government, a person who is now a member of the Legislative Assembly. In a very powerful speech opposing the Criminal Law Amendment Bill, this is what Mr. Jadhav said :

“ I may point out that although I was never a member of the Congress, I have a good many friends among the Congress people, and, as soon as they were released from jail under the Gandhi-Irwin Pact, I met many of them and had talks with them and they assured me that they were not desirous of returning to the prison again but Government had no patience to see who were really supporting the Congress and its propaganda. Without taking any account of what anyone was doing, every one who was in prison at the first movement in 1931, was at once arrested and put before a magistrate and sent to prison. According to my estimates nearly 60 per cent. of the old persons would never have done anything to merit going to jail, but in their impatience, Government arrested all of them and they have now become confirmed Congressmen. So, I think the Government are helping the Congress movement and have not crippled it as much as they think they have done.”

This is an expression of opinion of a very responsible person, given from a very responsible platform ; it was not a mass meeting but it was the floor of the Legislative Assembly itself where that speech was delivered by Mr. Jadhav.

I am prepared to admit, Sir, that the outward manifestations of the civil disobedience movement have been brought under control to a certain extent and to that extent it can be claimed that the Congress is defeated. But Government says that the organizers of the movement have not yet abandoned the movement. May I know, Sir, whether any opportunity has been given to them to do so ? At the beginning of the movement no opportunity was given to Mr. Gandhi to negotiate with Government. He and the other Congress Leaders, who alone have the authority and are in a position to change the Congress policy, are in jail. Some of them get newspapers and are expected to know the present condition of the civil disobedience movement, but how are they to express that opinion from behind the prison bars ? Is it not possible that they too may have learnt a lesson from experience as so many of us do ? Then, why not give them a chance ? Those of us who had something to do with the Poona Pact and who were watching the confidential discussions that had taken place in those anxious days have reason to believe that the leaders of the Congress, at any rate, a majority of them were not disinclined to reconsider the whole political situation including the fate of the civil disobedience movement. But you must give them an opportunity to do so. You cannot expect people who are put in jail to admit their mistake and reconsider their position. It is against human nature. But it seems to me that the policy of Government is not to give the Congressmen an opportunity to reach an honourable settlement. What they want is a complete surrender ; I do not know whether that surrender is likely to come, if it is to come at all, through such repressive measures.

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The Government's third contention is that the presence of some of the powers at present existing will make it difficult for the civil resisters to start or revive the movement. The experience of the 1930 movement and this movement is, I think, an adequate answer to that contention. We had the Ordinances in the 1930 movement and yet the Government and the Congress had to come to terms which resulted in the Irwin-Gandhi Pact. This year also we have the Ordinances, equally drastic in their character and equally mercilessly administered; and yet the Government are unable to prophesy when the movement would disappear. The very fact that the Government were compelled to bring forward this legislation after giving full trial to the Ordinances for a period of 11 months clearly shows that such repressive measures can only take you up to a certain extent, beyond which they are useless. The fact of the matter is, as Mr. Jadhav put it in the Assembly, that "the national movement, the movement for the liberation of the nation, cannot be put under check by these repressive measures. It may produce a calm for some time, but the discontent will be seething inside, and it will end in quite a different way."

If this is so, it may be legitimately asked, why is it that the Government are so persistent and so determined to get this legislation through? I have an answer to give, and the answer is this. The Government have been in possession of these powers for the last so many months, they have been enjoying them, and they find it now difficult to give up those powers; and therefore they are most reluctant to give up those powers. I do not blame them; it is human nature. But we must see whether we are justified in giving them those powers.

Sir, having said this much, I should like to see the scope and the effect of the Bill. What is the scope and the effect of the Bill? Here again, it being a technical point, I shall not venture to express an opinion in my own way. I shall again quote Sir Abdur Rahim for the information of this House. I consider him to be a very great authority which cannot be lightly brushed aside by Government. Here is what Sir Abdur Rahim said:

"The scope and the effect of the Bill is this:—"

The Honourable Sir GHULAM HUSSAIN: The scope and effect of the Bill discussed in the Legislative Assembly are quite different from the scope and effect of the present Bill.

Mr. R. R. BAKHALE: I shall change the language, if you please.

The Honourable Sir GHULAM HUSSAIN: That Bill is quite different.

Mr. R. R. BAKHALE: What I am going to say is this that Government want to set up executive authority in place of the ordinary courts. They want to remove the jurisdiction of the courts for dealing with certain offences. They want to substitute executive action for the procedure of the courts. They want to place the ordinary rights and liberties of the individuals at the mercy of the executive. Government also want to make executive orders more stringent. This is, Sir, what

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they want to do. It is not the case of removing certain defects in the ordinary law. If that had been the case, the position, so far as I am concerned, would certainly have been quite different. If Government really believe that there are certain movements which require to be checked, it is possible to frame reasonable laws to be administered by the ordinary courts of law, in order to check and eradicate those movements.

A great deal has been said, Sir, about the drastic character of sections 3 and 4. I do not want to repeat those arguments again. But I must say this that those who have to do public work, who have to mix freely with the people, will alone tell us what the miseries and the sufferings of the people are. And again I am afraid I must quote Mr. Jadhav for that purpose. The object of quoting these persons is not that I am not in a position to express those ideas, but the object is that in holding the views that I do, I have got the authority of such eminent people behind me. [Interruption.] Yes; I have taken an hour and I shall take as much more time as is necessary. So long as I am within my rights, I propose to exercise those rights. Mr. President, speaking on the Criminal Law Amendment Bill, Mr. Jadhav said as follows:—

“ Government do not intend to crush this spirit of nationalism. But may I ask what is the spirit of nationalism? As I understand nationalism, it is the self-respect of the nation. The idea of nationalism is to keep one's prestige and the reputation of one's nation. India is a subject nation now, and India has suffered a great blow in its ideal of nationalism. But this self-respect of the country is also bound up with the self-respect of the country's servants. If these servants of the country are deprived of their self-respect, then I think the country also suffers in its loss of self-respect. That is nationalism. When Government say that they do not want to crush the spirit of nationalism, and at the same time, by their acts, they are trying to crush individual self-respect, I say that these two things are inconsistent. When they are trying to crush the self-respect of individuals, they are trying to crush the self-respect of the nation as well; that is, they are trying to crush the spirit of nationalism also at the same time. We have seen how these Ordinances are being worked, specially in the Province of Bombay. Innocent persons, on any suspicion whatever, whether there are good grounds for that suspicion or not, are hauled up before a court. If an individual happens to displease a subordinate police officer, that police officer has his revenge. He at once arrests him and says that he is a partisan of the Congress, and so on. He is hauled up before the magistrate. The police of course have got no evidence at all, and do not care to produce any. He is placed before the magistrate, and as no evidence is forthcoming, he is discharged. But as soon as he is outside the court, he is at once pounced upon, taken to the police office and there asked to present himself once or twice a day before a police officer. It is of course humiliating to the self-respect of a man to be obliged to call at the police station and say that he was present there twice or thrice a day. Therefore, he naturally refuses to attend, and then what happens? He is hauled up before the court again a second time for disobeying the lawful order, and then sentenced to one or two years' rigorous imprisonment. Even some of the most heinous offences are not so heavily or drastically punished. But this offence of disobeying such a worthless order is punished so heavily. In to-day's paper I was pained to read a further case of Mr. Bhulabhai Desai. He once acted as the Advocate-General of Bombay. He was placed before a magistrate and discharged; and then he was asked not to leave the town of Nasik.”

Then Mr. Jadhav refers to the case of Mr. Bhulabhai Desai and says that even he, that is Mr. Jadhav, would never have consented to accept the order and to present himself to the police.

Mr. Khan Bahadur M. A. KHUHRO: What has the Assembly done? They have passed the Bill.

Mr. R. R. BAKHALE : I am not concerned with what the Assembly have done ; I am concerned with what Mr. Jadhav said there.

Sir, yesterday, the Advocate-General said that he saw no harm in people going to the police station and reporting themselves to the police. Well, Sir, all I can say is this, that his idea of self-respect seems to be entirely different from the idea that we have of self-respect.

It was pointed out yesterday that the administration of these Ordinances has been equally stringent. Cases were cited to show how they were badly administered. I have got a case which I should like to place before this House, a case of absolute injustice. The case is this. There is an organisation in a suburb of Bombay, called the Bhagini Seva Mandir. It is an organisation started out of the funds collected on a Gandhi anniversary day. It has got a board of trustees, three of whom are Congressmen and are to-day in jail, and the other three are members of the Servants of India Society. One of the members of the Servants of India Society is also the secretary of this Mandir. It has got a building of its own at Vile Parle since 1930. In January 1931, another association, called the Hindu Mahila Ashram, made an application to the Mandir that they should be given accommodation on the Mandir premises to carry on their activities, which were also of an educational and social character. In 1931, there was not the civil disobedience movement at all. A portion of the premises was rented to this second association, on the strict condition that they should vacate the premises by the end of December 1931. The premises were not vacated according to the agreement. Early in January came the civil disobedience movement and the Ordinances, and it was found that the Hindu Mahila Ashram, to whom the Mandir had rented a portion of its building, was indulging in the movement, and therefore the secretary of the Mandir wrote a letter to the other organisation to vacate the premises by the end of January, and during the course of that letter the secretary wrote as follows :—

" That the house should be guarded day and night by the police and that they should watch the movements of the inmates of the Mandir is neither proper nor helpful nor conducive to the creed of service which the Mandir has in view. Besides we are not prepared to suffer for the activities of another organisation, nor do we want the Mandir to be dragged along with the Ashram. Such a course is entirely against the principles and the lines of work we have chalked out for the Mandir."

This letter was written in January after the Ordinances came into operation and after it was found that the Ashram did not vacate the premises. On the 1st of February, both the organisations were declared unlawful and notified. I thought there was some genuine misunderstanding somewhere. Because the Association which was indulging in the civil disobedience movement had its office on our premises and possibly the local official might have mixed up the two associations. I put that charitable interpretation upon Government's intention and immediately wrote a letter to the District Magistrate giving fully how the matter stood. I sent him a copy of the relevant portions of the trust deed ; I sent him a copy of the activities of the Mandir ; I sent him copies of all the pamphlets that were published by that Mandir ; I also sent him a copy of the correspondence between the two associations as regards the occupation of the premises and the vacating of the

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premises. Also I sent to the District Magistrate a copy of the letter that the Secretary of this Mandir wrote on the 24th of January, that is, a week before the associations were declared unlawful, asking the other association to get out immediately. I was not shown even the ordinary courtesy of an acknowledgment. I went and saw the District Magistrate. He said the matter was under investigation. I met again another District Magistrate. He sent me a reply afterwards saying that the matter was under consideration. On June 27 came the Government's reply and this is what the Government say :

"Government have seen fit to remove the ban imposed on the Mahila Seva Mandir and to restore to it the articles belonging to it provided the trustees give a written undertaking that the building will not be allowed to be used for disloyal purposes or any activities in furtherance of the civil disobedience movement."

After I got this letter, I met Mr. Clee, the then Officiating Secretary of the Home Department. I told him what our difficulties were in giving an undertaking of that character. I told him that, in the first place, we had proved our bona fides before our Association was declared unlawful. We had taken steps to see that the Association which was indulging in the civil disobedience movement vacated our premises. We had taken this first precautionary measure. Secondly, I told him that three of the trustees who are Congressmen are in jail. The other three trustees are members of the Servants of India Society. Government are fully aware of the policy of the Servants of India Society. They are opposed to the civil disobedience movement as much as Government are, and all the members of the Society are controlled by the policy of the Society and therefore it should not be necessary on the part of Government to ask its members for an undertaking of such a character. Who are these three trustees? One of them is Mr. G. K. Devdhar than whom, I dare say, Government have not got a greater friend. I therefore told him that there was absolutely no necessity for such a written undertaking being given. Here we are. You know our policy. You know the steps we have taken. We have ourselves proved our bona fides by sending to the Association that letter before our body was declared unlawful. Mr. Clee told me that I should send him a letter. I sent him a letter and in the course of that letter I made out some more points. I said that so long as our association was unlawful, its trustees could not, we were advised, meet collectively. I further said that possibly individual undertaking might not be adequate. Thirdly, I said that three of the trustees are in jail. Fourthly, in the case of the other three, the membership of the Society should be an adequate guarantee to Government. And fifthly, I said that we have absolutely proved our bona fides by sending that letter of January 24 and therefore there is no necessity for an undertaking of that character being given. I got a reply from Government on September 9. They said :

"Government have given careful consideration to your representation but they regret they are unable to accede to your request. I am to add that Government will be satisfied if a joint assurance in writing is given by the three trustees who are not in jail."

The Honourable the PRESIDENT: May I point out to the honourable member for a minute that no one can deny that citing

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instances of the abuse of power under the Ordinance are in point to an extent? But I may also remind the honourable members on this side of the House that the Government side do not deny that certain instances might have taken place where proper conduct was not shown by Government officials under the Ordinance. They never say that the Ordinances have been worked without blame. But as it is pertinent to the present Bill to point out that the Ordinances or any law in the nature of an Ordinance might be abused, it at the same time does not help the honourable member to multiply the instances, for, that only takes time, and does not carry conviction any further than there is already in the minds of the honourable members on this side. This is a suggestion from me and I think, if it is adopted, much time of the House will be saved.

The Honourable Mr. W. F. HUDSON: May I also point out to the honourable member that the "regrettable incident" referred to—I think he will call it regrettable—does not come under this Bill? That might have been in the past. But, so far as this Bill is concerned, we are not dealing with that kind of incident which he has now described.

The Honourable the PRESIDENT: I permitted it simply to serve as an illustration of the spirit in which officials might be led to work an Act like this.

Mr. R. R. BAKHALE: Mr. President, I assure you that I have no desire to take more time of the House than is absolutely necessary. Mr. President, my object in referring to this case was that this was a glaring case involving persons whom Government knew very well, involving an association which Government knew perfectly well; and if in the case of such an association and such persons these Ordinances are administered in such a manner, we can very well imagine the condition of other persons and other associations who may not have got that access to approach Government as I, for example, or, any other honourable member of this House has. That is the point that I wanted to emphasize and it was with that object in view that I gave this illustration. After all, Sir, we know that our pleadings are not going to help us any way. We are aware that Government have made up their mind. Possibly the Bill will become law in a few days' time. But we believe in the method of argument and persuasion, and so long as we believe in that method we are entitled to use it to its fullest extent. And what is our experience of Government? I will give you a recent example. In June of this year Dr. Sir Tej Bahadur Sapru went to Simla to see the Government of India. His object in seeing the Government of India was to induce them, to persuade them and to convince them that they should not give up the Round Table Conference method. He met the members of the Government of India and to induce them he used all the power of advocacy of which he is capable—and he is as eminent an advocate, he is as learned an advocate as the Advocate-General sitting here—and what is the result? The result was that Dr. Sapru failed in his efforts and we had the announcement of the Secretary of State for India scraping the Round

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Table Conference method. The method of persuasion, the method of argument, failed. What happened afterwards? Dr. Sir Tej Bahadur Sapru, Mr. Jayakar and Mr. Joshi resigned from the Consultative Committee. As soon as they resigned, the Round Table Conference method was again restored. This one single fact which took place recently will show that Government on many occasions respond to the methods of non-co-operation rather than to the method of argument and persuasion. In spite of all this, we are all anxious to co-operate with Government. But there are certain occasions on which we must express our minds freely. After all, this Bill is going to become law, even if we do not pass it. The Government of India Act itself has got certain sections under which this Bill can be made Law if the Legislature fails to pass it. You have the remedy of Ordinances. Have them renewed for the third time if you think that the condition of the country is so bad. If you are not going to issue the Ordinances, then you have got the power of certification. Use it. It is perfectly legal and constitutional to do so under the present Government of India Act. But why ask us to soil our hands? Why ask us to do that business when we are opposed to it? I, therefore, submit, Sir, that having regard to all the considerations and every point of view I honestly believe that this measure is not calculated to advance the interests of this Presidency. It is bound to do more mischief, bound to do more harm. My honourable friend, Mr. More, referred to certain points yesterday and I am inclined to agree with him.

One word more and I have done. We were accused yesterday, at any rate, it was hinted, that we were sitting on the fence. What is this sitting on the fence? Is it sitting on the fence, Sir, when we broke away from the Indian National Congress at the time of the Montagu-Chelmsford Reforms? Is it sitting on the fence when we opposed the non-co-operation movement in 1920-21? Is it sitting on the fence when we went out openly and held meetings and demonstrations where we were abused, hissed and insulted? Is it sitting on the fence when our meetings were disturbed and broken and we allowed our lives to be risked? Is it sitting on the fence when we decided to work the system of diarchy, in spite of non-co-operation from the Congress? Is it again sitting on the fence when, with the advent of Swarajists in the legislatures, we declined to help them in wrecking the ministries, in wrecking the Councils, in creating deadlocks and making government impossible from within? Is it sitting on the fence when, in spite of the Congress boycott, we have been fighting election after election and coming here to place our honest views before the Council? Is it sitting on the fence, may I ask again, when, in spite of Congress non-co-operation, in spite of black flag demonstration at the Ballard Pier, we went to the Round Table Conference because we believed in that method? Is it sitting on the fence when we did all this and courted unpopularity because of our fidelity to our political principles and convictions? If all this is sitting on the fence, I plead guilty to the charge; and, may I say, I am proud of that charge? I cannot understand the mentality of those who call some public workers hirelings. Hirelings are not the monopoly

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of the lowest and the poorest. They are to be found in every strata of the society. I wish these arguments had not been brought in the discussion of such a serious matter. With these words, I apologise to the House for the time I have taken and I oppose the first reading of the Bill and resume my seat.

The Honourable Mr. W. F. HUDSON: Sir, as I said yesterday, Government do not want to burke discussion on this Bill. We want a great many members to speak on this Bill. But, if you could suggest that half an hour would be long enough for a speech, I think it might be in conformity with the wishes of the House.

The Honourable the PRESIDENT: I myself have been struggling to find out some means. It is not in the hands of the President to impose a time limit. I have been hinting during the last two days to honourable members, in one way or another, to minimise their time for speeches, so that we may get on with the work and give time to other honourable members who would like to speak on the Bill as the Honourable Mover suggests. If hours and hours are taken up by every honourable member, I shall be compelled to accept a closure. My difficulty is that there are many amendments yet to deal with.

The Honourable Sir GHULAM HUSSAIN: Mr. President, I have heard the last speaker. Before I deal with him, I must in the first instance express Government's gratitude to him for his co-operation in this House as well as outside. But I might remind him that this Government selected him for co-operating with them. The last speaker and one or two other speakers have taken an uncompromising attitude towards this Bill.

First, I should like to deal with the speech of the last speaker. His whole speech from beginning to end was based upon the opinion of eminent gentlemen like Sir Abdur Rahim and my ex-colleague Mr. Jadhav. The natural corollary is that the honourable member does not think and act for himself. He relies upon the opinions of others, however eminent those people may be. What has been the fate of their opinions in the highest Council in the land, the Legislative Assembly? The opinion of those two gentlemen has been discarded, and the first reading of the Bill has been passed by the Assembly. Let not the honourable member be influenced by the opinion of those two gentlemen. Their opinion has been discarded in the highest assembly in the land. In the lucid and detailed exposition of the legal aspect of the case by the honourable member the Advocate-General, he has shown that these emergencies cannot be dealt with under the ordinary law cited by the Honourable Leader of the Opposition. He has proved it to the hilt.

An Honourable MEMBER: To you.

The Honourable Sir GHULAM HUSSAIN: To every one. I repeat his arguments. These are preventive measures. If you apply the ordinary law, you have to adduce evidence, and the trial will take such a long time that the mischief maker will go on with his mischief. This is

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a preventive measure. The last speaker has got a short memory. When the Congress captured his labour union he used to complain of the tyrannies of the Congress. Even to-day, what does he say? He says that he has no sympathy with the civil disobedience movement. He admits that the avowed object of that movement is to paralyse Government, to undermine law and order, to strike at the sources of Government revenue by preaching non-payment of assessment, by picketing excise contractors, by doing away with toddy trees and forest trees, and by non-payment of grazing fees. We are in possession of better information than the honourable member, the last speaker. He says that there are no manifestations of such activities, and that this Bill is not, therefore, necessary. But the fact is that by these Ordinances we have been able only to control them; we have not been able to suppress them. What will be the consequences if we allow this movement to continue and if we do not pass this Bill? The movement will be revived, and there will again be chaos and disorder. There will be no liberty at all for any one. The honourable member knows what the civil disobedience movement has been doing. He should go to the Cotton Market or to the Stock Exchange or any other place of business and see what is happening there. If he does so, he will realise that there is a parallel government ruling in Bombay. What their fate is under the edicts of the supporters of the civil disobedience movement, go and ask them.

Now, I come to the honourable member Rao Bahadur Kale. The burden of his speech is that that we can deal with these emergencies under the ordinary law. The honourable member the Advocate-General has dealt with every clause and enactment. My honourable friend the representative of the Millowners' Association characterised the Bill yesterday as an enslaving measure. He says that this measure makes serfs and slaves of us. I am afraid his memory is short. The Association which he represents in this House, the Bombay Millowners' Association, says in its memorandum that on account of the Congress the Bombay Mills lost 105 lakhs in wages alone. They made constant complaints about the tyranny of the Congress. How many mills were on the boycott list? I leave the honourable member to enlighten the House on the point. They have been complaining that these hartals and the closing of the market have ruined the mill industry, and they have been saying that this movement has been organised to spoil the mill industry of Bombay in the interest of Ahmedabad mills.

Mr. J. B. PETIT: Yes, they did complain. Therefore, what?

The Honourable Sir GHULAM HUSSAIN: The Ordinances have been able to control this.

Mr. J. B. PETIT: There certainly were other ways by which the boycott could have been dealt with.

The Honourable Sir GHULAM HUSSAIN: Which? He has not suggested any.

Mr. J. B. PETIT: The laws of the land.

The Honourable Sir GHULAM HUSSAIN : The laws of the land are not adequate. You have heard an eminent lawyer on the point.

Mr. J. B. PETIT : The honourable member the Advocate General spoke for only ten minutes on this point, and failed to convince anybody.

The Honourable Sir GHULAM HUSSAIN : The honourable member may take it from me that the laws of the land are not adequate.

Mr. J. B. PETIT : I will not take my law from the Honourable the Leader of the House.

The Honourable Sir GHULAM HUSSAIN : I do not wish to be interrupted as he did not wish to be interrupted.

The Honourable the PRESIDENT : Order, order. The Honourable the Leader of the House may proceed.

The Honourable Sir GHULAM HUSSAIN : The ordinary procedure is so lengthy and dilatory that the mischief will be done if the man is not arrested at once. All honourable members who are lawyers will realise this. The honourable member says that the Bill makes slaves and serfs of us. The Ordinance has been here for the last eleven months. Can the honourable member say that any law abiding citizen has been arrested under the Ordinance ?

Mr. J. B. PETIT : Not one, but dozens.

The Honourable Sir GHULAM HUSSAIN : Not a single one.

Mr. J. B. PETIT : I deny that.

The Honourable Sir GHULAM HUSSAIN : There the remedy also is provided. If a man is arrested under clause 3, and if he makes a declaration that he will have nothing to do with the civil disobedience movement, he is let off. But everyone who has been arrested under the Ordinance has something to do with the movement. Because certain cotton merchants had something to do with the movement, they were arrested, and the moment they made a declaration that they would have nothing to do with the movement, they were let off. Is there in the City of Bombay liberty of action and speech ? Not at all. I am citing the instance of a great commercial magnate, no less a man than Sir Purshotamdas Thakurdas, who only advised the cotton merchants. What have the supporters of the civil disobedience movement done to him ? They have boycotted him, and what other things they have done to him are well known to the honourable member, the representative of the Millowners' Association. That means that you have to obey the edicts, the dictates and behests of some other party, and you cannot act and think for yourself. There is no liberty of action ; there is no liberty of speech because of this movement. Everyone, however high he be, if he goes against their wishes, is subjected to a regular campaign of vilification and harassment of every sort, social boycott, picketing and so on. Is that state of affairs not serfdom and slavery ? I put it to the representative of the millowners.

Mr. J. B. PETIT : I am prepared to adduce proofs to substantiate every word of what I have said, with facts and figures, if the Government will appoint a committee to examine the question.

The Honourable Sir GHULAM HUSSAIN : There is general agreement on both sides that nobody likes the civil disobedience movement and everybody recognises the serious consequences of this movement. Now, the whole point is whether the movement has ceased or not. I assure the honourable members that it is because of the ordinances that it is kept to a certain extent under control. Now, the ordinances will lapse. If we do not have this legislation, the movement will at once revive, and honourable members will see that Government will not be able to realise their revenues, and the people will be ruined, because there will be chaos in the trade and the people will be the sufferers. That means that this movement is detrimental to the interests both of the Government and of the people at large. Therefore, Government are taking these special powers to meet a special situation. It is far from the intention of Government to suppress the legitimate aspirations of any one. The *bona fides* of Government is clear from this. On the one side, we are taking these powers to control this movement which is ruinous to the country, and simultaneously we are speeding up the reforms. There are our representatives at the Round Table Conference. The British Government is pledged to the federal form of government, responsibility at the centre with safeguards, and provincial autonomy. They are still pledged to it. If there is no agreement between us, it is not the fault of Government that the reforms are delayed. I myself was at the last two sessions. While we disagreed among ourselves, I must say to the credit of the British Government that they have given us the communal award. If that is not acceptable to us, they have still left it to us to come to an agreement among ourselves and they are prepared to adopt that agreement. There has been the pact at Poona between the Depressed Classes and the Advanced Hindus, and the British Government have accepted it. That shows the *bona fides* of Government. It is not the case that Government are merely following a repressive policy without trying to meet the aspirations of the people. Had it been only on one side, carrying on of repression, I myself would have asked you to vote against this Bill. But Government are trying their best to give us the reforms they have promised us. If we do not agree, it is not the fault of Government.

Yesterday, I heard with great grief my honourable friend Mr. More, who in order to appeal to the passions and sentiments of the Mahomedans, the Depressed Classes and the Advanced Hindus, said that if these powers were given to Magistrates, the Brahmin Magistrate would use them against non-Brahmins, the non-Brahmin Magistrate would use them against Brahmins, and Mahomedan Magistrates would use them against Hindus. If that is our mentality, what will the world think of us? They will think that we are unfit, and that we cannot exercise properly whatever little power we have. I would request him never to use that argument; it is a very dangerous argument, though sometimes very useful for stirring up popular passions and feelings.

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Now, I come to my honourable friend Dewan Bahadur D. R. Patil. I am as anxious about the poor agriculturist as he is. The poor agriculturist comes under clause 19. I may first deal with the chapter under which it occurs, chapter III.

" 17. (1) The Governor in Council may, by notification in the *Bombay Government Gazette*, declare that any district or area shall be a notified area for the purposes of this chapter."

We are not applying this chapter to the whole presidency. Wherever there is trouble, that area will be picked out and notified. Then, if the honourable member finds that it is applied to any part of his district—which I am sure is not going to be done—and he can prove to us that the people there are not inclined to refuse the payment of revenue liabilities, we will cancel it. First we give them notice that they are not behaving properly, and if they do not mend their ways, we will apply such and such sections. Then, we have to consider the matter a second time, when anything is brought to the notice of Government. Although we have had this power under the ordinances, we have not applied it except to part of one taluka. The second safeguard is—

" 20. No court shall take cognizance of any offence punishable under section 19 except upon a complaint in writing made either by the Collector or by an Assistant or Deputy Collector."

That means that the matter will be thoroughly examined. Besides that, as soon as we apply the section, if any individual wants to pay the assessment, he will not be troubled, nothing will be done to him, and he will not be prosecuted at all. Lastly, the Honourable the Home Member has told us that in order to confine this section to this movement, he would add a few words to make the intention very clear.

Now, Sir, there was a fear expressed that this Bill might be applied to movements other than the civil disobedience movement. To meet that contingency, one honourable member suggested that after the words in the preamble "for maintaining law and order" the words "and combating the civil disobedience movement" etc. should be added. Now, what will be the result if we do this? Tomorrow the sponsors of this movement may call it, instead of the civil disobedience movement, the peace and prosperity movement. Then, no magistrate will be able to convict them. The Magistrate will say that the Act deals with the civil disobedience movement, but the movement is called the peace and prosperity movement. However, if they find some general terms—

An Honourable MEMBER: You must find it.

The Honourable Sir GHULAM HUSSAIN: We are trying to do so, and if we succeed, we will place the matter before the House, to show them that our intention is to apply this Bill only to the civil disobedience movement and to no other.

Now, we had larger powers under the ordinances. The powers we have taken in this Bill are very moderate. We have done away with special magistrates and special courts. Though under the ordinary law such offences can be tried by a second class magistrate, we have

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provided that these offences be tried by first class magistrates or presidency magistrates.

No doubt, there may be a few complaints here and there. Up to now, we have had 12 months of it under the ordinances. In a population of about 22 millions in this Presidency; how many instances of mistakes have been cited? Not more than a few. There are occasionally mistakes in the administration of every law. Take the Indian Penal Code; are not mistakes sometimes committed in its administration? To say that we ought therefore to do away with the Indian Penal Code is not a reasonable argument. [*An Honourable Member*: Follow the procedure laid down under it.] Now, the object of giving up the lengthy procedure is to prevent mischief as soon as possible. Some of the honourable members think that any law-abiding member of the society can be arrested under clause 3. What does clause 3 say? It says:

“Any officer of Government authorised in this behalf by general or special order of the Governor in Council may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace.....”

Now, who are allowed to arrest? District Magistrates and District Superintendents of Police. I am sorry, Sir, to hear the instance cited by the honourable member Rao Bahadur Chitale. I am glad he says he was not arrested and that one of our servants went to his help. We do not know both sides of the case.

Rao Bahadur G. K. CHITALE: I challenge it.

The Honourable Sir GHULAM HUSSAIN: Nothing was done to him; there was the District Magistrate who exercised his powers when he was satisfied. He himself thanked him in this House. Therefore, it cannot be said that our responsible officers do not exercise their discretion properly.

Rao Bahadur G. K. CHITALE: It was the District Superintendent of Police who went wrong, and it is he whom you are going to arm with these powers now.

The Honourable Sir GHULAM HUSSAIN: There are a number of amendments. I do not wish to deal with them now. I do not want to waste the time of the House; I will deal with them when the time comes.

Mr. G. L. WINTERBOTHAM (Bombay Chamber of Commerce): Mr. President, Sir, I rise to support the first reading of the Bill and to state the reasons which actuate me and the small section of the House for which I have the honour to speak. In doing so, I shall be the first to respond to your appeal and I trust I shall set an example to those who follow me in being exceedingly brief.

We, Sir, are no more in favour of Government by ordinances or by the enactment of special legislation of this nature than are Government themselves or any other section of this honourable House, but we take the view that the situation with which Government have to deal is not of their own choosing and is forced upon them. We also hold strongly

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that it is Government's plain duty to ensure the rights and liberties of individuals throughout the land. We accept the position that the ordinary law of the land is not sufficient to enable Government to cope with the situation and we therefore come to the conclusion that it is our duty and the duty of the honourable House to give Government the powers which are necessary to enable them to carry out their duty. The Bill before us to our mind bears evident traces of having been drafted in such a way, as far as practicable, consistently with the needs of the situation to meet the more sober criticism which has been levelled against the Ordinances. These points have been clearly put before us by the Honourable the Home Member, and it is really quite unnecessary for me to cite them, but very briefly I shall give four or five points which influence us and which are a factor in causing us to support the Bill.

The Bill grants reserve powers to be used as and when necessary. Its various chapters will be applied only to such parts of the Presidency where the need for special powers may exist. Various speakers have dealt with the Bill as if it was going to be applied immediately in its entirety to the whole Presidency. We have an assurance from the Honourable the Home Member—I know that that is not the law but we must believe Government's intention when it is explained and stated on the floor of this House—that this is not the case. Then the powers of arresting suspected persons are now under this measure going to be confined to District Magistrates and District Superintendents of Police. That meets one very strong criticism which has been levelled against the Ordinances. Again, it is only Presidency Magistrates and magistrates of the first class who can try cases under this Bill. Summary courts are abolished, all offences will have to be tried in the ordinary courts, and lastly, provision is made for the right of appeal after the expiry of the Ordinances for those who have been sentenced under the Ordinances.

In short, Sir, we on these benches are convinced that the measure is as moderate as the circumstances of the situation permit and that under it no harm can come to the ordinary citizen who takes no part in subversive political activities or to the active politician who works on constitutional lines. [*Interruption.*]

There are three main arguments directed against the Bill; firstly, by a leading member of the House who sits on the front opposition bench, that it is a direct attack on the rights and liberties of the citizens. So far from regarding it in that light, we take the view that it is a measure designed to protect the rights and the liberties of the citizens. We believe that the overwhelming mass of the people of this country is in favour of peace and orderly progress, and we believe that Government in asking the legislature to pass this measure is doing no more than to give effect to the long established principle of British law of securing the greatest good of the greatest number.

The next argument against the Bill is that it stifles political aspirations. I must take the opportunity of reminding honourable members that political aspirations are not the monopoly of one section of the

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community or of one political body. The mere fact of the presence of all honourable members here today is evidence, if evidence is needed, that the very large bulk of the people of this land is in favour of advance by constitutional measures. It is all a question of method and how one proceeds to gain one's object, and we on these benches take the view that the method of endeavouring to prevent established government from functioning is prejudicial to the interests of those who seek constitutional advance by constitutional methods. Here again, the principle of the greatest good of the greatest number is involved.

The third argument that has been advanced is that the ordinary law of the land is sufficient to deal with the situation. With due respect to the honourable members who advanced that view, I must say that I prefer to take my interpretation of the law from the honourable member the learned Advocate-General and from those who are actively engaged in the government of the country than from them. Personally, unlike the honourable member Mr. Bakhale, I was absolutely and completely convinced by what was adduced by the honourable member the learned Advocate-General yesterday towards the close of his speech. I do not believe for a moment that the ordinary law of the land is sufficient to deal with the situation, and on all counts and after taking everything into consideration—past considerations, present considerations and future considerations, because this is not the Government that is going to be in power for all time—we give our absolutely unqualified support to the measure and we trust that Government will be resolute in seeing that the House affords them the necessary powers to enable them to keep control of the position which they have won and which it is their clear duty to maintain. We support the first reading of the Bill. [*Applause.*]

Dr. M. D. GILDER (Bombay City, South): Sir, during the last three days the word "loyalty" has been used in so many different senses and by so many different people that one is confused in one's mind as to what the word means and to whom it is to be applied. After having taken the oath of allegiance on entering this House, I believe that the next allegiance that we owe is to the constituencies, to the men and women who have sent us here to represent them in this House. Since the publication of this Bill, the workers in my constituency have come to me and have asked me definitely to oppose this measure and in the name of the majority of my constituents I oppose the first reading of the Bill and I trust that it will be the last reading.

Amongst the men who approached me, there were professional men, there were traders, there were shopkeepers,—shopkeepers who themselves had been harmed by the civil disobedience movement—and men like jobbers and head jobbers in mills, men whom my honourable friend the learned Advocate-General would call men with a stake and men of straw.

Sir, the Honourable the Home Member referred very feelingly to the distress of the peasants in Gujarat. But may I know who first taught

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them civil disobedience? The first Bardoli agitation was purely an agrarian problem. The Committee appointed by the Government itself consisting of two Civil Service Officers—Messrs. Maxwell and Broomfield—supported the peasants' demand and Government had to modify the assessment. If they had modified the assessment in time, the people would not have learnt what they could get by withholding the payment of taxes.

Then, Sir, it has been said that withholding payment of taxes is unconstitutional. I will only just quote a few lines from the speech of the late Mr. G. K. Gokhale delivered in London in 1907, when he said about constitutional agitation:—

“ Prayers and appeals to justice lay at one end. Passive resistance, including even the extreme form of non-payment of taxes till redress was brought, lay at the other.”

That is what the apostle of constitutional agitation says, so that withholding taxes, non-payment of revenue is really not unconstitutional.

Sir, the honourable member the Advocate-General, who consciously or unconsciously, kept feeling his waistcoat pockets yesterday, especially when he was talking of financial stringency and trade depression, could not resist the contagion of this House and instead of being a technical adviser became a politician—a politician as prolix as the best or the worst of them. [*Laughter.*] He called those people who do not agree with the Congress, sitters on the fence. During the last World War there were a good many neutrals who did not join the War. I suppose they were sitters on the fence. In every war—and the Honourable the Home Member's predecessor told us in the last session of his regime that this was a war against the menace of the Congress—there are neutrals and they are discharging a very useful function. It is their function to see whether the war is carried on according to the canons of civilised warfare and it is that function that we have now, according to him, the presumption to discharge.

Sir, the honourable member the Advocate-General is said to have given a learned lecture on the point as to why the permanent law of the land was not sufficient for present needs. But so far as this point was concerned, it appeared to me that he read the law and then said “ Oh, that cannot meet the situation ” just like the teacher in school who demonstrated a proposition from Euclid by going to the board and putting down “ $A B C = D E F. Q E D!$ ”

Sir, the honourable member the Advocate-General did not think that there was any loss of self-respect in reporting oneself to the police three times a day. I wonder whether if he had the order to go three times a day to a policeman and say “ Salam Sab. I have behaved myself,” he would appreciate it! Sir, youthful politician that he is, he asks us to trust the officers of the Government. I wonder if he knows what our experience of officials in this very House is. We have had taxation bills passed and we were told that the proceeds of a tax were to be given over to education or something else. Later on when Government were reminded of it, we were told “ How can Government distinguish one rupee

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from another? It all comes the same way and goes the same way." The other day we were told that an emergency can arise even in the opening of toddy shops. The learned Advocate-General was sitting there smiling at the Honourable Minister's reply, and yet he asks us to pass this emergency legislation which may be applied even to the emergency of opening of toddy shops!

The other day an honourable member from that side quoted the instance of Italy. Does that honourable member realise that Italy has not got a piebald bureaucracy carrying on the Government as the sub-agents of an alien administration six thousand miles away? Does he realise that in another country a dictatorship has ended? I mean, Spain, where they are facing the aftermath of the dictatorship and repression—resolution. Sir, the Star Chamber was abolished in the reign of Charles II, but its methods are being introduced into India and in this Presidency by this law in the reign of His Majesty King George V. The honourable member the Advocate-General told us yesterday that we had failed to understand that these Ordinances were the law of the land. Sir, we had not failed to understand that the Ordinances were the law of the land, but it seems to me that he had thought that we were like Chinese women, proud to put our feet in shoes so that they may not grow, so that we may not be able to walk! He wanted us to agree to forge our own fetters! But there is a great deal of difference between having our fetters forged for us by others and forced upon us, and forging them ourselves, and I trust that this House will see to it that it does not forge fetters for itself.

Mr. L. R. GOKHALE (Poona City): Sir, we have heard, I believe, sufficient arguments in favour of the Bill as also against it, and I do not propose to repeat what has been said up to now. I only want to point out some defects which I find in the Bill as it has been placed before us. We have been told that this Bill is meant to meet the state of war that exists in the Bombay Presidency. I believe in the state of war we know who are the combatants. On the one side there is the Government, as they put it, and on the other side there is the civil disobedience movement. Is it not then necessary that the operations of the war should be confined to the combatants, to the parties concerned? But is it there clearly stated in the Bill as it is before us that the Government really mean to confine the fighting only with those who take part in the civil disobedience movement? No doubt we are assured that, if possible, some such words as may enable the Government to confine the operations of the law to the civil disobedience movement only, will be put in. But I think this statement means almost nothing. Was it difficult for the Government officials and lawyers, to have by this time got ready and put into the hands of the Honourable the Leader of the House the change that they propose to effect? I believe very likely, if I am not wrong, nothing will be done as regards that change, and ultimately we will be told that no words could be found sufficiently to express their intention, and probably we will be told that they want to leave the matter indefinite

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as it is, so that the Government may have a free hand to act as they please. That is the position that is most objectionable in the whole Bill. If the Government really think that the Bill is the only remedy, nobody will find fault with them, provided they put forth the remedy with caution and with honest intentions. Of course, it may be said that I should not question their intentions. But I find that the wording of the Bill is very wide and harmful to and affect those who want to work for the country, perhaps not in the way in which the Government officials would desire, but in their own way. Sir, I know what has been the fate of those who have been working for the uplift of the country in the last one year, during the existence of the Ordinances. I personally know that district officers, and officers below the district officers, have not been able to distinguish between a work and workers. I know in Poona, for instance, that movements, specially economic movements, confined to the revival of industrial activities, were tried to be brought within the laws then existing, and no information was supplied by the Government of what was being done.

In this connection, I may cite another instance. The Satara Masur Ashram incident was already referred to yesterday. As regards the Ashram, I give some more facts. I may point out that under the operation of the Ordinances, the papers which were specially connected with the conversion of Christians to Hinduism and similar papers were removed from the Ashram. The conversions took place in the territory of Goa. There, the people who were converted to Hinduism again had made declarations and affidavits. There were some certificates of Government officials from the British territory, from the Satara District, stating that the work of the Ashram carried on by the Venerable Bawa was simply religious and was not in the least connected with any political activity. What was the fate of that institution? The papers were attached and to remove the attachment, telegrams were sent to the Government, not one, not two, but more. Telegrams were sent to His Excellency the Governor, asking the Government at any rate to save the documents, which were most innocent. But not a single telegram was replied to, and up to now the Masur Bawa and the people are in the dark as to what action Government have taken or are taking in regard to the matter. They do not even know whether the documents have been destroyed or not. Some say that they have been destroyed, some say that they have been preserved. If that is so, what guarantee is there for the proper working of the Bill that is now being forged on the anvil of this House? It may be said it will not be fair to doubt the honesty of the eminent civilians and Government officials who are on the benches of the Government in this honourable House. Granted. But let us look further and see what will be the attitude of those who will have to administer this particular measure. I do not see, Sir, that there is the least guarantee for the proper working of the powers proposed to be given under this Bill. Unless we make sufficient safeguards—and we know what safeguards are wanted—unless there are sufficient safeguards, the innocent people will be troubled.

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There is one more point that occurs to me, and I crave permission to put it forward. When this Bill comes into operation, very likely the officials, the men on the spot, will try to put in jail as many patriotic men—agitators as they call them—as may be working in the districts, whether they work for the uplift of the masses, whether they work in the religious sphere, whether they work in the economic sphere, or whether they work in the political sphere, but not joining the civil disobedience movement. All of them will be huddled up together and perhaps sent to prison. If this continues, and particularly about the time the new constitution has to come into force, very likely there will be very few people left who have studied the questions and who will be able to guide the people in forming the government that is to come in. Some do even say that the object of the present Bill is to put into jail all those who have patriotic views, and who are not wanted to agitate, and if they are thus being put out of the way, when the new elections come so that Government may be able to establish the new government to their taste, at any rate for three years more, and thus they may get a “safe” government for the working of the new constitution. I may not subscribe to that view but I have only expressed the fears honestly held by many. Then I put it, Sir, if that contingency takes place and all workers are put in jail, what will be the result of the new constitution? To run a constitution is not an easy task. At any rate those who have not done it previously will find it very difficult; and if as is likely our civilian friends and the experienced secretaries may not be available to us, who will be there? What will be the position of the country where there is no experience at the back in the running of such institutions? That is a question that has to be considered, and I believe therefore that every step must be taken to see that honest people who are working for the good of the country, who are not for destruction, who are for peace and order shall not be unnecessarily molested, harassed and removed. I am afraid those who know the position are sure to feel that out of this Bill nothing but evil will come out. Therefore it is that some of us have to oppose this Bill. If the Bill passes into law unfortunately, at any rate I hope and the members on this side do hope that sufficient care will be taken to make the Bill less oppressive and will be amended at the second reading on these lines.

Sir, let us examine the principles of this Bill for a minute and find out whether the old law is not sufficient. The learned Advocate-General did not go into detail in distinguishing the law as it is and the law as is being enacted, and the reasons to my mind are not far to seek. He knew very well that he would have been required to say something unpalatable, something not to be stated in plain language perhaps. The plain fact is that under the Acts so far enacted there is no action to be taken which is not judicial, except perhaps in one or two enactments. All that has been enacted in the Indian Penal Code, in the Criminal Procedure Code, or in the Postal Act is a judicial enquiry. All that requires a procedure. What the present Bill wants is to do away with the judicial procedure and substitute in its place “executive orders”.

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That is a point that, I am sure, the learned Advocate-General knows very well. He would have had to put it before us. Was that a position which the House could have taken quietly? Thus the fact remains, Sir, that the old enactments deal with the question judicially, whereas the present Bill wants to deal with the questions solely in an administrative or executive capacity. Otherwise, it is very difficult to know why a person is to be arrested and is to be kept in jail or in custody for two months without any trial, without being brought before a magistrate, without being given an opportunity to say what he has done and what he has not done.

Again, Sir, I would like to put forward one more fact which I dispute. We are being told that this Bill will in all probability be confined to the City of Bombay and Gujarat.

The Honourable Mr. W. F. HUDSON: No, Sir. I am afraid I never said that.

Mr. L. R. GOKHALE: I am glad to know it.

The Honourable Mr. W. F. HUDSON: What I did say was that I hope to withdraw the provisions to which honourable members particularly object as soon as possible from as many districts as possible. But I did not say anything about confining it to Bombay and Gujarat. If the honourable member thinks I have said it, I am afraid he has misunderstood me.

Mr. L. R. GOKHALE: I am glad of the explanation. The Bill has to be put into force throughout the Presidency immediately. Suppose a person arrested in Bombay is to be taken from Bombay, say, to Ahmednagar to be kept in custody there, or suppose a person is detained in Bombay in jail in custody for two months and on the last day he is taken to Ahmednagar, and there asked then whether he will or will not abide by certain orders. Perhaps, he will say he will not. But then the Magistrate at Ahmednagar ought to have jurisdiction to convict him under the Act and to send him to jail. Therefore to invest him with such jurisdiction, this Bill must be applicable to Ahmednagar. Unless that is done, the authorities in Ahmednagar will have no jurisdiction. Thus the fact remains that there is a jail in Ahmednagar, there is a jail in Nasik, there is a jail in Belgaum; there are jails all over the Presidency and in order to distribute these persons, arrested in Bombay or somewhere else, they have to be ready with the jail arrangements in the whole Presidency and the Bill will have to be extended to the whole of this Presidency. In order to distribute these persons either arrested in Bombay or Gujarat Government will have to be ready with the jail arrangements in the whole Presidency and in order to see that different districts have jurisdiction they will have to see that the Bill is in force in all these districts. In this way, I am sure, the Bill will have to be made applicable to the whole of the Presidency. Then, Sir, the Bill may be made applicable to any individual whether he is a follower of the civil disobedience movement or not. The Bill I am afraid will be made

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applicable to all in order to detain or put in jail persons wherever they may be found, agitating for any grievance. The Bill is so general. Whatever the best intentions of Government may be the Bill is surely to be enforced throughout the Presidency and against every one who is not in good books of Government officials. That to my mind will be the effect of the Bill as it stands. My purpose is to point out that the people must be ready to meet this contingency if the Bill is passed. Objection was taken to the description of the conditions that may prevail when my honourable friend Mr. Petit said that there will be serfs and helots created by this Bill. He may be exaggerating but I am inclined to think at least that he is not far from truth. A man's body is controlled, his tongue is controlled, his property is controlled, his right to travel either by sea or water is controlled by this Bill. His letters shall not reach him nor the letters which he writes will reach those to whom they are addressed. He will not be allowed to ride in his car nor in the car of his friend. I do not know what will be left for him to carry on his life with. In the arguments advanced on behalf of Government they have referred to clauses 3 and 4 of the Bill only. But nothing has been said in justification of the rest. I was anxious to know how the Advocate-General and the Honourable the Leader of the House were going to justify the other powers given by the Bill, and the powers are varied and many. I was anxious to know whether Government would cite the instance of any other country in the world where these powers were assumed by Government; and particularly so far as this country is concerned, I may say, however beneficent the intentions may be, that it is an alien government is a factor which we should never forget while making any laws. As a matter of fact the Government may have the best of intentions, but the particular executive action may be just the other way. This Bill has got 15 sections dealing with the various powers given to the authorities. Are those all powers necessary? Is a single word said in justification of all those powers either by the Advocate-General or by the Honourable the Leader of the House? Why he wants to intercept the letters? Why he wants to take away the car? Why he wants to prevent a man from going to the railway station? Well, if he wants to have all this control over a man then why not openly call him a slave? But they do not like that word. Well, call him an outlaw and tell him that you have ceased to be a free man and human being so long as the present regime is in force. I ask, is that fair? Is there any reason why all these powers should be there? It is one thing to have the 3rd and 4th section and it is another thing to have 10 or 15 sections in a Bill giving to the executive several powers without reason. They will certainly adversely affect the man's life in future. Sir, I want to speak a word about parole. The Advocate-General says "what humiliation is there in reporting to the Police?" It is a good fortune not have to report oneself. Probably the learned Advocate-General does not know what the painful condition of mind to any self-respecting man is likely who has to report to the police. It was for the first time I heard that it is a proud privilege to have to report to the Police. No one else

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has said so. In the very great political sermon which he delivered to us the learned Advocate-General said that it was a great pleasure to do so.

Mr. V. F. TARAPOREWALA : I never said so.

The Honourable the PRESIDENT : I was going to correct the honourable member. The Advocate-General simply said that there was no indignity in doing so.

Mr. L. R. GOKHALE : It is a poor defence to say that there is no indignity in reporting to the police. I ask the Advocate-General, is that his worldly experience, is that his practical experience of life? The Advocate-General must certainly be meeting many congressmen. Has any one of them told him so? I do not believe. There is a saying that the pain of other people is hardly painful. It is only when one finds himself in that position that one can realise what a painful thing it is to do so. So long as one has not to report to the Police one cannot understand the mentality of the man who has got to do that. I know some pleaders who have been acting in the best interests of the country and who were not members of the congress have been taken to the prison. They had to go on parole afterwards and they had to appear so many times before a police officer. I know their feelings. One of them actually said to me that it would have been better if he had been born in the race of the criminal tribes than to be in the class of pleaders and to have to appear before the Police and say "I am at your Honour's service." Is that no humiliation? What is the good of defending a thing in such a way, by such lame arguments? If you want the humiliation in the name of the country, in the name of government, have it. But I submit to the Advocate-General that no judicial officer will ever take such defence in his serious consideration.

If the Government intentions are fair—and conciliatory—and I take that they are so,—let them show that by practical steps. For instance, the chapter about Notified Areas is a peculiar chapter. It is thought, by some at least, that this idea of winning the big landlords is not casual. It is an innovation on purpose. Is that the Government's sympathy for the poor agriculturists? What is the underlying principle of this? What is the object of this? It is nothing less than to make these landlords masters over these poor tenants, to make the tenants their slaves to be ready at the beck and call of these landlords to help officials.

Another point I do not understand. The Act provides that in the case of poverty this rule enforcing payment of taxes will not apply. This reminds me of the story of a big Nabob. His Prime Minister told him that the people were dying of hunger. The Nabob said "Why? Why do they not eat ghee and sugar?" This was because the Nabob did not know the condition of the people. Is not the Indian agriculturist always poor? I say that even the Government in their reports have admitted times out of number that the Indian ryot is very poor and lives on half meals. By statistics, by figures and by comparison they have shown that the income of the Indian individual is far below than that of the other countries in the world. If they are all poor then no

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tenant can pay and the rule will apply to none. But this cannot be the intention of Government. No doubt this shows that those who are in authority do not know the real condition of the people. But it is the duty of the elected members to know it and put it before the House.

The Bill has many other objectionable provisions. My first objection is as regards the detention of a person for two months. My second objection is as regards the long list of powers which are intended to be given to the Executive. My third objection is as regards the Notified Areas. I think that provision is unnecessary. The learned Advocate-General did not refer to the Land Revenue Code. The Land Revenue Code deals with the question of recovering the revenue and other dues of Government by definite rules. Is it not sufficient ?

The Honourable Mr. W. F. HUDSON : The provisions of the Land Revenue Code were not sufficient to recover the revenue in Gujarat. We have explained that.

Mr. L. R. GOKHALE : Because Government wanted to recover the revenue by very harsh measures.

The Honourable Mr. W. F. HUDSON : It has not been applied in Deccan.

Mr. L. R. GOKHALE : It may be applied. If a District Magistrate is transferred from Ahmedabad to Sholapur he will try to repeat in Sholapur what he learnt in Ahmedabad. I submit let us be very careful in passing any law which will operate against the subject and will be oppressive. I must admit that the forfeiture without trial clause has been abandoned by Government in this Bill. That goes to the credit of Government. I do not want to know who is the father of the child. My honourable friend Mr. Bakhale referred to the fatherhood. I take it the father of the child is the one who claims the child. We must really thank Government for abandoning this forfeiture clause.

The Honourable Mr. W. F. HUDSON : We accept the thanks.

Mr. L. R. GOKHALE : Along with the acceptance let us have also the practical sympathetic attitude as regards the other provisions. That is the real test of sympathy which may be extended to the poor agriculturists. I admit that there are hirelings of the Congress. The word hireling is applied to the lower class people who receive small payment for their service. But I say every subordinate officer wants to please his superior in order to get promotions, etc.

Then again, Sir, if the Bill is intended to counteract the operations of the Congress, especially the civil disobedience movement, why not say so ? But my fears are in the other direction. If Government have got confidential reports to the effect that besides the civil disobedience movement there are certain other activities going on let them plainly say that and tell us that for these reasons they cannot possibly confine themselves only to the civil disobedience movement. If they say so the people will immediately get a warning. But let us not take people unawares.

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Sir, when this Bill was published I put it in the hands of the members of the Poona Bar for their opinions because that Bar is a representative one. It has a sprinkling of Mahomedan members, non-Brahmin members and a large number of advanced class members. I thought it best to consult them before I came to this House; and I may tell this House that to a man they said that this Bill was undesirable. I do not think they are all followers of the civil disobedience movement. They are practising pleaders. They are co-operating with the Judiciary. All of them make a living on the strength of their Sanads and they think that the Bill is not desirable. May I put it to the Government Benches whether they think that all the 300 or 250 graduates who have received their education in institutions under the Bombay University, who have received their education in economics, politics and history are not such as to understand what was good for them and for their country? Do they not know what they want and what their country wants? And yet the members of the Poona Bar have expressed themselves against this Bill. Government should consider this and I am sure all over the country the members of the Bar hold the same view.

Then, Sir, as regards the period of the Bill. The Bill is to be in force for three years. What is the object? You can repeat these Ordinances as many times as you choose. You have got this session thrice a year, if not four times. If so, why not enact the Bill for 6 months only? I may say that perhaps the mentality of the people will be changed when these Reforms come forth. When the White Paper goes to the Parliament, when the Joint Committee sits and enacts the new Government of India Act it will widen their vision. Very likely many of them will change their mentality. Then again, Sir, can we not wait for some time? If we cannot, have it for 6 months. My argument is that do not bind the hands of the new Government. When you are handing over charge to another body you should not have such a Bill as is disliked by many. Why not give them a free hand? We are told that it is in the best interest of the new Government but on giving my best consideration, Sir, I find that it is binding their hands, and it is not necessary for them. The best course is to have it in operation till the lifetime of this Government at the most.

(After Recess.)

Mr. L. R. GOKHALE : Sir, I do not want to go over the same ground again as regards the charge of "sitting on the fence" levelled by the Advocate-General against some of the non-official members. To my mind, sitting on the fence means that those who do so are watching an opportunity either way; that they are undecided, inclined to take advantage of the position that may arise. That appears to me to be the meaning of the phrase "sitting on the fence." I am very sorry to find, Sir, that the honourable member the learned Advocate-General did not try to know the past history of the members of this honourable House who had once the occasion to belong to the Congress. Otherwise, he would never have judged them so very uncharitably. To say that they are time-servers is not only to misunderstand them—

Mr. V. F. TARAPOREWALA : I did not use any such words.

Mr. L. R. GOKHALE : You did say that—

Mr. V. F. TARAPOREWALA : I did not say that about the members of this House.

Mr. L. R. GOKHALE : I am sorry, but the honourable member said that some of the members were sitting on the fence.

Mr. V. F. TARAPOREWALA : I did not say that.

Mr. L. R. GOKHALE : I am so glad and I accept the correction, but, Sir, I may say that not only those who are in the House but who are outside the House merit a rather more charitable treatment than has been meted out to them by the honourable member the Advocate-General. Sir, the history of the Congress requires close study. It was started by men like Hume and Wedderburn. It is more than half a century now. It was worked by people who had their faith in constitutional agitation. What we are enjoying now is the fruit of that agitation. Even the opening of the Indian Civil Service to Indians and the enlarged Councils are themselves the direct outcome of the Congress agitation. I know, Sir, that some of the honourable members who now adorn the Government benches were devotees of that great Congress. That must not be forgotten. I do not know how far the learned Advocate-General had occasion to be in the Congress camp, but I know, Sir, for more than 20 years—

Mr. V. F. TARAPOREWALA : I was in the late Sir Pherozeshah's time.

Mr. L. R. GOKHALE : I am so glad to know it. Then having been in the Congress camp, he knows the Congress well. For more than 25 years I was acting as Secretary of a large circle of the Congress, but a time came when many had to bifurcate at some sacrifice, a time came when we had to assert ourselves and probably the Advocate-General may not know that for our assertion, for our bifurcation, we have suffered and suffered immensely. And it is not only the men who are in the Council Hall but those outside also who have suffered very heavily. Thus when we speak of the Congress, Sir, we must remember that we owe a debt of gratitude to that body. I know very well that since the last 10 or 11 years the Congress has gone away from the lines laid down for it, but for that, Sir, I do not think the blame lies only on one side. Was not the demand for the Round Table Conference made some years ago? Was it then accepted? Was it not delayed for a number of years? And what has been the result of such delays? Those people who did not possess sufficient patience lost it and became helpless and hopeless. Government has given what was wanted when it was too late. This has been the cause of the Congress having taken the line of non-co-operation. The Congress, Sir, even at present is a very large influential body which has a large following, which has sympathisers even amongst those who do not see eye to eye with the present Congress attitude, but that does not mean that they sympathise either with the civil disobedience movement or with the other steps that the Congress has taken. I am sure that had

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the demand of the Nation for granting Dominion Status been considered five years ago, the present condition would not have arisen. I know the mentality of my people among whom I live and have my being. I know what they wanted. I know how it was refused. I know how they were disappointed and it is due to all these delays on the part of the authorities that the Congress came to take to the present path it has been following. I have great hopes—I do not know whether I am right, but I do believe that I am right—that if the Government grant what is wanted and if the fruits of the Round Table Conference are satisfactory, many of those who are following the present path of the Congress will revert back to the old ways. I am positive about it. Patience is a virtue but not with all. It is with some and naturally impatient people became helpless and hopeless. It is not only one side that has to be considered. I am sure, Sir, that nothing would have been lost if Government had delayed this bill; if there was an extension for six months of the Ordinances and if this bill was brought again after six months, what would have been lost? Six months' life for the Ordinances plus a bill, after the results of the Round Table Conference were known, would have been, if at all necessary, in keeping with good conscience if they had been brought before the House then. Why not give a chance to those who are depending on the results of the Round Table Conference, who honestly believe that they do deserve more rights and better privileges? Why this hurry? My humble view is that if the Congress has gone wrong, it is not only that body that has committed the mistake. The other side also must share that blame. Latterly, attempts have been made to divide the people. It was thought by some that to take away the Mahomedan element and the non-Brahmin element from the Congress was in the best interests of the country, but speaking honestly I do believe that that was wrong policy. Men like Dadabhai Nowrojee, Budruddin Tyebji and others belonged to no class and community. They have made the political history and the political advance of this country on the best lines. They never thought of dividing the people, they never thought of creating differences. That is one of the reasons for not supporting this Bill at this stage. If the time comes and if we have to go beyond the first reading, I am sure a number of amendments will be necessary. As regards the preamble, I think it will need some amendment. I am not accustomed to legislative draftsmanship, but I do believe that some such statement as "With the object of meeting those who are making Government impracticable or impossible, this Bill is being introduced" should be put into the preamble. Without putting the words "civil disobedience", it will serve the purpose very well. In the Bill itself there are such phrases as require an amount of explanation, for instance "public advantage". I do not know whether that phrase has been defined anywhere by lawyers. Another phrase is "about to act". For instance, in a legislation like this it is not desirable that a phrase like this "who are about to act in a particular way" should be included. "Who has acted" is something, but "who may act" or "who is about to act" is something that I do not quite think is desirable.

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Again I do not know whether it is good to give these powers in the hands of people who may utilise them not in a proper way. But that will be for us afterwards to consider when the amendments are to be moved.

The Honourable the Leader of the House took to task my honourable friend Mr. Bakhale for relying on the authority of two great political luminaries for his argument against the Bill. He said why should he quote—

The Honourable Sir GHULAM HUSSAIN : I never said that. He is putting those words in my mouth.

Mr. L. R. GOKHALE : The Honourable the Leader said, why should he rely upon the opinions of those leaders ?

The Honourable Sir GHULAM HUSSAIN : I never said "rely on". I said, why should he mention leaders whose opinion was discarded by the Assembly ?

Mr. L. R. GOKHALE : My note is, why should he rely upon the opinions of those leaders ?

The Honourable Sir GHULAM HUSSAIN : They have been discarded in the highest Assembly in India.

Mr. L. R. GOKHALE : Discarding in the highest Assembly is not an unusual scene. Discarding the opinions and advice valuable of the honourable members of this House is also not very unusual, but that does not take away from the value of those opinions which are opinions of men who have worked for all their lives for the country and who have made certain sacrifices in the name of the country and those opinions have value of their own.

The Honourable Sir GHULAM HUSSAIN : I am very glad to hear my erstwhile colleague's opinion.

Mr. L. R. GOKHALE : I do not know whether the Honourable the Leader of the House really liked this compliment then. My position is that a man like Mr. Jadhav, who speaks plainly, honestly, has to be relied upon, has to be taken support of. What is wrong in that ? It is said that the Legislative Assembly has discarded that opinion. But political circumstances and very many other factors do work in coming to decision on certain questions in public bodies. I am not unaware of it, and I am sure the Honourable the Leader of the House also knows that very well. Valuable advice is often discarded. He knows as well as I do why a certain Bill is passed, why a certain result is secured, and why by a majority certain other measures are turned down even though they are for the public good. All this we know very well. I know that the best opinions have been thrown out for reasons best known to those who throw them out. But that does not take away the value of those opinions expressed by men who are competent to express them.

Then, Sir, another point that has been made is that if this Bill is not passed, there will be disorder again. Well, how long will it take to pass this Bill if the disorders reappear ? Again, one set of people think

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that fresh disorder will not appear when the Round Table Conference decides matters to the satisfaction of India. Another set of people think that disorders may appear; and suppose they turn out to be true prophets, what will be the result of a little delay? Will it be that the heavens will fall? Will it take ages to pass such a Bill? It may be a question of a couple of months at the most. And the Ordinances are there. Why not extend them? This argument that, if the Bill is not passed now, there will be disorder again, to my mind does not appear to be very satisfactory. I expect that disorder will not be there. And supposing it is there, Government have the right to call a meeting of the Legislative Council and to get the Bill passed if they want a Bill and, what is more, the Council will then be quite convinced of its utility. Instead of doing that, why should Government arm themselves with these powers in advance? I do not think there will be serious disturbances, and even if there are, the Ordinances can be continued for some time and the House can be asked to pass this Bill.

Then, Sir, we were told that the bona fides of the British Government ought to be relied upon. Quite true. The bona fides of the British Government we have relied upon and the British Government has been always saying that they are acting in good faith. But look at the other side of the question. Have not many promises of the British Government been broken or their fulfilment delayed at least, on many occasions, and again what is the history of the British Isles themselves? Have not the people there fought for their rights and for the fulfilment of the promises of their own Government? Here we are under an alien Government, who are not from the people. So, let us take the words of the Government with caution. What does history tell us? History tells us that Government makes blunders and afterwards tries to improve them or to correct them and Government makes promises and does not keep them. There is nothing wrong in the people when they question the bona fides of a particular Government. In fact, progress means the assertion of the rights of the people against perhaps the bona fides of the Government. Apart from that, it is not a question of the bona fides of this Government and this Government alone. There are other persons: are there not? What of them? The British Government may be the best and their bona fides excellent. But let us come nearer home. I do not blame anybody. I may assure the honourable House that I do not want to find fault with those who are working in India at great sacrifice. But I want to state the facts as they are. Will you find fault with those who have found to their great disappointment that the best intentions of the British Government have not been carried out by those who are in authority? I do not think it is wrong on the part of those who want to fight for their rights to assert exactly what they feel about the demands they make and the treatment they receive at the hands of the executive.

My honourable friend Mr. More made a point that the non-Brahmins may suffer at the hands of the Brahmins, the Brahmins may suffer at the hands of the non-Brahmins, the Hindus may suffer at the hands of the

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Mahomedans, the Mahomedans may suffer at the hands of the Hindus, and so on, and to that an objection has been taken. Is it really extraordinary? Is not that human nature? We all wish that every sort of feeling like that would vanish. But what are the facts considering the ways of the present authorities? If you go through the history of this presidency during the last 5 or 10 years, I believe we shall have to accept the views expressed by my honourable friend Mr. More. Exactly, Sir, we are showing favours. We are showing favours to the non-Brahmins and the Mahomedans because we see that they are lagging behind in progress. We see that they are not as much advanced as the other advanced communities. The argument is, are they not our brethren, and are we not bound to support them and help them and protect them? In doing that, some injustice, some mistakes may be made here and there; but to point that out is not to express anything extraordinary or anything which is against human nature. What my honourable friend Mr. More wanted to suggest is, why do you give these powers in the hands of people who may perhaps misuse them? What is wrong in that? I think my honourable friend Mr. More was perfectly right. My point is that justice requires that we should avoid, as far as possible, any misuse of authority, be it by a Hindu, be it by a Mahomedan, be it by a Parsi, or be it by a person belonging to any other community. That is our right. That is our line of thought. In expressing these views, I was surprised to find that the Honourable the Leader of the House thought that the honourable member Mr. More had committed a great sin. I for one think he has not committed any sin in the matter. He has his own views on the matter, and he has expressed them in an ordinary manner. Exceptional cases there may be. I do not say that every Hindu and every Mahomedan is unreasonable. I do not think I need quote cases, but there are cases where I could show that a certain officer acted in a certain way and the Government took him to task for it. I know that. I need not dilate upon it. It is a question of individual cases which need not be discussed. I think the honourable member Mr. More's position was perfectly justifiable and reasonable. It deserved more consideration at the hands of the Honourable the Leader of the House than he gave it.

I do not think I should now take further time of this honourable House. I only say one more thing. All those who are here are in full sympathy with the efforts of Government to check illegal methods. We are in full sympathy with the Government in their efforts to bring chaos and disorder under control. We do want to help Government to establish order where there is disorder. But in doing that, we want to warn them "In your zeal, please do not commit serious mistakes, if possible". We are the representatives of the people. I do not say that honourable members on the Government benches do not know them, but I do claim that those who are on this side of the House know their people better than possibly the officials and others can know. Many people are afraid of approaching the Government officials. The people say "They are big officers". We are more accessible to the people. We know what their

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thoughts are, and it is our bounden duty to express exactly and fearlessly what they do feel. It is from that point of view that the popular representatives have taken up this position. It is not to sit on the fence ; it is not with any personal motive ; it is nothing of the kind. It is the sense of duty that has prompted the Opposition to state clearly and fearlessly, without favour or fear, what they think of the Bill, and I hope the Government benches will take it in that light, and do what they can to mitigate the harshness of the measures which they are proposing to enact, if at all this Bill comes to be passed.

Moulvi Sir RAFIUDDIN AHMAD (Central Division): Mr. President. I rise to support the first reading of this Bill. I am sure that there is no member of this House, who would willingly allow the freedom of his country or the rights of his countrymen to be reduced, and it is with the greatest regret that I have risen to support this Bill.

Sir, it has been said that Sir Abdur Rahim has opposed a similar Bill elsewhere. As far as his legal knowledge is concerned, I have nothing to say. It seems that he has, on purely legal grounds, opposed the necessity for such a Bill, and the Advocate-General has effectively answered him.

The Honourable the PRESIDENT: The Bill in the Assembly.

Moulvi Sir RAFIUDDIN AHMAD: Yes, Sir. But I would like this House to consider his whole policy as a public man. He and I have been both members of the Moslem League, and supporters of its policy. I would like honourable members to read his speech as President of the League at Aligarh in the year 1925 ; his attack on the ways of the Congress, particularly non-co-operation, is the bitterest that has ever been made. Indeed, all the Congress newspapers of Bengal have always denounced him. It is no use bringing out a single speech of the honourable member, specially when it only deals with legal aspects. I do not attach much importance to that speech. Why do we want to support this Bill ? The answer is best supplied by the presence of the nationalist members here on the opposite side. My honourable friend Mr. Petit the other day attacked the Government bitterly, and let me assume that his defence of the Congress was sound. But he also said that he has now abandoned the Congress.

Why is he not a member of the Congress ? Evidently because the Congress has adopted unconstitutional methods which he dislikes. Let me examine the several stages of the Congress.

In the year 1920 Mr. Gandhi advised the whole country, Hindus, Mahomedans, Parsees and Christians to have nothing to do with the reformed Legislative Councils and he fully expected that the whole country would follow him. He was sorely disappointed. First, because the Mahomedans did not join the Congress ; secondly, because the sensible portion of the Congress party, some of whom are now on the opposite side, left it. The Congress further asked the people not to vote at the elections nor to join the Councils. All sensible men of India

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disagreed with that view. Long before-1920 there had been a split in the Congress. In the year 1908 one of the founders of the Congress, Sir Pheroze Shah Mehta, had to abandon it at Surat. He established the Convention as against the Congress. He was a farsighted leader. And all sensible Congressmen and indeed all practical politicians who had seen the ways of the world followed him. Even without the interference of the Government the leaders successfully controlled the masses of the people. But men like Sir Pheroze Shah Mehta and Mr. Gokhale are dead and gone, and their places have not been taken up by men of equal influence and ability. [*An Honourable Member*: "What became of the Convention?"] I am not concerned here with what became of the Convention. I am only concerned with the fact that men of the type of Sir Pheroze Shah Mehta and Mr. Gokhale had to abandon the Congress and establish other associations twenty-five years ago. [*Interruption.*] I do not want any interruption. If you will only bear with me for a few minutes, I shall feel highly obliged. In those days the people followed Sir Pheroze Shah Mehta and Mr. Gokhale. The Congress drifted more and more into unconstitutional ways. Then came the Morley-Minto Reforms. In 1920 came the present constitution. The Congress non-co-operated with the Reforms. People were nervous lest the entire political power of the country would go into the hands of the extremists. But, thanks to the good sense of the people, the Congress again failed, first because the Mahomedans joined the Councils, the non-Brahmins followed suit and all moderate and sensible Hindoos joined the Councils. I therefore contend that the Moslems have a special responsibility in supporting the Government on the present occasion, because they had helped to make the Councils a success. Government depended upon us and we depended upon Government; such is also the position of all classes who co-operated with Government. If the same circumstances reappear, all of us have to help the Government again. I have already said that the Congress did not succeed in getting the people to boycott the Councils. Its leaders said that it was a huge mistake to avoid the Councils and advised their people to join, with a view to make them unworkable. Thus the Swaraj Party came into existence and my friend Mr. Jayakar was the head of that party in this Council. I used to sit next to him. One day I was told that the Ministers were weak and had no stuff in them. I told him it was no use blaming the Ministers. He could become a Minister with his large party if he liked. It was against the principle of the party and he said it could not be done. I told him that in that case, if his party allowed inferior people to become Ministers, his party was responsible for their failings.

The Swaraj Party did their best to subvert the Constitution, but they entirely failed. Part of the time—you remember, Sir, you were sitting here on this side,—they muzzled themselves to gain their object. Questions were not asked nor speeches made by them in the Council. If a soldier resolves not to use his sword in a battle, the enemy has every reason to thank him. The tongue of the members is the most important

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weapon in the Council and, should any of them be so foolish as to vow not to use their tongue, the Government has nothing to fear from them. They found out their mistake and soon unmuzzled themselves. Only two years ago, there was a truce between the Congress and Government. Many of us thought that it was a great blunder on the part of the Viceroy to make a pact with a single individual, however influential, and thus to recognise him as his equal in the land. But that was done. We all thought that the Viceroy, who was a great statesman and a good Christian, must have done it in the interests of peace.

Mr. Gandhi, after many false starts, really departed for England and joined the Round Table Conference. The cause of India depended upon Hindu-Moslem unity at the Conference. Mr. Gandhi refused to agree to the Muslim demands and this was the greatest blunder that he committed. If Mr. Gandhi had listened to the Mahomedans, he would have become the Dictator of the Conference. But he did not choose to do that. The Minorities pact had then to be made. In that pact separate electorates were agreed to for the Depressed Classes, the Mahomedans, the Anglo-Indians and the Christians. Then Mr. Gandhi came to the Mahomedans and said, "I am willing to give you separate electorates provided you refuse the same to the Depressed Classes." The Mahomedans replied that they had made a pact with the Depressed Classes and would loyally adhere to the same. After this Mr. Gandhi came to India and started the Civil Disobedience Movement and a parallel government in India. What Government would have tolerated a rival power? The British Government had to get on or to get out. No intermediate step was possible. The Government preferred the former course. Our duty was clearly to help and co-operate with the Government. You remember, Sir, why the Cotton Bill was introduced in the Council. My honourable friend sitting behind me had declared that the Congress had made it impossible for trade to be carried on peacefully in Bombay. The Mahomedans were singled out for boycott. Hindu-Moslem riots took place in Bombay. Any Government, constitutional or despotic, was better than anarchy. Anarchy prevailed in Bombay. It may or it may not have been for political reasons. I do not say it was for political reasons. But a strong hand was necessary to deal with the ringleaders, that is to say, the *raj* of the hooligans. Both the communities, who then did realize that a strong Government was indispensable, were only too pleased to go to the Police Commissioner for help. Whether it be an alien Government or a swaraj Government, a Government without strength is no Government. A weak Government must go to the wall and, if we have a Government, we should do our best to strengthen its hands. So long as we ask our Government for help and for protection, that Government must be made strong to enable it to give us protection.

I have very great respect for my friend Mr. Petit, who made an excellent speech yesterday. Would he allow me to say that it was

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a sentimental speech, such as is generally made on the platform to rouse the feelings of the people? It was not a speech for a debate. He said, first give self-government, and everything will be all right. But what are the conditions of self-government? Mr. President, you must have read the speeches of the Sikhs in the Punjab after the announcement of the Communal Award. One extra Mahomedan seat in the Council they said was in their opinion Mahomedan *raj*. They would fight to prevent it. How could self-government be granted or maintained under such conditions? I say it is more the fault of the Indians than the fault of the English people that we have not got self-government. If we are united, and make ourselves fit for self-government, such Bills will not be necessary at all. [*An Honourable Member*: "The Allahabad Pact is a fact."] Allahabad Pact or any other pact is a piece of paper. No pact is required, but a change of heart. That was what Mr. Gandhi himself had said. The minorities and majorities must undergo a change of heart and vision. Only then there would be peace in India and ordinance *raj* would at once disappear. The Mahomedans are as brave, as patriotic, as any other community. They are not afraid of swaraj. They have governed the country for 800 years. But they do not want anarchy and bloodshed. They want the Majority Community to live and let live. If the majority would understand the minorities and adopt a just policy towards them, the problem is solved. It was well said that the people deserve the Government that they have; you must not think that the Mahomedans are flatterers or that they would beslavis to gain their ends. They are a martial people, who have a history of 1,200 years behind them. They will not like to stoop to low and dishonest means. Does anyone see any advantage in removing away a strong Government and substituting anarchy for it? It has been pointed out that the power under the ordinances should be exercised by the Superintendents of Police and not by Inspectors. Has anyone considered the fact that the majority of the Superintendents of Police are Europeans and the Inspectors of Police are Indians? The inference is that Indians hesitate to trust their own people. [*An Honourable Member*: "Who said that?"] We have no confidence in subordinate officers and yet we want full democracy! As Disraeli has wisely remarked, "You must educate your masters in democracy." The example of Ireland has been quoted by an honourable member; India cannot be compared with Ireland. Ireland was united before they got Home Rule. Educate and unite. Even if full self-government were given to India to-day, she will not be able to govern herself because of disunion. Anarchy and bloodshed will follow.

Sirdar Davar T. K. MODI: On a point of order, Sir. Is all this relevant?

Moulvi Sir RAFIUDDIN AHMAD: Sir, I must remind my interrupter that I am the oldest member of this House and know the rules of debate. It is no use attempting to teach one's grand-mother how to suck eggs. [*Laughter.*] I assure you that I am extremely sorry to support this Bill. As my honourable friend Mr. Gokhale has pointed out,

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all sides of the House agree with regard to the necessity of destroying the hydra-headed monster of civil disobedience; then we only differ about the methods and means to be adopted.

The honourable member Rao Bahadur Kale assures us that the ordinary law will do. It has, however, been proved by the Advocate General that the ordinary law would not do. My honourable friend and his colleagues have no experience of administration. Those in office to-day positively assure us that the Bill is absolutely necessary to keep law and order. I would trust them. If we distrust the Government and reject this Bill, and if civil disobedience again got the upper hand, Government would throw the responsibility upon this House. On the other hand, if Government failed even with all the powers under this Bill, our position would be stronger. I think it was my honourable friend Rao Bahadur Chitale who remarked that in spite of the fact that we had three Indians in the cabinet, he was surprised to see such a Bill. Well, Sir, whether the Government be English or Indian, if it declares that a Bill of this kind is absolutely necessary to get over the crisis, there are only two alternatives left, namely, either to trust or distrust it. Suppose we distrusted it and anarchy followed. The responsibility would be ours. If we trusted it and gave it the necessary power, the responsibility would be that of the Government and they would have to pay heavily for it.

I think to complain of the excesses of a single Collector or a deputy collector is childish. We have very important issues to settle in the future. For instance, when the deliberations of the Round Table Conference are over and we are not satisfied with the result, there will be something very important for us to differ from the British Government.

The honourable member Mr. Petit complained of the want of sympathy of English official and non-official members towards Indians' political aspirations. He asked them several questions, and pressed for an immediate reply. He only paused for a second; on such grave issues how could he expect a reply in a moment? Let me, however, ask him who it was that initiated the idea of establishing the Indian National Congress in India? The inspiration came from an Englishman, a member of the Indian Civil Service, Mr. Hume, who fed and supported the Congress in its infancy; Sir William Wedderburn, Sir Henry Cotton, Sir William Hunter, all of them members of the Civil Service. With regard to the sympathy of Englishmen for Indian Judiciary, I would quote the instance of the Ilbert Bill in the Viceroyalty of Lord Ripon. I was very young then.

You, Sir, may possibly remember it. It was professor Wordsworth who took the cause of the Indians and taught us how to carry on a constitutional agitation. The times are now changed, but we must remember that the steel-frame has its redeeming merits. With regard to the opening speech of my honourable friend the Home Member, I must express my satisfaction with it. It will not be out of place here to express our appreciation of the manner in which he replies to all questions

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asked by the honourable members in this House. He studies hard and gives us the latest information regarding the questions put to him with all possible politeness and sympathy. I have known him a little more intimately than other members. I must express the regret of the whole House that he would be leaving us very shortly. I assure the House that he is at heart as good a friend of India as any of us present here. With regard to Rao Bahadur Chitale's remarks I may say that we shall show our appreciation of him later, on the proper occasion. I think he is one of the ablest, if not the ablest member of the cabinet, with due deference to my honourable friend Sir Ghulam Hussain—

The Honourable the PRESIDENT: Now the honourable member is really getting irrelevant. [Laughter].

Moulvi Sir RAFIUDDIN AHMAD: I am sorry, Sir, I have been led away by the intervening remarks of Rao Bahadur Chitale. Reverting to the Bill, I must conclude that on the whole the House is agreed upon the principles of this Bill. Some of the honourable members who have denounced the Bill *in toto* have tabled amendments to further improve the Bill. They remind me of the American who said: "Gentlemen, these are my principles, but if you don't like them, I am ready to accommodate and change them for you."

The Bill is no doubt capable of improvements. Personally I shall be happy to support any amendment for which a good case is made out. On my own behalf and on behalf of the Mahomedan members of this House, I have very great pleasure in supporting this Bill.

Mr. A. MASTER: Sir, this Honourable House has heard a number of opinions of all kinds; but some of them highly original and others of them second-hand. We have heard the opinions of eminent lawyers and we have heard quotations of opinions. But as yet no opinion has been given, no idea has been given, of the feelings and experience of the officer whose duty it is to carry out the very unpleasant business of dealing with the civil disobedience movement. I refer to the District Magistrate. As a District Magistrate I was engaged a year ago in this very troublesome and tiresome business. We had to face very great difficulties, and one of the greatest difficulties we had to face was the fact that the ordinary law did not come to our help. It is not my intention to go through the rather voluminous law that existed before the civil disobedience movement. But I must confess I was greatly surprised that more honourable members who are conversant with law did not bring up a good many more instances in which they considered the ordinary law might have been used. We have had Regulation XII of 1827 quoted and also Regulation XXV of 1827, the Criminal Procedure Code and several other Acts including I believe the District Police Act. But there are a number of other pieces of legislation which might have been referred to. I do not propose to deal with them, because they have not been, and as a matter of fact they could not in any way affect the present Bill. But I should like to refer with regard to a point which was made

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by the honourable member Rao Bahadur Kale and that is Regulation XII of 1827. He pointed out but not correctly that a District Magistrate could adopt precautionary measures of a kind which is provided for in this Bill. As a matter of fact, that view, as I say, is not quite correct. The section runs as follows :—

“The District Magistrate is not precluded from adopting precautionary measures of a more lenient nature in the case of a person who may be unable to furnish satisfactory recognizance or security for his attendance.”

This section I had to apply myself only in one or two cases. But this section can only be applied in cases where a person is legally required to furnish recognizance or security for his attendance and it is deemed desirable to allow him other means than those provided for under the Criminal Procedure Code. Under the Criminal Procedure Code a security has to be given or surety has to be taken and sometimes it is found that those provisions are not sufficient, and in that case we resort to this regulation. But it is very rarely that we do so, and we can only do so in those special cases. It may be interesting to the House to know that the District Magistrate, when he is confronted with a problem of any kind as regards the prosecution, has to study the law most carefully, especially when the offence committed is of an unusual kind, and is bound equally to see how far the law applies, and, if after consulting the Government Pleader or, if necessary, referring the matter for the opinion of the Remembrancer of Legal Affairs, it is found that the section of law which he proposes to use cannot be applied, then he refrains from doing so. It is not at all the case, as one honourable member mentioned—it was the honourable member for Poona City—that a district officer, in political cases, is anxious to sweep as many persons as possible into his net. I entirely repudiate that. It is not the attitude of Government officers in any way. We only want to get hold of those who are really doing mischief and we are also particularly anxious to see that they are not harassed by prosecution under a section which will fail. It is not the practice—as I believe it is in some other countries—for Government officers to harass private individuals by prosecutions which they know are bound to fail, and every care is always taken by the District Magistrate to see that the prosecution is made under an apposite section. The honourable House will understand that when there is a widespread movement by persons who have the design of evading the law and of committing undesirable acts which are not actually scheduled offences, the District Magistrate has a tremendous lot of work to do, and very frequently he finds that he cannot take any action at all.

I have hitherto been confining myself to generalities, but the honourable House would no doubt like to hear the kind of acts which we cannot deal with under the ordinary law and for which special measures such as those we have under the ordinances are necessary. First of all, there is the item of terrorism. Now terrorism can be of many kinds. It first of all includes such mild forms where mere disapproval is expressed of those who do not conform with certain rules. Then, after a while threats are used, and the measures taken are of many kinds. I am certain many

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honourable members of this House have had some experience of these measures. The way in which a Hindu can be troubled are very many. The instances I am going to give have all occurred, and I know personally that they have occurred. First of all, members of his caste can refuse to be present at any of his ceremonies, ceremonies of marriage, death, first pregnancy, and many ceremonies which are associated with the Hindu religion. That is considered to be a very great disgrace, and a man who has any self-respect will be very very deeply hurt by the refusal of his friends or relatives to be present at such important ceremonies. Then, there are cases which I have heard, in which wives have been taken away from the houses of their fathers-in-law and where wives have been returned to their fathers by their husbands. This means, of course, interference not only with social life but also with domestic life. Then there are cases in which prominent men have been coerced to become followers of the Congress by bands of young men sitting outside their houses and fasting until the unhappy man consented to join. And those honourable members who are not familiar with Hindu customs and feelings will not realise what tremendous pressure this is on every right-minded Hindu. When you sit outside a man's house and fast, it is a tremendous disgrace to that man. Continued pressure is brought to bear upon him by his womenfolk and his relatives to give in and to confess that he is sympathising with the civil disobedience movement. The question may be asked whether that cannot be prevented by the existing law. Some honourable members may say that there is provision in the Indian Penal Code about sitting *dharane*. It is very doubtful, however, whether a case will succeed under that provision, and we have the additional disadvantage that we have to obtain evidence and have a long case before anything effective can be done. In the meantime, the process is carried out in other villages in the area.

Then I will go through the list pausing occasionally to consider what law should be applied.

Mr. J. B. PETIT : On a point of information, Sir. Is it the design and intention of the Bill to deal with such cases as have been narrated by the honourable member ; and particularly the reclamation of thoughtless husbands, the return of lost wives, the prevention of desertion and lapses of that character ?

Mr. A. MASTER : I was waiting for some honourable member to bring up that point. The new Bill will not return wives to their husbands.

Mr. J. B. PETIT : I am very glad to hear that. Then why labour that point ?

Mr. A. MASTER : It will not remedy any cases which have occurred and which I am trying to describe. But it will make it possible to get hold quickly of those mischief-makers who are going round the villages urging these measures. Of course, these things are generally done by second or third hand. That is to say, a band of young men come round to a village ; they threaten and persuade certain members of the village ; generally the most turbulent men, and it is these people who

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persuade the wives to leave their husbands and the husbands to return their wives. These measures will enable us to get at the mischief-makers before they have real time to make mischief. This is why clause 3 of the Bill is so essential. It enables a Government officer to act on suspicion. We can round up these turbulent people before they have time to do any harm. If it is found, as has very often been the case in the working of the ordinance, that people who have been arrested say that they were misled or that they will not take any further part in the movement and are willing to give an undertaking to that effect, then they are released. It is only when they persist that this kind of work is necessary for the safety and welfare of the nation that they are detained in custody.

I would not continue with the list of various offences, these methods of social boycott and pressure, which the Ordinance Bill is designed to meet. But I would just conclude by saying a word on the land revenue point of view. It has been said that the Land Revenue Code is fully sufficient for the recovery of land revenue. We cannot use its provisions under all circumstances. When you get a number of people in a village who refuse to pay land revenue or when two or three villages join together and refuse to pay land revenue, you cannot work under the provisions of the Land Revenue Code. The Land Revenue Code presupposes that there will be one or two people who will refuse to pay land revenue. That is to say, if there are one or two contumacious people who are able to pay but still refuse to pay, because they think that they can avoid payment, then in the first place the Land Revenue Code provides for them. One provision consists of the forfeiture of land. The procedure is cumbrous, so that nothing should be done in a hurry. Under section 166 of the Code the procedure is described as follows :

" In the case of moveable property, the written notice shall be affixed in the Collector's Office, the Mamlatdar's or Mahalkari's office, and in the chavdi or some other public building in the village in which such property was seized, and on the land."

The notices will have to be affixed in four different places. If by mistake one of the notices is not affixed, the whole thing has to be done over again. Generally the property has to be sold and when there are two or three villages which have combined not to pay the land revenue, it is, of course, almost impossible to find a buyer for the property. The other methods, the coercive methods, provided under the Land Revenue Code take a long time to carry out. The purpose of section 19 is to prevent agitation being set on foot to encourage non-payment of land revenue. I am of opinion that had there been Ordinance at the time when the non-payment of land revenue movement broke out, we would have been able to collect our revenue within a very short time. It would have also saved the people the misery and hindrance of migrating to Indian States and the trouble it caused. When the amendments come up for discussion I will try to show to what extent this section of the Bill is necessary. It is unnecessary for me to say anything more now. I hope honourable members will attempt to show that that section is superfluous and indicate what section of what is called the ordinary law would most suitably apply. I think they will find it very difficult to do that,

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but if they choose to do so, it will be possible to deal with what they will have to say at the time.

I hope that I shall leave honourable members with the impression that the District Magistrates who have to administer directly this measure will not attempt to do so in a spirit of harshness. I think, if honourable members will dispassionately consider the records of Government in this respect, they will see that the Ordinances have been administered with the utmost mildness and greatest consideration. I believe that the effect is that few members of the public are now come under the Ordinance and so few members of the public are imprisoned. It is a very great testimony to the care and indulgence with which Government have administered this present Ordinance. Honourable members may perfectly be well assured that this new Bill will be administered in the same spirit.

Mr. J. B. PETIT: On a point of information, Sir. The honourable member who has just spoken and some other speakers who preceded him, claim that this Bill, when passed into law, is going to be a preventive measure, that the existing laws are not and cannot be preventive, and that therefore this law must have provisions which the existing laws do not possess. Hence, according to them, the necessity of passing this Bill. I want to know from the honourable member whether there is any country in the world where there exists a single Act which is preventive; and, if so, will he very kindly name those countries?

Mr. A. MASTER: I believe in fact there is no country in the world which has not preventive Acts of this kind.

Mr. J. B. PETIT: I was told that there are laws, everywhere in the world, which are either curative or punitive; but never preventive.

Mr. A. MASTER: It is impossible in a matter of this kind to enter into a discussion. It will mean considerable time to get Acts from other countries, scrutinise them and see whether exactly the same provisions as exist in this Bill exist there. Of course, a number of countries do not pass Acts of this kind but take action. For instance, Russia has not passed any Acts of this kind, but their Government acts. In Spain, they do the same thing. The system in very many countries is to issue executive decrees. There is no such thing in English jurisprudence as a decree. The Ordinances take their place. It is very common in European countries and in America to pass decrees on any special occasion; and these decrees will give absolute powers to officers for the time being—absolute powers including arrest, imprisonment without charge and in some cases capital punishment also.

Mr. S. H. PRATER: Sir, I rise to support the first reading of this Bill. The description of this Act as the Special Powers Act implies that the Government is seeking special powers to meet special conditions, which, in its opinion, could not be dealt with satisfactorily under the ordinary processes of the law. It is unnecessary for me to detail what those conditions are. The civil disobedience campaign has placed Government in a position in which its very right to govern is called into

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dispute. The expressed and avowed intention of the leaders of the movement is to urge the masses to revolt against the Government and by mass disobedience of its laws to undermine its authority. The methods used against Government are varied. Some of them are such as would readily commend themselves to people who desire the progress and prosperity of the country. The promotion of indigenous manufactures and the abolition of drink are laudable motives to which no good Government can object. But we know that their ostensible purpose is very different from their real intention which is to bring discredit on Government and to reduce its revenues. Again, the non-payment of taxes, the infringement of the Salt Act and the Forest laws may be construed as measures for the relief of the masses, but we know that the real intention is to bring these masses into conflict with the representatives of the Crown, to fill the jails, to clog the courts and to paralyse the administration; in short, to make government impossible. The efficacy of the methods which are being employed against Government lies first in the devious and overt channels by which they may be made to operate and the ease with which those channels can be controlled without open infringement of the law. The essence of the campaign against Government is secrecy and coercion. It lies in the employment of channels which flowing from many easily concealed sources of infection permeate every strata of the population and infect it with such hatred of Government, such contempt for its authority, as must inevitably lead to open hostilities against it, or in the secret and tyrannical coercion of the individual to act against Government under threats of boycott, social or economic. Such is the intangible nature of the methods by which Government is threatened that in its own defence it has not only to strike at open antagonism but also at the hidden power behind that antagonism. Some of the provisions of this Bill are designed to strike at the hidden sources of infection and to stem the channels by which they operate. Government in its own defence and in defence of the people who are subject to the malign influence of the movement must act promptly and expeditiously. It must not only be able to act against an offensive, but must be able to forestall an offensive which may break out at any time and in any quarter, and it cannot do this effectively unless it is armed with the powers which this Bill seeks to give. The powers may be arbitrary; they may be open to abuse or misuse; that is admitted. Unless we wish deliberately to blind ourselves to the facts, we must realise, if we are in real sympathy with Government, that in the peculiar position in which it is placed, it has in its own defence to use these powers. Their effectiveness lies in their arbitrary quality. The Honourable the Home Member has given the House the assurance that these powers are reserve powers to be used only in cases of necessity. To make these powers a dead letter on the statute book, either this illegal movement has to be given up or men of moderate opinion must stand out boldly on the side of law and order, and direct public opinion into channels where respect and regard for the law is maintained. Naturally, the use of these powers by Government is repugnant to all

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of us who have been trained in the meticulous tradition of British justice, but we must also remember that they are equally repugnant to the members of a nation which has created and given this admirable system of justice to India and hitherto administered it in a manner which is beyond reproach. It is possible that this Bill may be amended in certain ways so as to provide safeguards against its misuse or abuse ; but at the same time in amending it to substantially reduce its effectiveness, is to disarm Government and prevent it from being able to defend itself against the forces which seek to destroy it. These powers are not aimed against Congress as a political body. The very fact that Congress co-operated with the Government in the second Round Table Conference will indicate that Government could not and did not object to the constitutional expression of the Congress viewpoint, however much it differed from it. But when that viewpoint is expressed in terms of revolt and rebellion, then Government, because it is a government, must oppose it with all the forces at its command. It is ridiculous to say that these powers will crush the Congress ; the Congress stands for an idea which is enshrined in the hearts and minds of men, and which cannot be effaced by these methods. But when that idea is expressed in the manner in which the leaders of the civil disobedience movement choose to express it, then its power for harm is being checked and reduced. I would like to quote to this honourable House the words of Mr. Chintamani, a bold and fearless leader who has served his country admirably. I was present at a luncheon given by the Welfare of India League, at which Mr. Chintamani spoke. In the course of his speech he roundly trounced Government for the change it had made in the methods of procedure of the Third Round Table Conference. At the end of his speech he was asked : " What do you think of the civil disobedience movement ; is it harmful ? " Mr. Chintamani said :

" I am not one of those who give lip service to the Congress, who wish others to suffer and to go to jail for me. If I did not think that this movement was really harmful to the country, then I would be in the jail to-day."

Those are the words of a man who has served India loyally and well. That the movement has done real harm to the country few will deny. It has done moral harm and material harm. Its moral wrong lies in the inculcation of a spirit of lawlessness into the masses. This is revealed in a great increase in crime, such as murders, robberies and dacoities, which took place specially in those seven districts in which the civil disobedience movement was rife. For evidence of what I say, I ask this House to refer to the report of the Inspector General of Police for 1930. Far more serious than this I think was the insensate attempt to inculcate the same virus into the minds of school children, to instil in them contempt for authority, disrespect for the wishes of their teachers and parents. Is this the dread heritage we wish to leave to a self-governing India ? A generation brought up in the tradition of disrespect for authority and trained to disregard and break laws ?

Now coming to the political aspect of the question, I will at once admit the tremendous contribution made by the Congress in rousing the

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national spirit in India and also the tremendous contribution that it has made in speeding up and perhaps in enlarging the scope of the Reforms, but instead of bringing that tremendous force and influence to bear on a constructive solution of the problems before the country, it has wasted its strength in a destructive and abortive campaign which threatens to throw the country into disorder and chaos. What India needs today is peace, peace for her economic recovery, peace for a solution of the problem confronting her, and therefore, I beg this House to appeal to the leaders of the Congress for a change of heart, to give up this destructive campaign and to co-operate with the other sons of India in the building up of a constitution which will place the responsibility for the government and the administration of the country in the hands of the Indian people. But if this cannot be, then let all men of moderate opinion stand boldly on the side of law and order, so that we can hand over to our successors in this Council an orderly government; an orderly administration and a people imbued with respect and regard for the law of the land, for this is the basis of real prosperity and real progress of a country. [*Applause.*]

Rao Bahadur S. N. ANGADI (Belgaum District): Sir, we have had several speeches read out to us and also long extracts of opinions of eminent Judges and also eminent politicians read out to us this morning, and it is really with great hesitation that I am participating in the debate. To my mind it seems that the issue before the House is very clear. The question is whether we want to rely upon the promulgation of ordinances by the Governor General or whether we want to co-operate with Government and share the responsibility along with them in serving the people as was pointed out by His Excellency the Governor, or in other words, whether we want a Government as constitutionally expressed, based upon reason and argument and upon the wishes of the people, or whether we want anarchical conditions. I think this is the clear issue before the House and if we do not keep this issue in mind, we would certainly be beating about the bush.

You know, Sir, that during the last two years, we have been governed by these ordinances and when the life of one set of ordinances expired, their life was extended by being re-enacted and continued for a certain time, so that a time came when there was a clamour all over the country that we were being most arbitrarily governed by the rule of one man and there were people in the country who were willing to co-operate with Government, who realised their sense of responsibility, and if really an appeal of this character was put before them, they would see their way to grant special powers if the gravity of the situation demanded. This was the clamour which was all over the country, and it was for that reason I suppose and it was by way of meeting this clamour in the country that different Governments in different provinces have been introducing bills of this character.

A question was asked by some honourable member as to why is it that the Government of India (meaning the Assembly) could not take upon itself the entire responsibility of passing a bill for the whole of

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India? I think that part of the question has been very well answered by the honourable member the Advocate General and I do not wish to repeat those arguments, but as I pointed out, it was only by way of meeting that clamour in the country that a bill of this character is sought to be introduced into this House. Our clear duty is to see whether there is a necessity or there is no necessity for giving these special powers. If we concede and if really clamour that one man should not be the sole authority and that he should not promulgate ordinances, that it is better that the legislators should realise their own sense of responsibility and that if the situation really demands that we should grant certain special powers to Government, then it is our sacred task to see whether there is really a necessity for a bill of this character or not. Now, Sir, several arguments have been advanced and it is said that civil disobedience is practically dead, and therefore the question is whether there is any longer any necessity for a bill of this character. Undoubtedly, it is true, as was pointed out by even the Honourable the Home Member, that the civil disobedience movement is practically dead, but certainly it is not dead in the sense that when a man dies he will not return from the grave. It might show sometimes signs of revival if there are favourable circumstances for it and that is exactly the aspect of the question which we are called upon to consider. If we think that civil disobedience is practically dead and that it is not likely to revive, then in that case it will be our clear duty to throw out this bill. But the question is whether we are prepared to hold that view. I do not think from the several speeches which have been heard on the floor of this House that any honourable member suggested that it was not at all possible that civil disobedience would raise its ugly head once more and do harm to the interests of the country. I do not think that any honourable member suggested this and if this was not suggested, then it becomes our clear duty to hold that there is every likelihood of civil disobedience again spreading all its evil effects all over the country, and if that be so, it clearly becomes our duty to support a bill of this character.

Now, Sir, the question is this. It was just now pointed out by the honourable member Mr. Prater, who quoted the opinion of Mr. Chintamani, a veteran patriot, that it was no use showing lip sympathy to the Congress. Either we are co-operators or non-co-operators, there is no half-way house between those two, and so I say that if there are honourable members who hold the view that non-co-operation is really a constitutional weapon, then for those who hold that view the way is quite clear. I think such of those who hold this view had better be His Majesty's guests sitting at the feet of Mahatma Gandhi in the Yeravda jail; it is no use being hypocrites. I say this in all seriousness, Sir. If we know that civil disobedience is really best in the interests of the country, then we must be frank and candid enough to say that it is so, and practise it ourselves, but if we honestly hold the opinion that civil disobedience is not conducive to the best interests of the country, then we must say that we cannot support such a movement and we should then make

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every effort to take precautions against and to put a stop to such a movement. Otherwise, I do not understand the mentality of those who in every sentence they utter in the course of their speeches condemn civil disobedience and ultimately say, "All right, let it merrily go on, but this bill is not wanted." I think, Sir, that we must all realise our sense of responsibility. It is not that we are irresponsible people, there is a sense of responsibility attached to our position as honourable members of the House. It is true that the masses do not understand such large issues and it is therefore our duty to put them very clearly and in very simple language before them and to give them explanations of what they do not understand. It may be that the bill is not a perfect bill in all ways. In that case, I think we may make certain suggestions and may be the Honourable the Home Member and Government would be only too glad to accept reasonable suggestions so that the bad part of it may be removed. Taking this view of the matter, I say there is a necessity and it is very likely that the movement might again start, and if it starts we know what the consequences are going to be and it is for this reason that I am going to support this bill.

Now, Sir, the most important question to be considered is this. It has been pointed out by very eminent lawyers on this side of the House—and that is the crux of the whole question—that the law of the land is quite competent to deal with the situation created or to be created by this movement. Of course, the honourable member the Advocate General answered all these objections and I do not think I should mar the sanctity of those arguments by saying something more. However, I have my own objections. I am myself a bit of a lawyer, and I know that very often we make a very repeated reference to section 144 of the Criminal Procedure Code without any precise idea as to its scope. I would like to know from honourable members, particularly the lawyer members, whether resort to that section could be legally had under certain circumstances. I will give them certain examples. Let us suppose for a moment that thousands of volunteers are just contemplating the cutting down of toddy trees. Section 144 of course is an emergency section. All the same, there is a certain procedure which has got to be followed. Now, this information the officer concerned gets just in the nick of time. If that silly act is not nipped in the bud, we know what is going to be the loss to the persons concerned. Suppose thousands of volunteers are going to cut down toddy trees. They might cut down any number of them, and it might mean a tremendous loss to the owners of the trees and also to Government. If that kind of act has got to be nipped in the bud, I want to know from the honourable member Rao Bahadur Kale who particularly raised this point, whether section 144 of the Criminal Procedure Code would meet with an emergency of that kind. Of course, if we were to stretch the meaning of the section beyond the scope of the section as far as we could, then anything is possible. If that is the idea which he wanted to put before the House, then I might understand him; but that is obviously an absurd idea. Personally, I should think that such a thing would not be governed by that section.

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Take another example. Suppose there are volunteers who want to commit a salt raid. They are going to a certain place, and they declare that they are going to commit a salt raid. Suppose, unfortunately, this information reaches the authorities just in the nick of time. There are thousands of volunteers who are going to take part in the raid. There is also the question of certain people giving the loan of their motor cars to the volunteers to take them to their destination. I want to know whether the owners of the cars who lend them to the volunteers and the volunteers themselves who go there to commit a salt raid could be dealt with under this section. These are practical difficulties which I have not been able to solve. If the honourable member Rao Bahadur Kale says that all these things could be brought under that section, then I have nothing to say except protest against such interpretation. Personally, I feel extremely doubtful about it. There is only one remedy, and that is to add an explanation to the section saying that any offence not covered by the wording of the section should be considered as being governed by the section. If we add a stupid explanation of that character to the section, then possibly offences of the kind I have mentioned might be dealt with under the section. But as the wording of the section stands at present, I do not think acts of this character could be dealt with under that section. And it is exactly to meet mass civil disobedience of the description I have given that this Bill is brought forward.

Again, my honourable friend Rao Bahadur Kale said that there is section 124A, which is characterised as the prince of sections in the Indian Penal Code by Mahatma Gandhi. I know there is that section, and it deals with sedition. But the question is this. You know that so far as the civil resisters are concerned they make no secret of it. They say "Sedition is our religion". Every one says it from the house tops; there is no secret about it. The question is whether you are going to deal with every man who says like that under that law. How are you going to deal with people like this? Suppose there is an audience of 50,000 people, and every one of them says "Sedition is my religion". I give you a situation of that kind, and I want to know from my honourable friend Rao Bahadur Kale how he is going to meet a situation of that character? I feel these difficulties very honestly, and therefore I am putting these questions to him. The only method of regularly dealing with these people under that section is to put them up before a court and have a regular trial. Are we prepared for a trial of that character in each case? Are we to have 50,000 prosecutions? What does it mean? These are obvious difficulties which I feel.

I do not deny that in administering the law there may be mistakes made by certain officers. Nobody denies that; Government do not deny that. It is human to err. Government is as much human as any one of us. But to say that every officer does that is to say too much. I do not think my honourable friend Rao Bahadur Kale is of that opinion. If that be so, if it be a fact that, in the majority of cases, the law is administered in the right spirit, then of course it is no use pointing out one or two solitary instances here and there. There it may be the

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law has not been properly applied. It may be that a certain officer has exercised his own private vengeance. I concede all that, but that is no reason for rejecting the Bill. The question is, how are we going to meet the situation which is there, or which is likely to be there if favourable conditions are there? It is from that standpoint that we have got to consider the Bill.

Now, I know that several honourable members gave a number of instances in which mistakes were made. It was also pointed out by my honourable friend Rao Bahadur Chitale—it was a personal reference—that he very narrowly escaped a prosecution under the Ordinances. It might be. That was quite possible in his case. Knowing as I do my honourable friend Rao Bahadur Chitale, it is very natural that sometimes he is very liable to be suspected. [Laughter.] What I say is this. I have been listening to his speeches all these years, and I always find that if anybody wants to read him correctly, he should rather read his peroration than the first part of his speech. Unfortunately, I do not know whether every officer does read him like that. Probably, one or two of his sentences are quite capable of being interpreted wrongly, and so if the District Superintendent of Police had given a notice of that character, I do not see anything surprising about it. [Laughter.] I have seen that many of the speeches he has made here are really like that. In the beginning they seem to be very violent, but at the end we find that he has almost come down and has agreed to support the measure. At least that is the impression I carry in my mind. I do not know whether that is the impression also of the other honourable members. Anyhow from the speech which I have heard yesterday I have got that impression on my mind.

Now, as I said, there is a likelihood of the civil disobedience movement again starting and we have to guard ourselves against such a contingency, and if we are to do that, it becomes our clear duty to support the Bill. Now coming to the provisions of the Bill, I think something is necessary to be said.

As regards the preamble, the difficulty of the Government seems to be that, if they say or if they specifically mention that this Bill has got to deal only with the civil disobedience movement and no other movement, probably mushroom institutions might grow up under false names and they might create the same trouble. That is the difficulty which the Government have been pointing out. On the other hand, we on this side equally feel that, if that is not made clear, innocent people might be unnecessarily hauled up and a lot of trouble created for nothing. For instance, it is very easy to imagine a case of this character. Suppose, for instance, there are a group of villages which have been suffering from chronic famine and which really are not in a position to make payment to Government. Now supposing people like me or Rao Bahadur Chitale go to those villages and study the conditions, and get ourselves convinced that their position is really pitiable and that they are not in a position to pay the revenue to Government, what is to be done in these

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circumstances? Now quite honestly it may be misconstrued that we have also turned out to be agitators, because such a mistake was made in the case of Rao Bahadur Chitale. It is very likely that an officer might commit that mistake and he might think that we are agitators, that we are supporting the villages in not paying the Government dues. So we do not know what to do. We are on the horns of a dilemma. I think something has to be done in order to make it clear. I hope some practical suggestion will be made by the Advocate-General. It is for him to suggest something by which this particular aspect of the position, to which I am making reference, would be made clear. If that is not done, we are really afraid that the position of many innocent people and many innocent public men who really want to help the villages who have suffered, will be very awkward, and I hope this suggestion will be given a serious consideration by Government.

Now, so far as sections 18 and 19 are concerned, I should personally think that for the purposes of government and in order to meet the situation that may be there or may be created, section 18 will be quite sufficient. I should honestly think so and will tell you my reasons. No-tax campaign is generally organised by intelligent people. Take any village. In the village it is not that every villager inhabiting that village is intelligent like the few leaders. These brainy leaders are only 4 or 5. I do not think the number is in any way more than that and we have already made provision for dealing with such persons in section 18 and, if you catch hold of and trap in these 4 or 5 persons only, the whole thing will disappear and collapse, and for this reason I honestly believe that no earthly purpose is going to be served by the retention of section 19.

Now, my objection to section 17, Part II, is this, that by this provision Government are intending to extend protection to landlords. So far as I believe,—and I do not know whether the Government also do not say it,—I think it is not preposterous to draw the presumption that no landlords have come forward representing to Government that they want protection of this character. We have not been told by any honourable member on the other side that there was a serious demand and therefore Government are incorporating that provision. It is not said that the landlords everywhere are being harassed.

Moulvi Sir RAFIUDDIN AHMAD: Can you not dilate more on this point when the real amendment comes?

Rao Bahadur S. N. ANGADI: I can do that and I can also do it now. Therefore, I say that you are giving uncalled-for protection to the landlords. Now, if you read section 21 with all its sub-sections, you will find that that section seems a little funny. You are giving extraordinary protection to the landlords and you are not giving the least protection to the tenants [*An Honourable Member*: "What about Sind Zamindars?"] I think they are quite competent to take care of themselves. They have never demanded it. The funny part of this section is this, that, simply the landlords has got to put in an application to the Collector that so much amount is due from a tenant, and the

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Collector can immediately take steps to recover that amount from the tenant, and supposing by mistake or by the wrong representation of the landlord an extra amount is recovered from the tenant, the remedy in such a case which has been granted to the tenant is to go to the Court and recover that extra amount. A very funny thing! I think this is a provision which really works very hard upon the poor tenants. I do not think the conception of justice and equity will permit us to allow that provision in that particular form to remain in the Bill.

Going back a little, I find that under section 10, Chapter X, the District Magistrate may by an order in writing depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made. I think a little modification is necessary there. The head constables are very illiterate and you cannot expect them to follow the speeches of public men. I do not think that their intelligence is so high as to follow the speeches of these public men. In many cases I am sure they will not be able to follow and it is quite possible that they would make a false report. Besides, they belong to a very low grade of service and it is quite possible, and even probable, that sometimes they may be tempted at the instigation of some private people to make a false report.

The Honourable Mr. W. F. HUDSON : Though they are called head constables, they are as a matter of fact clerks. Some of them are expert shorthand-writers. Their grade is head constable's grade.

Rao Bahadur S. N. ANGADI : What are their qualifications ? They might be trained in shorthand.

The Honourable Mr. W. F. HUDSON : They are expert shorthand-writers and hence highly educated.

Rao Bahadur S. N. ANGADI : I doubt whether they would possess that degree of intelligence which would enable them to follow the speeches. Well, that is only a point which I made out for the sympathetic consideration of Government. Now as regards sections 29 and 30—

The Honourable the PRESIDENT : Is the honourable member likely to take long ?

Rao Bahadur S. N. ANGADI : No, Sir. I will finish in a few minutes. I find that there is some confusion and misunderstanding as regards sections 29 and 30. To my mind they are pretty clear. Under the Ordinance, it was clearly laid down that where the fine did not exceed Rs. 1,000 or the sentence did not exceed one year, then no appeal lay. I do not see anything objectionable in these two sections.

With these remarks and hoping that section 19, regarding which a very eloquent speech was made by my honourable friend Dewan Bahadur Dongersing Patil, will be deleted, I resume my seat.

The Honourable the PRESIDENT : I should like the debate on the first reading to end to-morrow, if possible, if the honourable members will help me. As suggested by the Honourable the Mover of the Bill, if possible, the honourable members should not exceed half an hour.

[The President]

There are three honourable members whose amendments have yet to be placed before the House. They have to be given a chance. I would like to allow as many speakers as possible. If they only make short speeches, they can themselves get a chance and give others also a chance.

The House is now adjourned to 2 p.m. to-morrow, Friday, the 25th November 1932.

Friday, the 25th November 1932.

The Council re-assembled at the Council Hall, Bombay, on Friday, the 25th November 1932, at 2 p.m., the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding. :

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ACHREKAR, Mr. A. B.
 ADVANI, Mr. P. B.
 AMINUDDIN, Mr. SAIYID
 ANGADI, Rao Bahadur S. N.
 ARBUTHNOT, Mr. C. W. E.
 ASAVALE, Rao Bahadur R. S.
 BAKHALE, Mr. R. R.
 BALOCH, Mr. HAJI MIB MAHOMED
 BANGLI, Mr. A. K. J.
 BHUTTO, Sir SHAH NAWAZ
 BHUTTO, WADERO NABIBAKSH ILLAHIBAKSH
 BIJARANI, Khan Bahadur SHER MUHAMMAD KHAN
 BIRADAR, Sardar MAHABOOBALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CHIKODI, Mr. P. R.
 CHITALE, Rao Bahadur G. K.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Saheb B. G.
 DESAI, Mr. H. R.
 DHALUMAL LILARAM, Mr.
 DHURANDHAR, Mr. J. R.
 DIXIT, Dr. M. K.
 D'SOUZA, Dr. J. ALBAN
 GANGOLI, Mr. G. S.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GHULAM HYDER SHAH, Mr.
 GHULAM NABI SHAH, Khan Bahadur
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 GREAVES, Mr. J. B.
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.

HUMPHREY, Mr. JOHN
 JAM JAN MAHOMED KHAN, Khan Bahadur
 JAN MAHOMED KHAN, Khan Bahadur.-
 JITEKAR, Mr. HAJI IBRAHIM
 JOG, Mr. V. N.
 JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHQRO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MATCHESWALLA, Mr. G. E.
 MAXWELL, Mr. R. M.
 MEHTA, Mr. M. H.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETTIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHAIKH ABDUL MAJID, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dt. P. G.
 SPENCE, Sir REGINALD

SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SYED MIRAN MAHOMED SHAH
 SYED MUNAWAR, Mr.
 TALPUR, MIR BANDEH ALI KHAN
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.
 VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
 VANDEKAR, Rao Bahadur R. V.
 WINTERBOTHAM, Mr. G. L.

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER).

Question again proposed : "That the Bill be read a first time."

Mr. G. DAVIS : Sir, so many speakers have already spoken that I speak now with some diffidence, but I will endeavour to answer the question that has been so persistently put, namely, why is the present law inadequate to deal with the present situation, though I feel that even if I do give an answer that may appear satisfactory to some, those who have most persistently put the question seem already to have made up their minds to vote against the bill.

Sir, in considering any measure, in considering any law that is in force, in considering a new law that is to be passed, we cannot consider it apart from facts, we cannot consider it *in vacuo* ; we must consider the mischief to be remedied. When I listened to the amiable and learned discourse of the honourable member for Bombay University and when I listened to the cries of the honourable member on our right who is absent to-day, of slaves, bondsmen, serfs and helots, I thought that all these arguments were vitiated by the fact that they were not related to circumstances as they exist. Sir, facts are stubborn things, and no argument and no sophistry can whittle them away. I propose, therefore, to look at the matter from three points of view, (1) What is the mischief now sought to be remedied, (2) Why is the present law inadequate, (3) Are the provisions of the new law too wide ? I think it is generally admitted that the times are abnormal and I think it is a fair assumption to say that when times are abnormal it is probable that the normal law will be inadequate. Government is now faced and has been faced for years with a movement organised by those whose aim, which aim they do not conceal, is to make Government impossible, to overthrow the Government established by law in British India, and their intention is to fill the prisons to paralyse the Government in the hope that thereby they may attain a greater freedom. I think this is no time for recrimination, this is no time for blame, this is no time to assess responsibility and to say that if the Congress had done

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this and if the Government had done that, things would to-day be different. We are faced now with facts as they exist. We are faced with a movement which has found expression in the most dreadful crimes. So, I have no desire whatever to traverse the ground that has already been traversed, but I think if we are to consider this measure fairly, if we are to judge whether the wide powers which Government ask for—and they are wide—should be given, we must consider the background, we must consider the circumstances, the history of this movement which has forced Government to demand the powers for which they now ask and which are embodied in the bill before the House. Many years ago, it was in 1919, I was Assistant Collector in Kaira, and I learned something from near hand of the results of this movement which it is the purpose of this bill to combat. At Nadiad misguided and deluded people tore up the railway lines: at Virangam and Ahmedabad dreadful crimes were committed. What happened? The normal law was put into operation, as honourable members desire it should be put into operation. Men were prosecuted, men were punished, very heavily punished, they were sent to prison for long periods and were hanged. I remember when I rode out into the villages to see if everything was well, I met people fleeing from Virangam. They told me a Government official had been tied to a chair and burned alive. Policemen had been thrown into the flames of the burning station. Then, we had the disturbances and the dreadful crimes that followed them at Sholapur. When policemen are thus brutally killed and the law is put in motion—I mean the ordinary law, the Indian Penal Code, which honourable members think is adequate to deal with the situation, what happens? Men are put on their trial and they are sentenced to death, and the cry is raised “Judicial Murder”, “Judicial Murder”. Faithful servants of Government are killed in the most atrocious manner. Then those unfortunate men who took part in the killing are put upon their trial and are sentenced to death. Who suffers? Not the leaders of the Congress nor the learned pleaders who appear in court for the prosecution or for the defence, who thus assist in the administration of the law for which they have so great a veneration. It is the hapless wives and children of those who are killed who suffer and the hapless wives and children of those who are hanged. Murders are followed by executions: wives are widowed and children orphaned. And then, when an endeavour is made by Government to prevent such dreadful happenings, it is said “How dare you restrict the liberty of the subject? How dare you place a man under restraint and restrict his movements? How dare you commandeer even in the public interests a man’s motor car?”. These things are dust in the balance compared with the dreadful crimes which this bill seeks to prevent.

Sir, when I speak on this subject, I speak with a certain amount of feeling, because, as a Judge I have had to deal with accused persons; I have had to pass long sentences of imprisonment, I have had to sentence men to transportation, and I have had to pass even sentences of death. Far from grudging Government the powers for which they ask; far from saying that they should not take these powers, I say, that any humane

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Judge would only be too glad if Government would take such measures as would prevent the commission of these dreadful crimes and the prosecutions and sentences which must inevitably follow. I know something of the inevitable harshness of the law.

Sir, it is, I think, unnecessary for me to refer to the terrible events that took place in Cawnpore and in other places. Defiance of the law has been preached in season and out of season; disobedience to the law has been made an article of faith, almost of religion. One honourable member went so far as to quote in support of his opposition to this Bill, Sir Abdur Rahim, a late High Court Judge, who, from the extracts of his speech and his opinions upon the law, which have been quoted to us, I should gather has passed his prime. He said that it was section 144 of the Criminal Procedure Code, that enabled Government to deal with the civil disobedience movement. I believe I am correct in saying that what led to the discontinuance of the civil disobedience movement at that particular time was the dreadful tragedy of Chauri Chaura. This is the background of our new law.

Then we heard my learned friend the honourable member who represents the Bombay University (Rao Bahadur Kale). He says "What about section 27 of Regulation XII of 1827?" Sir, I have gone into the question of this section 27 of Regulation XII of 1827, and, as I will explain presently, it is a section which is really dependent on and supplemental to Chapter VIII of the Criminal Procedure Code. It can scarcely be of great value in the circumstances with which we are called upon to deal, as it can only be applied to a person who agrees that his movements should be restrained. Such are the arguments seriously put forward by members of the opposition, and this is the assistance they give Government in dealing with this very difficult situation which is not of their creation.

As regards the question, why the law of the land is not adequate to deal with the present situation, I think recent history is an answer. It is quite impossible for me to go through the Indian Penal Code, the Criminal Procedure Code and the Indian Evidence Act and all the common laws which I have here to show why those limitations which hedge about proceedings in the courts, which make the administration of justice so difficult, which lead even to miscarriages of justice, for justice miscarries while guilty men who have committed murders and arson are acquitted and go free. But if the honourable member who raised this question is not prepared to accept the opinion of, say, the Honourable the Home Member who has lived in this country for so many years and whose work is Administration, if he is not prepared to accept the opinion even of one of his own countrymen so experienced as Sir Rafiuddin Ahmad, then all I can say is, that he must take the responsibility for his action upon himself, and while now he cries out "Slave, Bondsman and Serf", he may find under the new regime anarchy and death instead of peace and prosperity, and ordered freedom.

Sir, the Indian Penal Code is really meant to punish, not to prevent. It is put into operation with, I may say, not only with all the majesty and pomp but with all the difficulty, the delays and the costliness of the law.

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Evidence must be obtained, witnesses must be produced, only then can the business of the prosecution proceed; then there is the sentence and then the appeal. What happens? The accused man is punished or he is acquitted; he goes to prison and suffers; if he has committed the offence and is acquitted, he may go back again to commit again an offence. Yet so far as I know, the ideal purpose of the law is not to punish, the ideal purpose of the law is, as far as possible, to prevent, and I was indeed surprised at the arguments advanced by some honourable members, especially the Hindu members, who I suppose believe in the teachings of *ahimsa*, of non-violence and mercy, when they pleaded that where Government could by executive measures prevent these dreadful crimes, Government should not take these measures, that Government should wait until murder has been committed, until arson has been committed and then turn the whole country into one vast court, into one vast prison. Congress will profit from this and learned pleaders who will build fine houses and buy fresh fields. It seems to have been suggested the judiciary is a thing apart, that the courts are things apart, that the courts can function even if the Government itself is threatened with destruction. After all, Sir, first comes the Ruler, then comes his Judge, the Judge is paid and protected by the Ruler, the courts are built and maintained by the Ruler, the protection of the police is given by the Ruler and the courts can function only so long as the Government is powerful and can protect. Therefore, I think the argument, that this Bill should be opposed because it enables the executive to take away powers from the judiciary, when the executive really takes powers to enable the judiciary to function, is unworthy of serious consideration.

I will deal now with the actual, specific points that have been raised by my honourable friend Rao Bahadur Kale. He says, firstly, that we do not need these powers, we do not need these powers under clause 3, we do not need these powers under clause 4, because we have section 27 of Regulation XII of 1827. Here is a case which the honourable member can at his leisure read. I do not think I should detain the House by the details and technicalities of the law but the honourable member will see the limited application of that section. It follows upon proceedings under Chapter VIII of the Criminal Procedure Code, and if he refers to the Criminal Procedure Code, he will see that Chapter VIII is devoted mainly to vagrants, vagabonds, habitual housebreakers and thieves. And, after all, Chapter VIII requires long proceedings. I have dealt with proceedings under this Chapter myself. The issue of a notice is necessary, it is necessary to call evidence. One of the defects of the present administration of the law is this, that where there is intimidation, where there is coercion, where there is determination on the part of unscrupulous men to impose their will upon others, the courts cannot get any evidence at all. Witnesses are kept back, witnesses are frightened and therefore the proceedings in court fail because we have no evidence. And so far as I can speak from my own personal experience, I should say that, if Government endeavoured to use these sections, these ordinary sections of the Criminal Procedure Code, to deal with a movement o-

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this particular nature, I should scrutinize their action in court with great caution and with great care, because I would say this is a normal law which was intended to deal with normal circumstances, and I cannot allow the law to be turned and tortured and twisted and used for purposes for which it was not designed and to which it was not intended to apply. I am not going through all the sections of Chapter VIII, sections 108, 109, 110, and so on, until under section 118 the order is passed. These proceedings are long, they require witnesses, and are altogether inadequate to deal with the special circumstances that have arisen as a result of the deliberate inculcation into the masses by Congress of this new doctrine of defiance of the law. Well, Sir, it has been pointed out that in section 108 it is provided that a person can be proceeded against for dissemination of seditious matter. Now, what is seditious matter? Sedition changes from day to day, and I believe it is openly said by the leaders of this movement that the laws relating to sedition, the relevant sections of the Indian Penal Code, are today dead, are of no value, because sedition has been so limited in its application by the Courts. And even then, evidence has to be brought. What happens? Under Chapter VIII the man is bound over. He brings sureties, and if he disseminates seditious matter again, what happens? Why, then the security is forfeited. When I looked up section 108, I saw a case, and I think it is very typical of what would happen. Action was taken against three people for dissemination of seditious matter. The author of the pamphlet got off, because his connection with the pamphlet could not be proved; the printer got off, because it was said he did not know the contents of that which he had printed, and the only person against whom action was successfully taken was the wretched dupe who disseminated sedition by distributing the pamphlets. If the ordinary law of the land only is to be relied on, if, as I shall show after, all proceedings are subject to the limitations imposed upon the courts, justice would not be done. Those who are really responsible for the offence committed will escape, though they are guilty.

I am now going to deal with section 144 of the Criminal Procedure Code. My contention is that clause 4 of this Bill is merely an extension and a necessary extension of section 144 of the Criminal Procedure Code. Now, my honourable friend Mr. Bakhale quoted this great ex-Judge, Sir Abdur Rahim, who, as I said, would appear to me to have passed his prime. His opinion upon the adequacy of orders under section 144 can be at once judged by the heading to the Chapter of section 144. The heading is "Temporary orders in urgent cases of nuisance or apprehended danger". The whole essence of the section is that orders under it should be temporary, and orders passed under it should be temporary and they can remain in force for two months, unless extended by Government under special and limited circumstances. I am not going into details. It is not proper and appropriate that in the First Reading of this Bill in this House we should go into the details of the section. I think honourable members will remember our friend Rao Bahadur Kale read out some of these sections, and I think they will remember how long it took him.

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Imagine proceedings in a court, with my honourable and learned friend Rao Bahadur Kale perhaps on one side and my honourable and learned friend Rao Bahadur Chitale on the other. They both get up and speak and then there is the examination-in-chief, the cross-examination and re-examination of witnesses, perhaps numerous and unsatisfactory. And then what happens? The order is only temporary ordinarily for two months, and it is only directed against a particular individual in particular circumstances, or against people frequenting a particular place. Time after time papers have come before me, and I have been asked to advise whether an order under section 144 could be properly made, and I have said, no. And if Sir Abdur Rahim said that this section was used for purposes of crushing the civil disobedience movement, all I can say is that the law was turned to purposes which it is difficult to justify. I think I am correct in saying that the civil disobedience movement was not then ended by section 144, but it was ended by the terrible tragedy of Chauri Chaura. Does the honourable member suggest that Government should wait until we have a repetition of these dreadful murders and these dreadful crimes?

Well, Sir, I think I have dealt with the definite points raised by honourable members, and I think we are entitled to say that, when they come before us and say that the law as it stands is adequate, they should bring concrete cases, point out the sections, and say these sections would cover all the wide ramifications of this movement. They cannot do it, and I think in this matter we are entitled to say to honourable members of the opposition party that Government would not ask for these powers in addition to the ordinary law of the land if the ordinary law of the land was in itself sufficient; and the ordinary law of the land, as I have said, is hampered by conditions and limitations which prevent effectual action. The new provisions in clause 4 are really in the nature of executive action, and I am going to read to honourable members an extract from the judgment of a judge of very great reputation, a judge who was Chief Justice of Bombay and Chief Justice of Bengal, and whose statue stands in the grounds of the High Court. You will see he recognises in certain instances the necessity of action of the nature that it is proposed should be taken now. He recognises the necessity of administrative law. It was a case under the Press Act, and this is what this Chief Justice said:

"I have said that the ability to pronounce on the wisdom or unwisdom of executive action has been withheld. There was good reason for this. Courts of law can only move on defined lines, and act on information brought before them under limited conditions.

"It is not so with the Executive authority. It would be paralysed if it had to observe the restrictions placed on the Courts. Its action can be prompted by information derived from sources not open to the Courts, and based on considerations forbidden to them; it can be moved by impressions and personal experiences to which no expression can be given in a Court, but which may be a very potent incentive to executive action.

"The Government may be in possession of information which it would be impossible to disclose in a Court of Law, and yet obviously requiring immediate action.

"Therefore a jurisdiction to pronounce on the wisdom or unwisdom of executive action has been withheld and rightly withheld. It may be a question whether even the semblance which this Act provides should not have been withheld as it was by Act IX of 1878.

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"Political considerations and reasons of State are the life blood of executive action, but they have no place in a Court of Law. 'The constitution' said Lord Mansfield, 'does not allow reasons of state to influence our judgments: God forbid it should! We must not regard political consequences, how formidable so ever they might be: if rebellion was the certain consequence, we are bound to say, *fiat justitia, ruat cœlum*.'" "

For the information of honourable members, I would translate this: it means "Justice must be done though the heavens fall." And then the learned Judge goes on to say:

"The fact is that the Executive and Judicial authorities stand on a wholly different plane for the purposes of arriving at a decision as to the propriety of executive action. And the one cannot sit in judgment on the determinations of the other. *Si judicas, cognosce; si regnas, jube.*"

That is to say, "If you are a judge, take cognizance; if you are a ruler, command". Therefore, Sir Lawrence Jenkins recognised as necessary to the existence of the State that type of law that is being embodied in clause 3 and clause 4 of the provisions contained in the Bill now before this honourable House. I do not think any one will contend that any responsible officer of Government would take action under this law for the pleasure of the thing. Its necessity is forced upon Government by dire necessity; and when the honourable member over there said that such a law is contrary to all principles of jurisprudence, then I say that we have here the pronouncement of a judge greater than the judge on whom he relies, which makes it perfectly clear that laws of this nature are necessary and are justified.

Well, Sir, the honourable member Mr. Petit, in his researches for material to oppose this Bill, said, "What about preventive laws in other countries?" Well, Sir, we cannot enter into a discussion here upon international and comparative jurisprudence. We are dealing here with circumstances with which honourable members are probably conversant. Conditions may be different in Italy, conditions may be different in France, conditions may be different in Russia. And if the honourable member really is so anxious to know, well then, he can leave Bombay and pursue his researches on the spot. But I have, Sir, here an extract, if I may be permitted to read it, from the Journal of Comparative Legislation and International Law, and it relates to certain laws that have been passed in Ireland. It contains references to India, and it reads as if it might have been written for the purposes of this debate. It says:

"By the new measure, the Executive Council is given the power to declare in force the substantive parts of the Act, and thereupon the constitution is overridden by the Act so far as it disagrees with it. And the disagreement is profound, for the constitution is intended to secure liberty of person and speech against hasty interference, while the Act provides for the erection of a tribunal of military officers with the widest authority. The tribunal may punish at its discretion every contempt of court—"

A court of military officers, not of magistrates.

"...whether committed before it or not, and it has jurisdiction over a long list of offences under the Treasonable Offences Act, 1925, the Juries (Protection) Act, 1929 the Firearms Act, 1925, seditious libel, and, last but not least, any offence whatever which a minister certifies to have been done in his opinion in order to impair or impede the machinery of government or the administration of justice. Moreover, the tribunal may inflict any sentence it pleases, including death, though no such penalty is prescribed by law. There is no appeal from its decisions, and convictions by it entail loss of office or pension, and

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ineligibility for office. Power is given to the executive to arrest and detain on suspicion, and to proclaim public meetings; unlawful associations may be declared and membership then may be punished at discretion by the tribunal, which may also declare publication seditions and close buildings. The drastic character of the authority was justified by the existence of armed enemies of the government, but the plea of the administration was not cordially received by the opposition. Assuming the justification for the measure it must serve as a grave warning to all engaged in fomenting Indian unrest, however patriotic the motives. The hostility to government which was regarded as patriotism during the contest with England has perpetuated itself in Ireland in the form of hostility to any government whatever however purely Irish, and there is only too much reason to fear that any Indian government will be confronted by the need of equally drastic action. It will be noted how much farther the executive has gone in the Free State than in India, and how useless have proved the declarations of right in the constitution when serious action has been desired."

The tribunals in Ireland are not similar to the tribunal provided here. Our tribunals are tribunals of magistrates; if necessary they can be justified by the fact that tribunals elsewhere have far greater and more drastic powers.

Rao Bahadur R. R. KALE: In what country?

The Honourable Mr. W. F. HUDSON: In Ireland.

Mr. G. DAVIS: Compared with those measures, the honourable member from Bombay must admit that this new measure is mild. I think honourable members need not be frightened by the mere name "Ordinance", when it is considered that the "Ordinance" is embodied in this Bill, even in this form, only after anxious and detailed consideration.

The honourable member for the University (Rao Bahadur Kale) said—I made a note of what he said—that Government have introduced changes in the Bill and that those changes have been introduced in favour of Government. I have made a note of that and I should be glad if the honourable member will contradict me, if I am wrong. That is a gross misrepresentation of the position. Under the existing Ordinance, in the Chapter relating to "Special Criminal Courts" special judges, special magistrates and summary courts have been provided for. Their powers are fixed under the Ordinance, the sentences are fixed under the Ordinance and appeals from them are fixed under the Ordinance. Their powers are very wide. A special magistrate might pass a sentence which he cannot pass, if he were sitting as a magistrate, under the ordinary law. The section runs as follows:

"A special magistrate may pass any sentence authorised by law, except a sentence of death or transportation or imprisonment exceeding seven years."

The procedure is restricted and the courts are given wide powers to try cases in a summary manner. In this Bill, under section 4, a District Magistrate may pass certain orders under certain circumstances. But, Sir, such orders passed by the District Magistrate remain in force only for a month. I have read through the Bill of the United Provinces. There the powers are conferred directly on District Magistrates. Here, the local Government delegates these powers to the District Magistrates only for a month. When powers are delegated to him, he exercises those powers which are included in sub-clauses (a), (b), (c) and (d) of clause 4. It has been suggested that under this Bill the District Magistrate can do anything he likes. This is not the case and when we ask for

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these powers, when we can show that these powers have been used with moderation in the past, are not to be used in the ordinary way, are to be used only in cases of deliberate defiance to and disobedience of the law; that these cases will be tried by ordinary magistrates, that we provide for appeals in the same way from magistrates to sessions judges and from sessions judges to the High Court in Revision, when we can show all this, I think Government are entitled to say: "In view of the fact that cases will not go before a special magistrate but before a magistrate of the first class, is it likely that the powers will be exercised with harshness? Is it likely that, when moderation was used in the past, moderation will not be used in future?" I do not want to enter into the details of the Bill at the first reading. In clause 4, there are four sub-clauses. If honourable members will refer to section 144 of the Criminal Procedure Code, they will see that these powers are only an extension of the powers under section 144. A man can be ordered not to enter into or to "remain in a specified area, to remove himself from a specified area and conduct himself in such a manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order." It is provided that the decision whether an order is to be made, whether an order is or is not necessary, is in the power of the executive Government. In the judgment of Sir Lawrence Jenkins it is clearly recognised that in certain circumstances Government should exercise powers of this nature. But when an order is in force and is broken, when the man is brought up for trial and punished for having broken the order, then, as the learned Advocate-General pointed out, if the order is passed within the powers given under section 4, section 30 will apply; but if the order is outside the powers under that section, section 30 will not apply. The trial Court, the appellate Court, the Court in Revision will have to consider it. Therefore, I say, Sir, that the powers under section 4 are not so drastic as some believe. But when all is said, I do agree that an order under this section is a serious matter. A man may be ordered to remain in a particular place and not to enter a particular place. I agree that it must be humiliating under certain circumstances that a man should be asked to report himself to the police. As a fact, in practice, a man is never asked to do any of these things, until he is given an opportunity to dissociate himself from a movement which has brought so much unhappiness and suffering to this Presidency. And if he refuses, can he justly complain? I think it is better that, instead of being sent to prison, he should be directed to reside in a particular place; he should be directed not to participate in the movement which has led to such unhappiness and suffering and distress. Government is I think merely doing its duty to the masses of the people committed to its charge in bringing in this Bill and passing it into law. Complaint has been made of the fact that the District Magistrate in certain circumstances may restrict or regulate the entrance of a man to a particular place, may even commandeer his car. We have not stressed these powers or these sections because as Englishmen we must think that sections 3 and 4 which restrict liberty of the subject are incomparably more important.

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I do not think I need enter into a further long discussion as to the inadequacy of the present law or the relative moderation and the absolute necessity of this new Bill.

Thus I have shown what is the mischief to be remedied, why the present law is inadequate and that the provisions of the new law are not too wide. I do not suggest to honourable members that it is an easy thing that we ask them to do when we ask them to pass this Bill into law even as a temporary measure. I agree that such action requires wisdom and requires courage. But I think we are entitled, even as regards honourable members opposite, I think we are entitled to call upon their wisdom and their courage, in the service of their country. [*Applause.*]

Sir SHAH NAWAZ BHUTTO (Larkana District): Sir, I support the Bill now under consideration; and in doing so, I have to say that none more than ourselves regret the necessity of having to do so or regret that the causes which necessitate a bill of this nature should exist in our Presidency which has always, and hitherto quite justly too, prided itself upon being the foremost of the provinces in India.

As you yourself can readily vouch, Sir, and as is known to the entire world, Islam is the most democratic religion in the world. It is the religion of the freeman and of the freedom loving man. And any shackles upon real freedom, any tyranny, is perhaps more repugnant to a Mussalman than to any other. But we do not think that the principles embodied in this bill are any fetters upon real freedom; they are rather a reaction and a protection against tyranny of the worst sort—tyranny which has not behind it even the semblance of a legal sanction, not even that sanction of the unwritten law which is claimed for “the voice of the people.”

I know, Sir, that the Congress claims a very large following, it claims to be the predominant political party. But I say, without fear of honest contradiction, that if these claims are put to the real test, it will be found that they have really no foundations in fact. Such of the masses as are claimed to be followers of Congress are poor deluded dupes, who are really not worried as to who hold the reins of Government but who are alive to the urgent necessity of securing two square meals a day. Tell these poor ignorant, illiterate masses that Congress rule means two square meals a day, leisure and freedom from taxes, and you have them at your disposal, whether to shout unintelligently Congress slogans or to take part in Congress demonstrations of the real object of which they are in profound ignorance. The political ambitions of the Congress are known and understood only by a few at the top—to their credit let it be said that they make no secret of their ambitions, of their avowed object of subverting Government. But these political ambitions, these aims and ideals are not those of the masses. If the facts were otherwise, I make bold to say, Sir, that nothing could have held them in check. Not the ordinances, not ten Special Powers Bills, not death itself could stem the tide of any political movement that really catches the masses. The lessons of history are too well known for it to be otherwise. To take only one example. The French Revolution was of the people and by the people; they

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understood what they wanted and they got it. Robespierre and Danton and the others did not create the French Revolution, the Revolution made them. They were leaders only because they reflected and gave vocal expression to the desires of the people, and the moment they ceased to do so they ceased to be leaders. But that is not the case with the Congress leaders; their aims and ideals are of one order, and what the masses are taught of the Congress is something different. But even these misrepresentations have not been successful in seducing an effective majority of the masses. The heart of the greater part of India is still sound. And because that is so the lieutenants of the Congress entered upon a course of tyrannizing them into the Congress fold, and in so doing perpetrated acts so essentially inhuman and barbarous that no Government worth its name could pretend to govern unless it was prepared to forge weapons effective enough to protect those who were not willing enough to accept the Congress persuasion from the innumerable acts of tyranny which were devised by the lieutenants of the Congress. In perpetrating these acts of tyranny there was given the go-by to the instinctive dictates of chivalry, to the elementary rules of decency, to the sanctity of the hearth and the home, and the peace and harmony of domestic and conjugal life.

We have heard details of incidents on all hands, and I have no doubt that the House must have been nauseated by them. It is strange therefore that honourable members of this House should, in the very name of freedom, claim that the Congress should be left free to cut at the very root of individual freedom not only in politics but also in one's own private domestic life. But strange are the ways of politicians. And who can read their hearts? Perhaps an incident which happened not very long ago, may furnish an explanation. Lord Irwin had then decided to hold a conference of Governors of Provinces. Governors of Provinces in their turn convened a conference of leaders for a frank, heart to heart talk, so that they might convey current impressions to Lord Irwin. I was one of those invited to attend by His Excellency the Governor of Bombay. At Government House I met a prominent leader from Bombay City of the so-called Congress persuasion. Before we went in for the conference, he said that the conditions in the city were very bad, and he begged of me to urge at the conference that martial law should be introduced in the city. When I told him that as I was from Sind and he from the City, it would be more reasonable for him to make the suggestion, a look of fear and horror spread over his whole countenance and he replied: "My dear friend, you don't know the Congress. If I were to do so, I should be afraid to leave my house thereafter. I would be stoned to death." And at the conference itself, the same leader was loudest in his condemnation of Government policy and in his praise of the righteousness of the Congress claims. And that, I say, is a very striking commentary on freedom such as the Congress is prepared to concede to the citizen.

If our memories are not short, we can readily recall instances of Congress chivalry. I shall content myself with one which occurred in Sind. The Governor of Bombay was visiting Karachi. He was to attend a function

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at Keamari. On that occasion, Congressmen stopped every car that followed His Excellency's car, and if there was a lady in that car, be she European or Indian, she was first spat upon in the face by the chivalrous Congressmen and then allowed to proceed. Not long thereafter, some Congressmen stopped the car of a European gentleman on Elphinstone Road at Karachi. They made him give up his hat, they made him put on a Gandhi cap, they took one anna from him as the price of the cap, and then allowed him to proceed.

I have had some experience in person too of the freedom-loving Congress. My wife had desired me to purchase an article from Laffans at Karachi. As soon as I got down from my car at the shop, I was surrounded by four pickets of the Congress, who although of the fair sex dealt with me most unfairly. They clung to my legs and thus physically prevented me from entering the shop. It was only the ingenuity of the manager of the shop, who took me through several by-streets, into the shop by a back door, that saved me from the consequences that I would surely have had to face, had I been unable to give my wife the article in question. When the Dandi march was decided upon by Mahatma Gandhi, I saw the repercussions that were bound to follow so far as the zamindars of Sind were concerned. I convened two meetings, one at Hyderabad and another at Sukkur, and urged upon the zamindars to see to it that Congress emissaries did not get into the villages. In the towns, Government had sufficient armed forces at their disposal. Because of these efforts of mine, I incurred the special wrath of the local Congress gods. They decided to invade my very district. They did attempt it. They got into the neighbouring village of Lahori but were eventually beaten off. But this meant, to a certain extent, that we had to take the law into our own hands. It was merely the exercise of our legal right to evict a trespasser. The reaction however was serious. Congress was incensed; their followers lost their heads. The Sukkur riots, and the consequent dacoities, bloodshed, rapine and deaths there, were a direct result of the necessity for freedom as understood by the Congress.

Instances could thus be multiplied galore. But I think we have had enough to understand exactly what this thing called freedom, as understood by the Congress, is. It is, in fact, the negation of all freedom. And it is to prevent such things, and such things only, that the present Bill is designed. We will have to scrutinize the details of the Bill, but the principle of the Bill must be accepted in the interests of freedom itself. Where conditions are such that the law-abiding citizen is, by a section of the people, deprived of his real freedom, such legislation is necessary. We have them in our non-regulation provinces. Congress has reduced our province to the like position. But what must be borne in mind is that the Act which is proposed to be passed must remain a dead letter, unless there are people who set out deliberately to break it. If all law-abiding citizens are left free to pursue their normal avocations and pursuits in life according to the ordinary law, the Act will be inoperative and there

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will be no need for anyone to complain that his freedom is being assailed. And that, in my opinion, is the best justification for the Bill.

Sir, I support the first reading of the Bill.

Mr. HAJI MIR MAHOMED BALOCH (Karachi City) (*Addressed the House in Urdu*): Sir, the Honourable the Home Member who moved this Bill said that this was the most important of all the Bills that he has brought forward in the three and a half years of his administration as Home Member, and he said that he was sorry to have to bring it forward. He added that he was forced to do so by the policy of the Congress, which had induced people to break the salt law, boycott schools and colleges, stop payment of revenues, and picket the shops of dealers in foreign and especially British goods. But may I ask why the Congress adopted such a policy? Are they uneducated people who resorted to these steps or are they insane? And what is the remedy proposed for stopping it? You cannot change the mind of India by passing Bills of this nature. After years of vain pleading Congress were driven to forge the effective weapon of civil disobedience and boycott to attain the freedom of their country. The honourable member (Sir Shah Nawaz Bhutto) the Leader of the Muslim party claimed that Islam was a liberty-loving religion. I ask him to show what liberty he has secured for his province of Sind in the past twelve years. Is it now free? What the Congress has clamoured for nearly fifty years past has been liberty for India. During the past 150 years, the British have been ruling India, and all these years differentiation has been made between the coloured people and the white people. They do not allow us to enter South Africa and other British Dominions and yet all the while the white people have been claiming special privileges in India. When I went to South Africa I was not allowed to enter that country although I was a member of this Honourable Council and an old man of sixty years and I was informed that before claiming any right in that dominion I should secure freedom in my country. Everywhere we are told "go and get rid of your slavery". I ask, are we not human beings? Should we always submit to a rule enforced by a handful of foreign people residing 6,000 miles away and that too in a manner which is neither fair nor equitable? The Advocate-General has recommended constitutional methods. If you act unconstitutionally then you come within the clutches of the law. But I ask him one question. Has the British Government given self-government to any country without a struggle? America, Ireland and South Africa had to fight for self-government and freedom. South Africa gained freedom only by fighting the British Government. India too is following that path. If you want your rule to be lasting then let your laws be such as would not harass and displease the public. The people of India are determined to be free and they will never stop their activities in that direction, however repressive the laws may be. We have no arms or ammunition to enforce our rights. This is the only weapon we have.

Look at the condition of Sind under the British Raj. No man's life is safe, no man's property is safe, no man's self-respect or honour is safe.

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These persecutions are a daily affair. I have been in this Council for the last six years. The honourable members from Sind who always talk of freedom, I ask them, what have they done to redress the grievances of Sind? What have you gained from Government? The general cry is that Sind should be separated from the Bombay Presidency. The Leader of the House suggests that existing laws are inadequate and under them they are unable to jail people sufficiently long! May I ask how long you would like to incarcerate people without trial or justice; and the effect of such prolonged incarceration will merely act adversely on the minds of the people and change their mentalities for the worse. We are told that if we do not pass this Bill the Congress, whose activities have been checked by the Ordinances, will raise its head again after the lapse of the Ordinances. But I ask, are you going to rule over us only for a year or two with the aid of Ordinances, or do you want to rule over us perpetually by peaceful methods? The Honourable the Leader of the House said that to-day the Congress is breaking the laws, to-morrow the Mahomedans and the Sikhs will break the laws.

The Honourable Sir GHULAM HUSSAIN: I never said that either the Mahomedans or the Sikhs would break the laws.

Mr. HAJI MIR MAHOMED BALOCH: On 15th and 16th November there was a Sind Azad Conference held at Sind Hyderabad and a resolution was passed that Sind should be separated from the Bombay Presidency and very good reasons were given in support of such a demand. At that time I told my honourable friends Khan Bahadur Mahomed Ayub Khurro and Mr. Syed Miran Mahomed Shah and other members of this Council that the Government of Bombay were not prepared to separate Sind and I know that they have written to the Government of India accordingly and the latter have represented that view to England because they are unwilling to lose their friends, supporters and allies the honourable members of Sind without whose support they would not be able to hold their own against the Hindu members of Council. I asked them, what would you do if Sind is not separated? I told them that if Sind is not separated, we will also break the laws, we will go to jails, we will face lathis and even bullets and I shall be the first man to receive a bullet in my chest. I ask my honourable friends from Sind, when they give such a weapon in the hands of Government to be used against the Congress, do they not realise that one day the same weapon would be used against them? This declaration of mine was received with acclamation by the thousands at the Conference.

I may say that to-day there are more repressive laws prevailing in Sind than this Ordinance. The Advocate General has said that such temporary laws, such temporary Ordinances, are passed even by the Parliament.

Mr. V. F. TARAPOREWALA: I said temporary Acts. I did not say Ordinances.

Mr. HAJI MIR MAHOMED BALOCH: Laws like the one we have now before us?

Mr. V. F. TARAPÖREWALA: I only said temporary laws.

Mr. HAJI MIR MAHOMED BALOCH: Mr. Advocate-General, would you point out a single law in England which has been passed to suppress people agitating for the welfare and uplift of their country? Under the law now before us a person who only pickets a cloth shop comes under its clutches. I will tell you that five years back I was myself a Congressman. [*An Honourable Member: Why not, now?*] Because the Congress has turned a deaf ear to our demands. When a pact was made by Lord Irwin with the Congress the Hindus became very aggressive and they did not care a straw for the Mahomedans. I admit that for such selfish people a law of this kind is perhaps necessary. But yet I will not add my vote in favour of this law. Although I am first Mahomedan I am nevertheless a true Indian and as such I cannot support this Bill for I know that the British will one day leave India; we Hindus and Mahomedans have to stay in this country permanently. Our children have to live side by side with the Hindu children. Their quarrels today are like quarrels between two brothers of a family.

To picket cloth shops dealing in British goods is an offence. If boycott of British goods is an offence then I ask you why it was that a duty of 300 per cent. was levied on the Dacca Mull Mull and other Indian cloth exported to England? Not only that; a law was passed prohibiting any one from buying Indian cloth. Any breach of this law was met with a fine. Even I understand some Englishmen were jailed for gratifying their taste for these requisite Indian products.

The Advocate-General said that the Congress wants to drive away the English people from this country bag and baggage. I do not know which Congressman has said that. But I know that the creed of the Congress is not such. Nor is it our creed. You are welcome to live in our country, to help us in our administration, but the only thing we want is that the government of our country should be in our own hands. Let us manage our own house. There are millions of people in India who are actually starving, who have nothing but rags to cover them. What have the British people done for them during the last 150 years? We want to rule our country in order to give these starving millions food and clothing. In England, Government distribute doles to the unemployed, but what our benign Government here in India is doing? Nothing.

Sir Shah Nawaz Bhutto has said that the Congress has no following of educated people but only a few illiterate persons. I say that it has the following of almost every community. The Congress have given two battles to this mighty Government and I must say that they were successful to the extent of 12 annas in the rupee. Out of the 50,000 persons that courted jail in the first battle, 12,000 were Mahomedans. There were Parsis, Christians and almost every community at the back of the Congress. The country has been deprived of arms. How then are people to fight for their freedom and rights?

The learned and honourable member the Advocate-General ridiculed the idea of the Congress paying four and six annas a day to its volunteers. What is there to ridicule in it? Does not this very Government hire

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policemen on small salaries and also Indian soldiers? Does it not suppress us with their lathis and firearms? Does it get their services free of charge? After all, every person, whether he is a policeman in Government employ, or whether he is a soldier or a sepoy in the Indian army or whether he is a volunteer in the service of the Congress, needs food and a few clothes to cover his body. If the Congress pays four or six annas a day, there is nothing calling for ridicule in it.

The same honourable member further has compared the Congress movement to a flame. Yes, I think it is a fire of a kind which has kindled the whole spirit of India. We must all remember that had it not been for the kindling of the whole spirit of India, we would not have been here today. We must thank the Congress for it. And yet you want to kill that self-same Congress? The remedy is not to kill it but to redress the grievances and to supply food and clothes to the poor people of this unhappy and wretched land. It is for food and clothes for the poor of the country that the Congress is fighting. I do not think any honourable member here will deny that it is so. The Congress does not want mere swaraj or independence for the sake of swaraj or of independence. It wants swaraj or independence so that it can feed and clothe the poor, half-starved and starving population of the country.

Now I shall ask my European friends in this Council as to why they come six thousand miles away from their own land of birth? They come to rule over us, they come to earn their bread and to make money. Will they deny a square meal and a few clothes to our starving millions? Would my European friends in this Council sit with folded hands if England were to be governed by Germany or by France or even by Italy? Or would they rise in arms, in revolt, and use all their armaments and weapons of warfare and attempt to drive away the intruders? The Congress has tried the methods of humble prayers and petition for 50 long years but without any avail, and so it thinks it must adopt other more direct methods of winning its goal. We even feel that the few comforts and happiness which were ours once have been snatched away from us during the last 150 years of British Rule.

The Honourable the PRESIDENT: I am sorry to interrupt the honourable member. He seems to me to be more on the defence of the Congress than on the Bill itself. I should not prevent him from citing instances of the Congress activities, instances which would bear on the Bill. This is not an opportunity to enter into a general discussion of the activities of the Congress and to defend those activities. The question here is that such activities of the Congress which are in the opinion of the Government against the law have to be prevented either by the ordinary law or by this special law. That is the issue before the House. I would like to give every latitude to the honourable member to express his views, but they must bear on the Bill before the House.

Mr. HAJI MIR MAHOMED BALOCH: I bow to your wishes, Sir. As honourable members have said, the ordinary law of the land is quite enough to deal with the present situation or with any situation

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that may arise hereafter. Government benches on the other hand say that this measure is directed against particular activities of the Congress movement. This point needs to be made quite clear, or else those of us who are helping in the framing of this legislation and in the passing of this legislation may one day find themselves under the clutches of this very measure that we are now enacting. There is the Sind question. I appeal to my Mahomedan friends both from Sind and from this Presidency to think twice, thrice and four times before they give their vote on this Bill. You have represented to me that the Premier's Award has given 24 per cent. of seats to Hindus who are barely 8 per cent. in the North-West Frontier Province while in the Bombay Presidency, exclusive of Sind, only 4 per cent. have been awarded to Muslims although they represent 9 per cent. of the population. When you ask for proportionate representation this very law will be brought up against you. I would further ask my Muslim friends to ask themselves what they have gained or hope to gain from Government by voting for this Bill? If only the Congress had accepted Muslim demands, and effected Hindu-Muslim unity, there would have been no need for any such measure as the present. The Honourable the Home Member said this measure is only against the Congress. We should take care to see if at all we accept the Bill that it is so provided in the measure itself. We should ensure that no other bodies or individuals would be hauled up under its provisions. Otherwise, I warn you, my Muslim colleagues in this House, that when the time comes, this measure will know no Muslims, no Parsis, no Christians. We all will come under its purview and be dealt with. I offer my sincerest thanks to my honourable friend Mr. Petit and my other honourable friend Mr. Bakhale for having spoken out their minds so frankly and so candidly and so fearlessly yesterday. And we must remember that Mr. Bakhale is a nominated member, nominated by Government themselves. For all these reasons I oppose this Bill.

Mr. A. N. SURVE (Bombay City, North): Sir, I rise to oppose the first reading of this Bill in the form in which it is placed before this House. In view of the tedious and long drawn out discussion that has taken place, I will not address myself to the task of criticising the views expressed by the previous speakers, but I will at the very outset state that I am of opinion that some powers are needed for meeting the situation that has arisen. But our difficulty has been that the Bill is so drawn up that we see there are several provisions in it which are likely to be very harmful to the public at large. Sir, I single out two special reasons why I rise to oppose this Bill. Take for instance, clause 17 of this Bill. This clause will estrange the sympathy of the members on this side of the House who are here to protect the interests of the tenant class. Sir, the tenants are certainly not a minority. It was yesterday mentioned here that this bill is introduced for the greatest good of the greatest number. But, as compared with the Government and the landlords, it is my humble submission that the tenants form really the largest number, and this Bill tries to hit them very hard.

[Mr. A. N. Surve]

Then, the second point is that, though we admit the necessity of giving some power to the Government, we find ourselves in this difficulty, that the Bill was placed in our hands so late that we could not obtain the previous sanction to some of the amendments which we desired to move. We want to co-operate with Government. We want to place our difficulties before them, and when we try to do so, the rules of procedure here come in our way and prevent us from moving our amendments for improving the Bill. So, for these two very special reasons, it is my painful duty, but it will have to be discharged, to oppose the first reading of this Bill.

Then, Sir, there are some other general reasons also. Among them I might mention that we have power to bind ourselves. But what power have we to bind our successors? Take, for instance, the duration clause. The bill asks us to keep the Act, if it is passed, in force for three years. Now, the position is this. If the Reforms Bill is passed by next May, then very likely, by next November the present Council will be dissolved, and this Act, if it is to remain in force for three years, will be binding on our successors. Have we any power to tie down their hands? The circumstances may change. Our successors may think that we have done them a wrong. What answer can we give to them? Therefore, Sir, for that reason, I had tabled my amendment to clause 1 (2). I might just explain what I mean. My amendment is only this. Government may say that one year is insufficient. Well, I say, all right. If that period is insufficient, I give power to Government to extend the Act for two years more if they like, or for a shorter period, by a notification. I only want that the notification shall be placed on the table of the Council, so that, when the new Council comes into existence in February 1934, our successors may have the opportunity of saying that the Act shall not remain in force for a minute longer, or they might give it a fresh lease. They might say "All right if you want it for two years more, we shall give you the power for one year more." My anxiety is not to encroach upon the rights of our successors, and if my amendment appeals to the Honourable the Home Member, I think at least one of my difficulties will be met.

Then there is another difficulty, and that difficulty is in clause 9. In clause 9 Government want to take the power, I may say, of punishing even innocent persons. Sub-clause (a) of clause 9 is to the effect that Government may ask any of the passengers or any of the goods that are in transit to be excluded from a train or a vessel. In this case, I take it that Government want to exclude those innocent persons simply because they want to have accommodation for their own purposes. But may I not just bring it to the notice of the benches opposite that they are thereby punishing innocent persons who *ex hypothesi* are not persons who have taken part in any of the activities which Government object to? And what is more, if such a person is inconvenienced and if he is put to any loss or damage, absolutely no provision is being made to compensate him. Therefore, I say I would be quite prepared to give the power if there were any national calamity. Of course, in the

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case of national calamities Government do take many powers, and the subjects have to submit themselves to the need of the moment. Here the title of the Act is "Special Powers Act," and it is being enacted for the purpose of maintaining law and order. There is nothing like the defence of the realm. There is no war condition, and yet I am afraid that sub-clause (a) and even sub-clause (c) of clause 9 are of that nature. I think that such extraordinary powers are not needed, and there is no justification whatsoever for having powers of this kind especially without making a provision to make good the loss the innocent third parties may suffer.

Then, Sir, there is still another point, and that point is in clause 31. In clause 31 a person may be doubly prosecuted. We know that it is the fundamental principle of criminal justice that if a man is once convicted and punished, all subsequent proceedings against him for the same offence fall to the ground. But here there is a special provision that even if he was prosecuted and perhaps convicted, under this bill still under other laws that he may have offended against he may be arraigned. I think that is clearly against our notions of criminal justice. No man should be punished twice for the same offence. At the most, he has committed one offence, though it may be that it falls under the provisions of two Acts, but I submit that he should not be punished twice over for it. It only means vindictiveness; it does not mean meeting the ends of justice.

Again, Sir, there are some minor points. Take, for instance, the point about public advantage. It is an ambiguous term. Perhaps Government may have their own reasons for keeping it ambiguous. But there is still one more point and that is in clause 3 sub-clause (1). There you say that if a person is about to act, he may be brought under the Act. The wording is "about to act". In criminal law we know that an attempt is punishable. But an attempt, as we are taught, consists of three elements. The intention, the preparation and the further action towards accomplishment which deprives a man of *locus penitentiae*. That is, he must have committed the act, having lost the opportunity of retracing his steps. These three elements must coexist when an attempt is punishable. Here, what is there? It says that if a man is about to act, which means that he has the intention of committing some act, still he will be liable to come under the provisions of this bill. I think, Sir, that our notions of criminal law are very different, and for that reason it is, I think, the duty of this side of the House who are here to protect the liberties of the public to see that unnecessary powers are not being given to Government.

Then, Sir, I have to make only one appeal, and it is this. As I have said, it is necessary to give some power to Government, and with that very object we have tabled so many amendments. Therefore, I would request the Honourable the Home Member to see his way to meet our reasonable demands and to get this Bill through in a form which will be acceptable to both sides of the House.

The Honourable the PRESIDENT: The amendment moved is:

In clause 1 substitute the following for the existing sub-clause (2):—

"(2) It shall remain in force for a period of one year. The Governor in Council may, by a notification in the *Bombay Government Gazette*, direct that it shall remain in force for a further period not exceeding two years: provided that a copy of such direction given under this sub-section shall be sent forthwith to each member of the Bombay Legislative Council, and shall be laid on the table of the Bombay Legislative Council at the commencement of the session next following the date of such direction, and the question whether the said Act shall remain in force for a further period be decided by a resolution duly passed in this behalf by the said Council, if so required, by due notice given at that session by any member."

The Honourable Mr. W. F. HUDSON: Sir, I do not know whether it will promote the rapid disposal of this particular point, but I propose an amendment to the amendment. I do so with considerable hesitation. I will read the amendment to the amendment, so that the House will understand what I have to say. The amendment to the amendment is as follows:—

In the amendment proposed, omit all the words commencing from "The Governor in Council" down to the end of the amendment and substitute as follows:—

"and thereafter for such further period not exceeding two years as the Governor in Council may by notification in the *Bombay Government Gazette* direct."

The House will understand that, if this amendment of mine is accepted, the Act will remain in force for one year in the first instance, and may then be renewed for such further period—it may be six months, or three months, or a year—not exceeding two years as the Governor in Council may by notification in the *Bombay Government Gazette* direct. That, Sir, is a change which Government have only agreed to with very considerable hesitation, and I would like to point out to the House that we are going considerably further than any legislature in India. In the North-West Frontier Province, where the Bill has become an Act, it is to be in force for five years. The North-West Frontier Province is the one which, next to our own, has suffered most from the civil disobedience movement, and they, the youngest legislature in the country, decided that they would take no risks, and their Bill, as I say, is an Act which is to be in force for five years. It is obvious I think from the report of the Select Committee that the Bill which is now before the Assembly will be in force for three years. It is also I think quite clear that in the Punjab the period which originally was without limit will be for three years. Therefore, if we now agree to the amendment which I have submitted to the House, it will be seen that we are going a considerable way to meet the wishes of honourable members. The point which was made by my honourable friend Mr. Surve was this. Incurable optimist as he is, he anticipates that the Government of India Act will be passed in next May. I wish I could share his optimism. Let us assume that it is the case for the moment. He is again an optimist. He says that the elections will be held in November. Even if the Government of India Act is passed in May, he does not realise how long it will take to prepare for the elections for the new legislatures. Let us assume again he is correct. He says do not bind our successors with an Act to which they may not agree. Well, I think the honourable member has hardly grasped what the position is going to be under the new constitution. Under the new constitution, there are not going to be an Executive Council of irremovables like my honourable

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colleague and myself, but there will be a responsible ministry selected from the members of this House. What they have to do if they dislike this Act—I am not at all sure that they will dislike it, but let us assume once again that they think it unnecessary—is to advise His Excellency the Governor to withdraw the notification under sections 3 and 4. The moment this notification is withdrawn, it ceases to be of any value. I do not think we have put our successors in any difficult position if we decide that this Act may be renewed for two years or for such period the expiring Government may have fixed. It is quite possible, we will say next November, if this Government think it desirable,—we must anticipate the possibility of that—to issue a notification continuing the operation of the Act for one year. But if a new Government comes in, it will be able to make that notification entirely inoperative by withdrawing the notification to particular areas. I think that ought to meet the wishes of honourable members who are nervous about the future. I hope in view of what I have said this amendment will meet the wishes of the House.

Mr. V. N. JOG : Where is the clause with regard to the withdrawal of the notification ?

The Honourable Mr. W. F. HUDSON : Under the General Clauses Act, any notification can be cancelled. It covers the whole thing ; but it will not be necessary to repeal the Act ; it will be merely necessary to make it inoperative everywhere.

Question proposed.

The Honourable the PRESIDENT : The honourable member Mr. Jog will also take the opportunity to move his amendment.

Moulvi Sir RAFI UDDIN AHMAD : I rise to a point of order. I want to know whether those that have already spoken can speak now upon the amendment or whether they will be given a chance to speak on the amendment later on.

The Honourable the PRESIDENT : That is a point of information. They can, provided they confine themselves entirely to the amendment itself and not enter into any general discussion of the Bill. They can speak at any time, if they have anything pertinent to say.

Moulvi Sir RAFI UDDIN AHMAD : Votes will not be taken—

The Honourable the PRESIDENT : What I propose to do is this. All the amendments will be moved. Then, I will put each amendment in its order and take votes and dispose of it. Then, I will put the original motion of the Honourable Mover that the Bill be read a first time. If any amendments are accepted, I will put that the Bill as amended be read a first time. Otherwise, I will put the original motion.

The Honourable Mr. W. F. HUDSON : After the honourable member Mr. Jog moves his amendment, can I reply to it ?

The Honourable the PRESIDENT : If he so wishes, he can. Otherwise, he can give a general reply to all the amendments.

Mr. G. L. WINTERBOTHAM: Is there any time limit to speeches on amendments moved?

The Honourable the PRESIDENT: I do not find that there is any time limit. No right is given to the President to prescribe a time limit. In discussing the amendments, the member has to limit himself to the scope of the amendment and the President will pull him up if he goes outside the scope. I am more anxious than the honourable member to save the time of the House.

Mr. V. N. JOG (Dharwar District): Sir, having considered the provisions of the Bill and also having heard the arguments which have been advanced by Government in support of this Bill, I cannot bring myself to accept the first reading of this Bill. Now, this Bill is proposed to be placed on the statute book, though not permanently at least for one year sure by the latest amendment and for two years more, if Government choose to continue its life. The reason for introducing this Bill and making it part of the law of the land is stated to be that they want certain powers in reserve to fight the civil disobedience movement. So far as I have been able to gather from reading the whole Bill, there are no such words except the vague words 'maintaining law and order,' that will restrict the scope of this Bill to fighting only the movement of civil disobedience. When a court has to consider whether a certain offence has been committed or not or whether a certain action has taken place which incurs certain liabilities even the words in the preamble do not help. The decision goes simply upon the enactive portion of it. Therefore, I say, Sir, in the body of the Act itself in the framework of the Act, there is nothing to limit the operations of this Bill to the civil disobedience movement. No doubt, in sections 3 and 4 there are certain restrictive words, e.g., "without prejudice to public safety or peace." If you turn to the other clauses from clause 5 to clause 9—no doubt, in clauses 5 and 7 we find a small restrictive word "public advantage", but I have not been able to understand the scope of it—there is no other word which restricts the scope and purpose of the sections. No doubt, they might say that Government would issue circulars to the various District Magistrates in what cases these provisions are to be put into operation circulars won't be of any use when the thing is done and the law allows it, especially so when we take into consideration section 30 which is a protection for any act done under it. I come later on to specific instances where errors have been committed by officers of Government, especially in my district. I feel very nervous with regard to the proper application of these provisions, because there is nothing restrictive in the provisions. It is left to the action of the various district magistrates to whom this power is given. I will take an instance. The Government benches may answer that the District Magistrate would not be so foolish as to make such an order. If there is nothing in the clause to restrict him in his action as to when and under what circumstances he can issue such orders included, he cannot be blamed if he acts within the letter of the clauses. To proceed to my illustration. This building, I believe, is under the control and possession of Government. Suppose there is a

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resolution which I have tabled to move in this Council, which Government or the District Magistrate—in this instance, the Police Commissioner—does not like to be discussed in this very House; then, the Police Commissioner can say that Mr. V. N. Jog shall not enter this building. And you yourself, Sir, cannot bring me in, because the Police Commissioner can say that what he has done is to the public advantage. The clause says that access to this building may be stopped; it does not say under what circumstances and for what purpose and up to what time.

Mr. G. DAVIS: I do not want to interrupt the honourable member unnecessarily; but will he say to what clause he is referring?

Mr. V. N. JOG: Clause 5 (and also clause 9).

Mr. G. DAVIS: Will he read out the whole clause?

Mr. V. N. JOG: Clause 5 says:

“The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.”

Mr. G. DAVIS: I thought he said “any building”; the buildings are limited.

Mr. V. N. JOG: My honourable friend did not hear me; I said “I believe this building is under the control of Government.” The clause says “access to any building or place in the possession or under the control of Government.” I was giving the illustration of a resolution tabled by me and likely to come up for discussion on a certain day. The discussion of that resolution might not be liked by Government or the officer concerned.

The Honourable the PRESIDENT: Which building?

Mr. V. N. JOG: This very building, the Council Hall.

Dr. M. K. DIXIT: Is this building under the control of the President or of Government?

Mr. V. N. JOG: This is a Government building. Coming back to illustration. Though I am invited by the notice to come to the Council, if I am not staying in the hostel here—which I am now doing; if I am staying outside—and if for any reason they think that a particular resolution which is distasteful should not be discussed, then the Police Commissioner can stop access to this building. You will remember that on the last occasion I wanted to criticise the action of the Police Commissioner, but I was stopped from doing so and I was told that he had acted in that instance as the District Magistrate. That was in relation to the Police grant. But occasions to criticise his action may arise in the future. I am taking this illustration because there is nothing in the clause to prevent him from stopping access for me to this building. Therefore, I have tabled an amendment to delete this clause. The District Magistrate can say that Mr. Jog shall not enter this building on a particular

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day. It does not limit the day, the time or the circumstances. He can stop my coming. What power is there even for you to bring me here ?

The Honourable the PRESIDENT: As a matter of fact, even the President may be prevented, according to that view.

Mr. V. N. JOG: My honourable friends opposite can correct me if my interpretation is wrong. They might say, as I have already stated, that the District Magistrate is not so very foolish, and they might even send circulars to prevent such things.

Clause 30 says that no action shall lie for compensation for any damage caused. Besides the powers taken under clauses 5-9 can be exercised not only by district magistrates, but even by them whom he authorises in writing to do so, because the district magistrates can delegate those powers to any other officer. I am reading clause 16 (3):

"The District Magistrate may, by order in writing, authorise any officer to exercise any of the powers of the District Magistrate under this chapter in a specified area or in connection with a specified emergency."

Suppose I table a resolution in this Council with regard to the action of the Collector of Dharwar—there might be a grievance; there might be an injustice done by him. If the Collector wants to stop me from moving that resolution, he can take action under clause 9. He can find out when I am going to Bombay. He can issue an order that I should not leave Dharwar by a certain train and ask the station master not to issue a ticket for me. Finished; I cannot come here in time. The application of this clause is not limited to anything; there is not even the safeguard that it should be to the public advantage, as is found in clause 5. Under clause 9, the District Magistrate may:

(a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;

(b) require that any specified persons or classes of persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;

(c) exclude or reject any passenger from any train or vessel."

Therefore, under this clause read with clause 16 (3), any police officer can come and say to the station master "Exclude this passenger". There is no restriction at all. That is why I have sent in amendments to delete all the clauses from 5 to 9. I have sent in other amendments only two days ago. Some of them may be matters of principle. I do not know whether I can move those amendments now, if they are amendments of principle. I want information.

The Honourable the PRESIDENT: They are time-barred.

Mr. V. N. JOG: Whatever that may be, although I may not be able to move those amendments, on this occasion I hope, in view of the difficulties I have pointed out in relation to the provisions in clauses 5 to 9, the House will oppose each of those clauses.

I was talking about clauses 5 and 9 and showing how drastic they were in their nature. Such being the provisions, can we give our consent to

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the passing of these provisions ! It is not an ordinance, for which Government alone will be responsible and which will be in operation only for six months. As representatives of the people how can we pass these provisions under which every kind of activity can be stopped without any restriction ! If honourable members will read these various clauses carefully, they will see that they are not restricted to the civil disobedience movement but can be applied to every kind of activity. I will take another instance. Suppose there is a certain resolution to be passed in the Bombay Municipal Corporation. The municipal building is under the control of the local authority. If one of the parties in the corporation do not like that a certain resolution should be passed and they know that certain persons are going to move or support that resolution, they may go and din into the ears of the Police Commissioner that the other persons are going to move a certain resolution which will bring Government into contempt, or something of that sort, and then, if the Police Commissioner takes it into his head that there are reasonable grounds to believe them, he can prohibit the men of the other party from entering the building that day. Or, there might be the election of a president or the election of the standing committee. One of the parties may go and say to the Police Commissioner that they have got good grounds to believe that the members of the opposite party are going to do a certain objectionable thing that day. My honourable friends opposite might say that I am taking extreme cases. I would point out that extreme cases were cited in support of Government too. My honourable friend Rao Bahadur Angadi cited an instance of 50,000 people conspiring to do a certain thing and asked why Government should not take preventive measures to stop it. Before an army of 50,000 gather, the movement will be brought to the notice of Government. Government have large resources and can find out what things are going on and they can employ their powers under the ordinary law. . . But the instance I have cited is not so exaggerated ; the thing I apprehend can be done very easily. I think if Government are armed with such wide powers as are proposed in this Bill, those powers are likely to be misused. Weighing the chances of mischief with the advantages, I for one cannot give my consent to such a Bill. Even constitutional activities can be stopped under these clauses. There may be persons to give false information to the officer concerned, who may then stop even constitutional activities. Under the various provisions of the bill national aspirations can be smothered and even constitutional agitation can be stopped by the Government officers. In this connection, I may quote an instance. I thought that the honourable member Rao Bahadur Angadi would be present here, but I do not see him. What I have to say concerns him. A co-operative conference was going to be held at Gadag and Rao Bahadur Angadi was to be the president. One of the resolutions to be considered at the conference referred to the economic condition of the ryots and went on to say that the assessment of that year should be suspended. The Mamlatdar of that place did not like that such a resolution should be passed at the co-operative conference because that would throw difficulties in the way of his realising the assessment.

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He sent for the Chairman of the reception committee and said : "If you are going to pass this resolution, I will stop the conference." Somehow, after a good deal of discussion, Rao Bahadur Angadi had to approach the magistrate and explain to him that it was purely an economic question. Anyhow, it was allowed. But suppose at that time the president was not such an influential man as our honourable friend, or that he did not go to the magistrate to explain matters, would not such a meeting have been stopped. I do not want to detail instances ; a careful reading of the various sections will show that these sections are likely to be misapplied, and, therefore, they should not be part of this Bill. Yesterday, a sort of comparison was made with regard to the Criminal Law Amendment Bill which is before the assembly and this Bill, and a query was put : "Did not those elders or superiors who are meeting at Delhi pass the first reading and even the second reading of that Bill ? Then why should we not follow suit and pass this Bill ?" I have got a copy of the report of the select committee and also a copy of the Bill now before the assembly. If you Sir, will go through these copies, you will find that there is a vast difference between this Bill and that Bill. The Government of India do not want to take the responsibility of these vague sections which tamper with the liberty of the people to a greater extent than the provisions of the law of the land. When we go through that Bill, we find that there is an offence created whenever a particular act is done. There is no question of the prevention of any action. If a man actually does any overt act, then he has to take the consequence of his action. If you will go through all these provisions, you will find that it is specifically mentioned that when a man wilfully disobeys or attempts to disobey, then only an offence is committed. That is, certain positive overt act is mentioned and it has been created an offence. Here, we are dealing not with actual acts, but with suspicion only. If a person is likely to do a certain act, he has committed the offence. In the Bill before the assembly, there is no question of suspicion or likelihood. Most of the provisions of this Bill are not controlled by those words. I submit, therefore, that the analogy which has been taken or the argument advanced, namely, that as the elders or the members of the assembly have passed the first and second reading of that Bill we should also pass this Bill, cannot hold good in this case, because we are here to deal with certain prospective acts and not acts which have been done.

Then, with regard to the working of these Ordinances, it was said that the Ordinances would be worked with moderation and toleration, and Government would take care to see that there would be no excesses committed in the working of the Ordinances.

The Honourable Mr. W. F. HUDSON : The Government cannot give any such guarantee. We only said that Government will do their best, which is a different thing.

Mr. V. N. JOG : What I am submitting is that excesses are likely to be committed, and taking into consideration the conditions in which the present Ordinance is worked in the Dharwar district from which

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I come, I submit, Sir, that there have been excesses in the working of the Ordinance.

The Honourable Mr. W. F. HUDSON: Were there no Congress excesses?

Mr. V. N. JOG: That is the kind of spirit which I think we should not encourage. No doubt there are Congress excesses. During the last election campaign I was put for more than 2 months to such humiliation by the Congress that I could not move out of my house from 6 in the morning to 9 at night. The whole of my compound was full of Congress volunteers. The streets in front of my house were full of men denouncing me.

The Honourable Mr. W. F. HUDSON: I guarantee that Government will never do anything of the kind to the honourable member. [Laughter.]

Mr. V. N. JOG: But I submit that, because the Congress has done it, we must not visit them by this punishment, whether they are Congressmen who have done these excesses or they are merely persons whom Government suspect to be assisting the Congress.

I was interrupted when I was making one or two references. The instances are these. Several gentlemen who have ceased to have anything to do with the Congress, have been served with orders and they are required to go and live away from their usual places. I say that they have ceased to have anything to do with the Congress. But Government might have received some rumour, some report about them, and they are served with orders. These persons are on parole since June and September. They are asked to go and live away from their places. They have to give parole twice or thrice a day. They are doing it. What does it show? It shows that they do not want to take any part in the movement and hence they are submitting to all this humiliation. The point to which I particularly draw the attention of Government is that they are taken to such places that they cannot find good houses to live, where they have no source for their maintenance. Such places the Government officers have selected for these persons to be taken away. And who are these persons? They are 6 pleaders practising in Dharwar. They are taken to places which are called in Dharwar the "Andamans" of Dharwar. My learned friend Mr. Maxwell, who was the Collector of Dharwar some time back, might know how bad places like Mugad, Kalhatgi and Mundargi are. They are the worst places in Dharwar. My honourable friend Mr. Master will corroborate me. If a clerk is to be transferred by way of punishment, he is always transferred to such bad areas. To such places these pleaders are taken. They are without any source of income. How are they to maintain themselves and their families? What has been done by Government with regard to their maintenance for the last 3 or 4 months? The Government could have said "Stay in Dharwar." They would have kept a watch on their movements. Ask them to give parole every day at Dharwar. Another harsh condition that has been laid down in their

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case is that, when they come to give parole, they are not to use any conveyance. They are not to communicate with anybody on political matters. Perhaps their communication with me with a view to redress their grievances might come under a breach of the condition of the parole and the consequence would be hard labour for a year or so. Perhaps it might be asked, "Why did I not raise these questions earlier?" I came to know of these instances only recently definitely by accident. I had stood as a candidate for the Local Board election. During my election tour I happened to go to Mugad on the 19th November. Mugad is a very malarial place. We cannot get any decent house to live in. Just as I was going I saw on a *Katta* of a house 6 gentlemen playing a game of cards. They were all detainees there. One of them came to me and said, "Look at our condition." One of them was a doctor, one a pleader and two teachers. I felt very much for one of the teachers, because except service he has no other source of income. He was a teacher drawing about Rs. 50 in an aided school. When he was served with the order, he was suspended from the school. I know for certain he has no property of his own. It is for this reason that I have tabled an amendment that, if such orders are to be made, Government should first provide for the maintenance of such persons and their families. If no such provision is made for them, they would rather court jail; but just as one of honourable friends said the other day, they have even lost their self-respect. If they had cared for self-respect these hardships of themselves and their families, poor as they are they would have disobeyed such orders. Another just grievance is that the order is unlimited in time. There is no guarantee that their miseries would end by 3rd January 1933, but the tendencies of the ordinance regime are demoralizing and denationalising. I find too that there is a clause in this Bill which gives a fresh lease of life for their continuance. Section 32 of the Bill says;

"Anything done or deemed to have been done in pursuance of any provisions of the Special Powers Ordinance, 1932, shall, where the corresponding provisions of this Act have come into force before the expiry of the said Ordinance, be deemed to have been done in pursuance of the corresponding provision of this Act and shall have effect, and the provisions of this Act shall have effect accordingly."

And, therefore, wherever I have found that these provisions are likely to be continued, I have taken care to see that these provisions do not automatically continue.

Sir, what was done in the case of these gentlemen? No doubt, most of them were Congressmen once, but since the Lahore Resolution was passed—and I know the instances of two persons, one was the secretary of the Taluka Congress Committee and another was the member of the Managing Committee—both of them have resigned and they have never taken any part as active members of the Congress. For one year they were innocently practising at Dharwar. Then all of a sudden in September last they were taken away, perhaps on the mere suspicion that they were aiding the no-tax campaign in Karwar. After all it might be a mere suspicion. I submit that if really their acts are to be restricted and if Government thinks even now that there is a danger

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that these persons may help the Congress, then do not take away such persons from their families. After a period of waiting the man will become callous, forbearance will not last long. He might wait for some time hoping that his miseries would soon come to an end. But if these miseries are to continue then I think there will be a revolting feeling and they will say "let us disobey the order and let us go to jail". We know from their past acts that they have repented. If sympathy is shown and freedom is given to them they would become friends of Government and even help Government. Sir, love begets love. Government by such harsh measures and acts of their subordinates are creating enemies. But if on account of such drastic actions on the part of Government once a bitter feeling is roused, I warn that in India there will be De Valeras everywhere. This Bill will last for three years at the most. Remember Ireland. When these persons come out and breathe the air of freedom, let them have a soft corner for the Government. That is the warning which Government has to take. Let these Ordinances be dropped wherever they are not necessary.

It was also suggested yesterday that Government might by notification apply the Bill only to certain areas and not everywhere, but we know when the Ordinances were promulgated they were made applicable all over.

I submit, Sir, that taking into consideration the drastic nature of this Bill I cannot consent to this Bill.

I now come to the amendments. I move my amendment with regard to clause 1, sub-clause 2, namely, substitute for the words "three years" the words "one year."

The Honourable the PRESIDENT: That amendment has already been moved by another honourable member.

Mr. V. N. JOG: Then I move my second amendment, namely, delete clause 9.

Question proposed.

(After Recess.)

Rao Bahadur G. V. PRADHAN (Nasik District): I am sorry, Sir, I feel it my absolute duty to oppose the Bill as much as it lies in my power. I was very attentive when the honourable member, the Advocate General and the honourable member, the Legal Remembrancer, were speaking about the technical question as regards the law. From what I understand of them, I gather that the Bill that was presented in the Assembly was one dealing with offences while the Bill that is presented before us is one dealing with the prevention of offences. So far as that point was concerned, I looked again into the question as regards provisions in the Criminal Procedure Code and also some other provisions, dealing with prevention of offences, of the District Police Act and the City of Bombay Police Act. I have looked into those sections over again and again, and I find that most of the provisions that are now to be found in the present Bill are also included in the

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preventive sections under Chapter VIII of the Criminal Procedure Code. The first of these sections is section No. 107, which goes practically on the same lines as clause III of the present Bill. Section 107 says :

“Whenever a.....Magistrate of the First Class is informed that any person is likely to commit a breach of peace or disturb the public tranquillity, or to do any wrongful act that may probably cause a breach of peace or disturb public tranquillity, the Magistrate may.....”

It is also common knowledge that under these preventive sections, evidence as regards general character is admissible. The sections that follow also provide that a man can be immediately arrested, if the Magistrate thinks that his activities are such that they may disturb public tranquillity or public peace even before the final order is passed. In the final order the Magistrate can impose any conditions as regards securities and, as we know, most of the Congress people, if not all, refuse to give security and refuse to give any undertaking. In fact, the Honourable the Home Member told us that the present Government actually gives an opportunity to every person who has been arrested under the Ordinances that he shall enter into a bond or shall give an undertaking that he will not take part in the Civil Disobedience Movement and then he is immediately let free. It is because such an undertaking is not given by the followers of the Congress, that they are ultimately put on parole. If that is so, then my submission is that if such a condition is imposed under sections subsequent to section 107 of the Criminal Procedure Code, that condition is not likely to be accepted by the movers of the Civil Disobedience Movement. The purpose of the present Bill shall then be fully served, and those persons can be kept in jail not only for months but can be kept for three years if the Government so desire. This is under the preventive sections. Under those very sections, the District Magistrate has the authority to insist upon any other conditions that he may choose to impose, provided that the Local Government have by a general rule sanctioned those conditions, and on those conditions the men can be released, and if any of those conditions are broken, I find that section 188 of the Indian Penal Code will apply, and that section will come into force as soon as the condition is broken. Then again, there are other sections in the Indian Penal Code, for example, section 116, which has been so much used during the last Civil Disobedience Movement. That section says :

“Whoever abets an offence punishable with imprisonment, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment, etc., etc.”

If, as Government says, this is a war declared by Congress against the Government constituted by Law, they can resort to sections 121 and 121-A of the Indian Penal Code. These preventive measures need not be applied separately to each individual, because there are provisions to the effect that more than one person can be put together in the trial if they have a common object. The only difference that I find between these sections and the present Bill is the difference which has also been hinted at by the honourable member, the Advocate General, and the

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difference is merely the difference in procedure. Under the present Bill, no evidence need be led, he need not be told what the charge against him consists of, no accused need be asked as to what he has to say in the matter, he can be imprisoned at once, he can be kept in custody for a number of days without any trial, then he can be released on parole, the conditions of which may be extremely hard and even highly detrimental to his position in society, and when such parole is broken, as is bound to be broken by any honourable man, he is to be punished severely for breaking it. It is an easy matter to deal with people whose real guilt is not known and explained to them, whose real guilt is not proved against them, and the only guilt which need be against them is a reasonable belief of the Magistrate or the District Magistrate that they are guilty. Under orders like these, may I ask, how can you say that the Bill is only directed against persons who follow the Congress in Civil Disobedience Movement? The Sections in the Bill are so wide that such a distinction is not made anywhere, and as in the case which has been quoted by the honourable member, the Legal Remembrancer, it has been stated there that "so long as the terms are so wide, so long as the terms do not put any restrictions, till then, no judicial authority can interfere with the discretion of the officers of Government." If that is so, then it is up to this House to say with one voice that, so long as these conditions are not altered, so long as judicial trials and decisions are not available to persons arrested, till then we shall not give our consent. No doubt it has been stated that Power of Appeal is given under clauses 29 and 30. But what is that Power of Appeal? The Appellate Court can only go so far and no further that, if a man breaks parole, the only thing that is to be found out by the judicial Court is whether the Parole order was passed, whether the Magistrate had the jurisdiction to pass that order and whether that order is broken. The jurisdiction and the fact of order having been proved, nothing else need be proved and there is no use of an appeal which is only worth its name. If that is the situation, if that is the position in which an accused is not given an opportunity of proving that he was not a follower of Civil Disobedience Movement, or that he had never acted in a way which is prejudicial to the present interests of Government or to the maintenance of peace and order, and if without that opportunity being given, a man is to be condemned, then we must condemn the Law which condemns such an accused. That, as I understand, is the clear and simple position of law.

Now it is stated that the emergency is so acute that such a drastic law ought to be enacted. So far as the emergency is concerned, I may say that the emergency has existed ever since 1920-21, when the first Civil Disobedience Movement was started. That emergency recurred in 1929-30 and again last year, and now it is not so much "an acute" emergency, but it has become a chronic one. And my contention is that when a disease becomes chronic, it is no use treating it only superficially as we are asked by this Bill to do, but we must find the causes and remove those causes. We have applied the Ordinances long enough and we have tried those Ordinances, and we have been told that so far

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as this Presidency is concerned, we have only partially succeeded in curbing some portions of the movement, and we have further been told that so far as the rest of the portions are concerned, they are still to be suppressed. May I ask Government benches as to what prevented them from stopping these other portions of Civil Disobedience Movement during all these eleven months, so that the whole movement would have been crushed by this time? The only reply is that they do not and cannot arrest the whole mass of people. Suppose 2,000/3,000 people are out to break the Law. You cannot possibly arrest 2,000/3,000 people together. You pick up only four or five and put them under arrest under the Ordinances, and the rest of them are driven off by lathi charges. If that is so, then all the persons who are supporting the Civil Disobedience Movement can never be sent to jail, not only this year, not only next year, but never. Unless and until there is a change of mentality, this state of affairs is bound to continue and when that change of mentality is brought about, they themselves will give up their Civil Disobedience Movement. This movement was started because the Congress was partially dissatisfied with the Reforms that were given in 1920. If we look at the grievances of the people, voiced through the Congress before that, and if we look at the Acts and Legislations that have been passed subsequent to the Reforms, we feel ashamed that in the last 10 or 12 years, no attempt whatever has been made by the Government to relieve any of the distresses which were complained of by the Congress all along. It was said some time ago that the agriculturists are loyalists. I do agree that agriculturists are certainly loyalists; and we are told that they are about 70 per cent. to 80 per cent. of the whole population. Well then, whoever may be the movers in this Civil Disobedience Movement, who are the persons who follow these movers? They are the agriculturists and others. Why do they follow? Not certainly because they are merely misdirected, but because they feel the sting within them, and they feel that they are not being heard by the present Government. The sting is that ever since 1921 to 1932 in spite of the piteous cries of the agriculturists, no attempt whatever is made to reduce the taxes on land, and no attempt is made to redress any of the grievances as regards the forest laws. On the contrary, only lately, about a month or two ago, I know, the people of my district have been served with notices saying that because they feed not only their agricultural cattle but also their milch cattle in the forest, they are called upon to pay double the ordinary grazing fees on all their cattle, agricultural or otherwise. If that is the way in which these poor agriculturists are to be harassed, then it is up to them to be, and it is natural that they should be, disgusted with the way in which their very blood is being taken away from them. And what are the advantages that they are getting? Government has not as yet provided even one well for drinking water in every village, let alone any other improvements. The position is clear. The position is that our Administration is top-heavy. We have been crying out year after year that this top-heavy administration should be reduced so as to enable Government to reduce taxes on agriculture. Year after year, it has been put off on some excuse or another,

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At one time, because the Retrenchment Committee is sitting, at another time, because the Reorganisation Committee is sitting, and so on, right up till to-day, and we find that no redress has been given or even contemplated. If the Government are really serious in redressing any of our grievances, we need not really wait for the Reforms to come after the Round Table Conference. Taxation can be reduced even now if there is a will, and relief can be given to the agriculturists even immediately and when that relief is given, we shall immediately find that they will all rally round Government and will no more lend their support to the so-called lawless people. This is really the gist of the whole thing, and if, instead of doing all that these people wanted and which they expressed by their applications and supplications to Government, we go on simply crushing those people who are carrying on the Civil Disobedience Movement "in a hot-headed way", my contention is that this movement can never be crushed. The germs will be there, the germs will increase from day to day and the germs so increased will tomorrow be much more troublesome than what they are to-day.

Returning to the Bill, we have been told that certain precautions have been taken in the Bill even as it stands. What are the precautions? They are that no Magistrate lower than a First Class Magistrate shall try those cases. But, what is to be tried? As I said, the only thing that can be tried under this Bill is as to whether the Magistrate had jurisdiction to pass the order and whether he did pass the order. My honourable friend Mr. More was criticised by saying that he raised caste disputes unnecessarily. I agree, those caste disputes were raised. But, really, it was not a question of caste dispute which was raised; the honourable member might have put it in indiscreet words. I will here quote the authority of Lord Macaulay. He says:

"You have some objection to the way in which we have framed this part of the Law (meaning Penal Code section 188), but we are unable to frame it better.

On the one hand, you tell us as we have shown, that it is absolutely necessary to have some local rules which shall not require the sanction of the Legislature. On the other hand, we are sensible that there is the greatest reason to apprehend that petty tyranny and vexation may arise from such rules, and this, although the framers of these rules may be very excellent and able men. There is scarcely any disposition in the ruler more prejudicial to the happiness of the people than the 'meddling' disposition. Yet experience shows us that it is a disposition which is often found in company with the best intentions and with great activity and energy and with a sincere regard for the interests of the Community. A public servant with more than ordinary zeal and industry, unless he have very much more than ordinary judgment, is the very man who is likely to harass the people under his care with needless restrictions."

This was spoken about the year 1860 and it holds good to-day. If that is so, if these provisions in the Bill about restrictions are likely to be abused by the Magistrates, even First Class Magistrates, or the District Deputy Collectors and Assistant Collectors whom the power is sought to be given, then there must be some safeguard there, so that the accused shall have an opportunity of showing that all the information, that may have been given to the public Officers behind his back and without his knowledge, was not correct. Sir, do we for a moment contend that there are no people in the world who might go to the Officers and give them wrong or false information? The wrong information may be believed even

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innocently by the Officers ; and then what is the position of those against whom such information is given ? He is not to be informed of it, not to be tried for it, he has no test of cross-examination, he has no test of even an oath, and still that information goes against him and condemns him ; he does not know who gave that information, and he is to be put in jail ! He does not know what sort of an information it is. Not only that, but we go a step a further. We put him in jail for offences which are not proved against him, merely for breaking of a parole order, an order of the sort, about which my honourable friend Mr. Jog spoke a few moments ago. I know of a case, which occurred in Bombay City. There was a student from Kathiawar, who was studying in the B.Sc. class in the Royal Institute of Science here. That student was arrested. He was arrested, not because he had committed any particular offence, but because he was the friend of those persons who had joined the Civil Disobedience Movement. I should think it is just the same as what my honourable friend the Advocate General said he himself did, while the Ordinances were in force, namely, that he kept the company of persons belonging to the Congress who, time after time, told him that the Ordinances must go in three months, or that the Ordinances must go in six months, or after a year. Nothing happened to my honourable friend the Advocate General for his open avowal of keeping constant company of these Congressmen, but this poor student was hauled up before the Commissioner of Police, was kept in custody for six weeks, and in the seventh he was sent to Nasik Central jail. At Nasik, he was served with a parole order that he shall not move out of Nasik, and that he shall give parole before the Sub-Inspector of Police, or some other Police Officer, at Nasik, twice a day. Sir, there was not a single soul who was acquainted with him in Nasik. There was not a shelter to which he could go ; and the only offence that he committed was that, instead of going to Nasik from the jail which is outside Nasik City, he went to Deolali to stay with a friend of his. Therefore Government Officers pounced upon him by saying the Law is broken, and even though his going to Deolali had or could have absolutely no effect whatever by way of breach of peace, still the man is sentenced to one year's imprisonment and a fine of Rs. 300 ! Under section 188 of the Indian Penal Code, a person becomes liable for disobedience of an order only if such obedience causes or tends to cause obstruction, annoyance, or injury or risk of obstruction, annoyance or injury to any person lawfully employed. The breaking of the order under the Bill must lead at least to something which may lead to a breach of the public peace or tranquillity, before a man can be punished. There is that provision made in section 188 of the Indian Penal Code. In the Bill before us, there is no such provision whatever. On the contrary, the provision is that he is to be punished merely because he breaks the parole order. There was nothing wrong in the student going to Deolali. There would have been nothing wrong in restricting him to Deolali where he had at least some shelter. But the order was that he shall give his parole at Nasik, and simply because he went to Deolali instead of Nasik to stay with his friend or

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relation, he has been sentenced; and I am told he is the nephew of the Minister of Janjira.

Moulvi Sir RAFIUDDIN AHMAD: What is his name?

Rao Bahadur G. V. PRADHAN: You can have his name if you are so anxious.

An Honourable MEMBER: Was it Mr. Kotak?

Rao Bahadur G. V. PRADHAN: Yes, I am referring to Mr. Kotak.

If that is the way in which the Ordinances have been used, if that is the way in which this Bill is likely to be used later on, then, it is up to us to say that the Bill must be materially amended, or else, we must vote against it.

There are further things. I find that even if the person who is served with a parole order gives an undertaking that he will stay at a particular place and shall not leave the place, still that person is not released from the parole order. I know of a case at Sholapur. When I had been there a week or two ago, a friend, I should say, came to the station to see me off, but he could not wait there till the train left, because he had to give his parole at the Police Station at 6 or 7 o'clock in the evening. And yet, my honourable friend, the Advocate General, would say that the giving of such a parole is not undignified!

Then there are further provisions in the Bill. Because the parole is broken, the man is to be sent to jail. Very well, he may be sent to jail. But what sort of punishment is to be given to him? It is provided in the Bill that he may be punished even with rigorous imprisonment; the clause nowhere says that the punishment shall be a simple imprisonment. We must remember this Bill is a preventive provision; he is to be prevented from committing any offence likely to cause breach of peace. He is to be kept in jail for a year or two. Very well, keep him in jail if you so desire, but why should he undergo rigorous imprisonment? Where is the propriety of making him undergo rigorous imprisonment? And why is he also to be fined? So far as fine is concerned, a few months ago, I read of a case in which the learned District Judge, Mr. Hulkoti, said that heavy fines have to be imposed in these Ordinance cases because the Government are in financial difficulties. If that is to be the reason for the imposition of fines, then we must see that such a condition ought not to be there. Even supposing that a person's movements have to be restricted for good reasons and proper causes, then only his movements should be restricted, and nothing more need be done. He should not be awarded rigorous imprisonment. He should not be sentenced to pay a fine, and such persons should not be troubled in the way in which they are being troubled under the present jail rules. Although these are only a few cases, I should say, these cases are being repeated every day. Men arrested in Bombay are being sent to Nasik every day; and so many people who have been sent to and restricted to Nasik have broken the law at Nasik because they had no shelter there. Ultimately, it happens like this, that every man who is sent to Nasik has perforce to break the

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parole order. The same was the case with the friend of the Advocate General himself, Mr. Bhulabhai Desai, the eminent Advocate of Bombay. He was restricted to Nasik, when all the activities of his profession were in Bombay. Because he was restricted to Nasik, where he could do nothing, he had to break the parole order after one day; it may be remembered he did give parole for one day.

Sir, it has been stated in the Bill that only Chapter I will be applied to the Presidency. But we have it from the Advocate General that there is so great a necessity, so imminent a necessity, that all these provisions will have to be applied almost immediately the Ordinances are over, almost to every district in Bombay. In fact, I fail to understand how only a part of this Bill will be applied. If it is to be used in the same way in which the Ordinances are being used, then not only Bombay City, but the surrounding places where there are jails, where the arrested persons are to be taken and where the parole orders are to be insisted upon, will have this Act applied to them, particularly, Nasik. And if I may quote the words of the honourable member, the Commissioner of the Central Division, when he visited Nasik and received an address from the District Local Board, it was he who in October last declared and assured us that "there was absolutely no Civil Disobedience in the whole of the Central Division, much less at Nasik."

If that was the solemn assurance given to us in a public meeting, then, I say, why on earth, these Ordinances were continued in the Central Division a day longer than it was necessary. I again earnestly request you all to oppose this Bill tooth and nail.

Mr. MAHOMED SULEMAN CASSUM MITHA: Sir, I rise to support the first reading of the Special Powers Bill, although I sincerely wish it had not been necessary to do so, but circumstances as they exist to-day and as they have been in the past render this Bill, in my opinion, imperative, especially from the point of view of a minority community, against whom, as much as against Government, the attack of the majority community by means of the conveniently flexible weapon of civil disobedience, has been directed.

The civil disobedience movement in its present form, appears to have passed out of the capable and clean hands of Congress proper into those of lawless revolutionaries. The form in which it is practised to-day is not in accordance with the avowed creed of the Congress but very often in direct opposition to it. There are evidences of the mailed fist under the velvet glove and the accent is on "violence" in "non-violence."

The position of our minority community is a peculiarly unfortunate one. We have steadfastly resisted the temptations, the snares and delusions held out to us by the Congress, although I must confess that at times it has seemed as if our lot would have been a less unhappy one if we had joined forces with the majority community as there have been occasions when we have felt that Government have not fully appreciated our position or extended to us the full measure of protection to which

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we are entitled as law-abiding citizens. We have stood by law and order at the cost of becoming odious to the majority community but in tense situations and at psychological moments Government have left us in the lurch.

Ever since the launching of the civil disobedience movement, in the struggle between Government and the Congress, we have upheld law and order, we have paid our taxes promptly, yet when the Congress encroachments against our political liberties, particularly as regards trade, began to come into force and whilst they were at their height did Government do everything possible to protect us? I would certainly say "No". The Congress were to all intents and purposes given a free hand to boycott us and to put us to losses in business amounting to lakhs. We find ourselves between the Devil and the Deep Sea.

The Honourable Mr. W. F. HUDSON : Which is which ?

Mr. MAHOMED SULEMAN CASSUM MITHA : I would be grateful if the honourable members, the Legal Remembrancer to Government and the learned Advocate General, who are fortunately here, would be good enough to advise us as to whether sufferers of a minority community or any law-abiding citizens can file a suit against Government to recover their losses, as we pay taxes to Government for preserving law and order and protecting law-abiding citizens, which they have failed to do. Congress at times recovers huge sums from the public for breaking their "mandates" and so, Sir, my community suffers a double disadvantage, having to pay fines to Congress as Government is not able to protect us and pay extra taxes to Government.

Rao Bahadur R. S. ASVALE : Why did you obey ?

Mr. MAHOMED SULEMAN CASSUM MITHA : Otherwise we would have had to fight. There would have been a civil war. Why does not Government recover fines from such persons who break laws? Sir, does it befit a civilised Government to allow such conditions to exist? Sir, when Government is yet in office our position is so difficult. We hardly know whom to obey! Sir, let Government rule or quit, and in the latter case my community is quite capable of taking care of itself.

I therefore, Sir, support the Special Powers Bill in its first reading, in the fullest confidence that the powers so appropriated to itself by Government will not be misused or employed by them without real and ample occasion. I, therefore, accord my support to the Special Powers Bill, but I hope the Home Member will re-assure and satisfy us that the fullest protection from Government will be given to the minority communities and the law-abiding citizens. With these qualifications, I support the first reading of the Bill.

Dr. M. K. DIXIT (Surat District) : Sir, I am glad I have been able to catch your eyes at last. Of course, I rise to oppose this Bill. When I first received the draft bill by post, after reading it carefully, my first apprehension was that there was something up the sleeve of Government, something tremendous for presenting this bill to this Council. After

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listening carefully to the various speeches made in favour of the Bill, I yet feel that my apprehension has not disappeared. I still feel that there is something up the sleeve. I am inclined to believe that all the cards of Government are not placed on the table. Sir, people have questioned the parentage of the Bill. Honourable members have questioned the parentage of the Bill; and the Honourable Mover accepted the parentage of the Bill. I yet believe, knowing him as I do, that though he has accepted the parentage of the Bill, he is only the godfather or the officiating father of the Bill. But, while moving the Bill, he has told us that no honest man will shirk his responsibility. With that advice, I venture to offer a few remarks on this Bill.

I do not want to take up the time of the House by going over the ground that has already been traversed by various members who spoke on the Bill. But, Sir, I do feel that there are some points which are so important that they will bear repetition and I join other members in saying that a measure which interferes with the most elementary rights of a citizen should not be supported at all. I feel, while reading carefully the various sections of the Bill, the most elementary rights of men are liable to be interfered with, if all the chapters are to be applied to a particular locality. A man could be arrested without a warrant, imprisoned without trial; he has got to obey to the dictation of officers regarding his clothing, his manner of dress, his place of residence. I was surprised to hear that there was something more from the honourable member Mr. Jog that a man could not give parole in his own conveyance; he must walk down to the police office. On that score therefore I oppose the Bill with confidence. Now, Sir, we are told that the Bill is meant to combat the civil disobedience movement of the Congress. May I ask what is this struggle of the Congress for? It is for political emancipation. All the European countries have struggled hard for their political emancipation and have worked it out successfully. Great Britain which is the country of our rulers has struggled hard. So also France, Italy and Portugal and other European countries and even little Spain, United States all of them have struggled hard to win their political emancipation. India also has been trying to do the same. These European countries did it in a way which was objectionable. They struggled with weapons of violent methods, but India struggles with the weapon of non-violence. The Indian National Congress was started in 1885—we are in 1932—and after a lapse of forty-seven years, it has only reached a stage when its people declared that they would only adopt the dictum of withholding supplies, if their legitimate demands were not met. Sir, yesterday, my honourable friend Dr. Gilder read from the speech of that great constitutionalist Mr. Gokhale that the withholding of supplies if people's first demands were not granted was considered perfectly constitutional. What did we see recently three or four years ago? The people of the Bardoli Taluka resorted to withholding the payment of the land revenue. We all know the details of that instance. I will not detain the House on that. But the main factors were that the revision settlement that was recently held there was found unsatisfactory and improper by the rural population.

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Their only demand was that as the revision settlement was not proper and just it should be enquired into by the appointment of a fresh committee. They made petitions, appeals, held meetings and passed resolutions and even sent a deputation to wait upon Government; but Government did nothing. Ultimately they took to this non-payment of revenue. There was a lot of heart-burning. The residents of that taluka were put to a very hard and severe test; they suffered very heavily; then ultimately Government appointed a committee, and to the satisfaction of the rural population of that taluka that committee found that the revision settlement was not proper and just. That committee consisted of two senior civilian officers, of whom if I remember correctly our honourable friend the Home Secretary (Mr. Maxwell) was one. Government accepted that proposal and the root cause of all dissatisfaction was removed. That, Sir, was only an agrarian question; it did not affect larger politics. But what was the lesson to be learnt? It was a lesson both for the Government and for the people. The lesson that Government ought to have learnt is that they are capable of making mistakes and when the people make certain demands those demands are not always improper or unjustified. But the great lesson that the people learnt there, was that howsoever just and proper their demands may be, those demands will not be granted unless they show to Government that they are in earnest and are prepared to show their determination that they will withhold supplies and taxes and as a consequence they are prepared most willingly to lose their comforts and to sacrifice their interests and to undergo loss. I think that that lesson which Government taught and the people learnt in Bardoli was taken advantage of by the Congress for pressing their political demands. That episode closed there, but the people took advantage of that result and the Congress launched into further steps. I would leave that point there and only ask, while Congress has taken up this civil disobedience movement to crush which we have got the Ordinance rule for the last twelve months and we are asked to pass the new Bill that is presented to us, what have Government done in the matter? Under the Ordinances the brains of the Congress have been sent to the jail and they are behind prison bars. Whatever little of the Congress has been left outside the jails are only the little limbs that are struggling and cannot come to any decision for themselves without the guidance of the brains of the Congress. Sir, we have often been told that the Ordinances will not be continued even a minute longer than was absolutely necessary. Yet, Sir, no attempt has been made to see that the organisers of the civil disobedience movement are given an opportunity to reconsider the question. Representations and appeals were made by certain responsible political institutions like the National Liberal Federation both to Government and the Congress that the Ordinance rule and the civil disobedience movement should simultaneously be stopped. The same suggestion was made by certain other responsible men. I quite remember to have read a letter written by Sir Chimanlal Setalvad in the *Times of India* making the same suggestion. Have Government made any effort to comply with that request and to give an opportunity for

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the brains of the Congress to reconsider their position as regards the civil disobedience movement? Sir, none. On the contrary, when Mahatma Gandhi started his fast to get modified the Communal Award which the Premier gave regarding the depressed classes, Government were pleased to throw open the jail gates for interviewers of Mahatma Gandhi and to place no restriction upon the interviews and correspondence. The result was a satisfactory solution of that difficult problem. But after the solution of that difficult problem, when certain responsible persons like Pandit Malaviyaji and Mr. Jayakar wanted to have further interviews, perhaps on questions of larger importance than the Communal Award, all of a sudden the interviews were stopped, and the only suitable opportunity for consultation with Mr. Gandhi was taken away and later on no opportunity was given. Under these circumstances, Sir, if somebody accused Government that after controlling civil disobedience in its most effective and worst form, Government have purposely allowed civil disobedience to continue in a mild and ineffective form in order under this pretext to arm itself with extraordinary powers of a drastic nature for three years—I hope that is not the case—but if somebody accused Government of that, I do not think one can raise any very serious objection to that. An opportunity for a reconsideration of that difficult problem of civil disobedience must be given to the brains behind the prison bars, and that can only be given by Government and by nobody else. They are apt to say that Mahatma Gandhi is receiving daily news of the events that are passing in the country through certain newspapers—perhaps that is true—and therefore, he can stop the civil disobedience movement himself if he wants to. I do realise that Mahatma Gandhi commands a lot of respect amongst the people of this country and also enjoys their confidence. But the strict disciplinarian and great constitutionalist that he is, he will feel himself incompetent to individually stop that movement. It is the members of the Working Committee of the Congress that adopted that resolution of civil disobedience. Rightly or wrongly, in a hurry they have done it. Some people lay the blame at the door of the Working Committee of the Congress; others lay the blame at the door of Government saying that the resolution of the Working Committee was precipitated because of the refusal of the Viceroy to give an interview to Mahatma Gandhi. Sir, I do not want to go into those details; they are matters of the past. But in the present situation, the question of civil disobedience movement must be reconsidered by the brains behind that movement, but they are all inside jails and without Government intervention those people cannot be given an opportunity to reconsider that position. After all, Sir, civil disobedience cannot be the be-all and end-all of Congress activities; it is not the goal of the Congress.

The Honourable the PRESIDENT: May I understand the relevancy of those remarks? I presume that the line of argument of the honourable member is, that an opportunity should first be given to the leaders of the civil disobedience movement to reconsider the situation, and then if

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they refuse to recall that movement, a Bill of this kind should be brought. What is the relevancy of those remarks ?

Dr. M. K. DIXIT : If you will allow me to proceed, I shall point it out.

The Honourable the PRESIDENT : I want to understand the relevancy of those remarks to the present Bill.

Dr. M. K. DIXIT : I feel, Sir, that if the organisers of the civil disobedience movement are given an opportunity to reconsider the position in a collective fashion, then probably there will be no necessity for a Bill of this type. That is my personal opinion.

The Honourable the PRESIDENT : And if they do not withdraw the movement after that opportunity is given, then this Bill may be brought up ?

Dr. M. K. DIXIT : That is a matter for the future.

The Honourable the PRESIDENT : Everything must bear on this Bill. There is no question before the House whether an opportunity should be given to the leaders of the civil disobedience movement to reconsider their position. That is not the question before the House. The honourable member can connect his remarks with the Bill only in the way I have suggested. Otherwise, the relevancy of his remarks will have to be explained.

Dr. M. K. DIXIT : That is exactly what I am coming to. The civil disobedience movement is not going to be the be-all and end-all of the Congress. It is only a very temporary phase of their activity ; it cannot be permanently there ; and if by some chance they are able to get rid of the civil disobedience movement, there will be no necessity for a Bill of this type whatsoever.

The next point that I want to refer to is that I oppose this on the ground that it would not be working without the hardships which are now to be noticed under the operation of the Ordinances. Several instances have been quoted by various members who have opposed the Bill and various cases have been cited in detail. The honourable member the Advocate General (Mr. V. F. Taraporevala) said that in Bombay the Ordinance has been worked with great moderation. Some other member has refuted it by giving one or two instances. But I must say, Sir, that in the mofussil, and particularly in Surat, it has been worked in a very harsh way and with undue strictness. It is worked with extraordinary rigour, in a vindictive fashion and in a way to create Congress where none exists. Where there is no tinge of the unlawful activities of Congress the officers who work the Ordinances have founded Congress there. I can give a number of instances in this connection but I do not want to detain the House any longer. I just want to mention one or two cases to show how harshly those measures have been worked. I will first mention an instance where I am personally concerned. I gave an instance of mine

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in the last February Session but there was another instance later on to which I wish to refer. On the 29th of May or thereabouts Pandit Malaviyaji in support of the Swadeshi movement had organised a Swadeshi day. A day or two previous to this date some lovers of Swadeshi distributed hand-bills in the city under their own signatures that a Swadeshi day would be celebrated when Swadeshi goods and Khadi would be hawked in the city. [*An Honourable Member*: "Where" ?] At Surat. They also stated that it had nothing to do with the unlawful activities of the Congress. This day was celebrated throughout India in the form of processions and other things but those young people who organised this Swadeshi day celebration at Surat felt satisfied with hawking Swadeshi goods and Khadi in the streets and that was the only item of the programme. Most of the signatories were taken under the Ordinance and sent to jail. But the next day 5 or 6 young people went out on the streets selling Swadeshi goods but before they had done any work they were taken hold of by the authorities there and they were being marched off to the Police office. I saw them march past my consulting rooms from the window on the upper storey. [*An Honourable Member*: "A little louder, please."] Two or three minutes afterwards I saw some people in the street significantly looking in the direction where these young people were being taken. My attention was attracted and I peeped out of the window and I saw that those persons were being roughly handled and beaten. [*An Honourable Member*: "By whom" ?] You can imagine by whom. Of course, by the authorities and not by anybody else. I really felt that this was a great injustice done to those people who were merely hawking Khadi or other Swadeshi goods. I felt I should go near them and request the police officer not to beat them. I went down walking to those people. I took some time to reach them. When I reached them I saw that they were being beaten. I saw them being beaten three times within a space of about 5 or 7 minutes. Six men surrounded by nearly 12 constables, some in uniform and some in plain clothes, it was an awful sight. I felt great resentment and pity for them. Ultimately I saw a Sub-Inspector whom I knew and I told him that it was a very ugly sight that these young people should be beaten like this in the presence of hundreds and thousands of people on a main road and I requested him to see that they were not beaten any longer. He told me that he would see that they were no longer beaten. I shook hands with him and returned to my chambers. [*An Honourable Member*: "So you were not molested."]

The Honourable the PRESIDENT: What is the significance of this shaking of hands ?

Dr. M. K. DIXIT: I knew him and I shook his hand offered to me. There is nothing wrong in being courteous to a man. Then what happened next morning. I found in the *Times of India* that in Surat a Peshawar Day procession was organised, a procession was taken out. Dr. Dixit, M.L.C., accompanied the procession at a short distance. He was warned by the police and he left. No greater lying propaganda

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could ever have been made. There was no Peshawar Day celebration, no procession. If there was any it consisted about 5 or 6 Swadeshi goods sellers and double the number of constables. Of course ultimately I heard several stories of how they were roughly handled in the Police office but I have no personal knowledge of it. But I did see the beating on the road. [Rao Bahadur R. R. Kale : Were they released subsequently ?] I understood that they were released late in the evening. [Rao Bahadur G. K. Chitale : Beating is always followed by release.] I occasionally see this sort of beating going on when somebody is arrested and is being taken to the Police office.

Rao Bahadur R. S. ASVALE : They must be hesitating to go with the Police.

Dr. M. K. DIXIT : No, no. This order for beating is nowhere to be found in the Ordinances. It is really an awful sight to see men being beaten in a way much worse than the way in which cattle are beaten. I had an occasion to talk this over with the District Magistrate. Several instances of this kind may be multiplied but I do not want to waste the time of the House. Sir, these are the ways in which the Ordinances are being worked today. Perhaps the Honourable the Home Member would not give any guarantee that the powers under this Bill will not be abused, and I am afraid, Sir, later on if this Bill becomes law, we will have to come to this House and again repeat the same sad stories and take the time of the House. There is one point which I wish to mention and that is this. I do not for a moment want to say that there have been no congress excesses or either say in the name of the congress. [*Hear, hear.*] I do not for a moment wish to maintain that. I am for stopping all tyranny, all mob rule. I am opposed to all tyranny, whether it is social tyranny, congress tyranny or Government tyranny. There has been tyranny I must point out not of the congress but in the name of the congress some people carry on these excesses. Gandhiji or other gentlemen, the brains behind the Congress, they never want this mob rule, they never want this tyranny. But some hooligans in the name of the Congress want to make some mischief here and there and bring the Congress into disrepute. But, Sir, if that is wrong on the part of the people who in the name of the Congress do this, we do not want any mischief or any wrong being done by Government in the name of law and order. Two wrongs will never make one right and the only way to get out of this very difficult position both for the people and for the Government is to see that this civil disobedience is stopped by the organisers. I entirely agree with the honourable the Mover of the Bill when he says that they have controlled the movement but that it has not completely stopped. If it had been completely stopped we could not have read in the papers the jailing of the 46th War Council in Bombay and the arrest of the 59th dictator elsewhere. I do say that it still continues. But this Bill is not the right remedy to completely stop it. The real remedy is to approach or negotiate with the organisers of the congress and see that this civil disobedience movement is stopped,

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that this tyranny in the name of the congress is stopped and normal conditions are restored. The only remedy lies in the grant of the demands of the congress, the demands to which all the members of the second Round Table Conference including the delegate of the Congress, namely Mahatma Gandhi agreed. They came to one single agreement that full provincial autonomy and a qualified responsibility at the centre only will satisfy them, even the Congress. I use the word "qualified" because certain reservations by way of safeguards are to be made. I suppose that is the only remedy and not this Bill. By this Bill we are simply treating the symptom and not the disease. Still if Government wish to persist with repression let it renew the Ordinance, not ask us the members to forge the fetters for the people and soil our hands. The effect of the Ordinance rule till now is a complete demoralisation both of the Police department and of the people. The officers and their subordinates in the mofussil believe that they can behave in any way they like under the cover of the Ordinance, they can transgress the provisions of the Ordinance to any extent that they like and the people have no courage to say that they are being molested or ill-treated. I submit that this condition is not very dignified or happy either for the people or for Government.

Before I sit down, I want to give a solemn advice to Government that do not be misled or deluded by the loyalty meetings that are being held. They are more or less engineered or manoeuvred and what is done by the people in the name of the loyalty meetings is done more as a show and under a fear lest the operation of Ordinance might come on their head.

Now I come to the amendments which I have given. I have given three amendments and, Sir, you have been pleased to say that two of them I should not move. It is a condemnation of my amendments without my being heard by you. Sir, you will please permit me to say that. I gave an amendment to say that this Bill, if at all passed, should be there for three months which you think is an absurd amendment. But my second amendment is that it should be for six months and my third amendment that it should be for one year. When I sat down and considered over this matter I thought 6 months was the right period for this Bill, if at all it is passed, because even the highest authority in this country, the most responsible person in this country has not been entrusted with any power to issue or promulgate any Ordinance beyond the maximum period of 6 months by the Parliament.

The Honourable the PRESIDENT: The second amendment.

Dr. M. K. DIXIT: Here this is second. That is the first, I wanted to prepare myself, but on further consideration I thought that the only practical proposition would be to reduce it to three months for the following reasons, namely, that after six months there will be no Council and in these days of financial stringency, to call a special session in case a necessity arose to convene a special session to re-pass this bill would be rather difficult and therefore I thought that in any case, within three months, we shall have the February session and if within three months Government find it necessary to have a bill of this character, it will be

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quite easy for them to come before this Council and have it introduced and passed. I also thought that the third Round Table Conference is sitting and we are getting an indication even from London namely, Lord Sankey's letter to the effect that without representation of the Congress the new constitution will not be satisfactory. We read that in the press. We are apt to think in this connection that something might come out, the civil disobedience movement may stop and again a delegate of the Congress may be invited to join with a view to find out a satisfactory solution. Three months is the most reasonable period. Yet, if you say that I should not move it, I do not press for it, but six months' period is just in accordance with the powers given to the Viceroy for promulgating ordinances. However, if you are pleased to rule that I should not press for that, I bow to your decision and the amendment for one year has already been moved and I will only support it. With these words, I oppose the first reading of the Bill.

Mr. G. L. WINTERBOTHAM : I move the closure.

Rao Bahadur R. R. KALE : The amendments have to be moved yet.

Sardar BHASAHEB RAISINHJI (THAKOR of KERWADA) (Gujarat Sardars and Inamdars) : Sir, no member can participate in this debate without feeling a genuine regret for the circumstances which have forced Government, much against their will, to bring this Bill to meet the exceptional circumstances for which I can say Government is in no way responsible. For the last two or three days we have been hearing of the tyranny of Government and the tyranny of the Congress party. Much has been said on both sides and so I will not deal with it at any great length. But one has to admit, as has been admitted on behalf of Government, that there have been extreme cases on both sides, but in a case like this and circumstances like these, the Congress activities have virtually dislocated the trade of this great city. Not only that but I know of one or two instances where it became impossible for Government officers to carry out their daily duties in headquarters, and I am sure that the honourable members who are now opposed to this bill tooth and nail will agree with me when I say that certain of the revenue officers were placed in such an awkward position that it became necessary that Government officers should be given some protection. I will quote the instance of the Jambusar taluka ; in the particular city of Jambusar there was a Hindu mamlatdar. He got so nervous that he could not do anything. What used to happen in those days was that from day to day—

Rao Bahadur G. V. PRADHAN : The question as to whether a Government officer should have protection or not is not before us in this bill but is before the Assembly.

The Honourable the PRESIDENT : Quite so.

The THAKOR of KERWADA : What used to happen in that case was that some women used to go to his house morning and evening and carry on the mourning practice, namely, crying aloud and beating of

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their breasts as if they were mourning for somebody who had died in that mamlatdar's house. This happened till the poor fellow got tired and got a transfer and went away. Once he went to a village. The villager removed the horse from his carriage and drove the horse away. The mamlatdar had to walk back to his headquarters, eight miles away.

Besides the Congress, we are all fond of liberty just as the Congress is fond of liberty. We have now to see whether this bill will give greater liberty to a larger number or whether the Congress movement will give greater liberty to a larger number. Some years back, the Congress interfered with an election. Two of my friends were contesting from a Hindu constituency for the election. One man, a very prominent lawyer to-day in Broach had another from the Congress party pitted against him. I do not like to mention their names. Both came to me. I argued with them. I said to the other "That man is a leading lawyer. He has risen to a very high position in the Legislative Council as also in the Legislative Assembly. How can you think of competing with him? You are not a member even of the district local board or of the municipality." He said "We do not want anybody. We do not look to the qualifications of the man. We want to send down to the Council a person who will only follow us blindly", and that is what he said. The lawyer nearly lost his seat.

Now as regards the matter of collection of land revenue also, Government officers have suffered a great hardship. Some officers may have gone wrong and may have exceeded their powers and their limits. A remedy for that can be suggested. I therefore especially draw the attention of the Honourable the Home and Revenue Members to this point. In a case where it is found necessary to extend any part of this Act if this bill passes into an Act, I would certainly urge that the officers who are going to be entrusted with these powers should be very senior officers and not those who are only acting officers. I say so quite openly. Suppose an Aval Karkun is appointed to act as a Mamlatdar. If he exceeds the limit and says "The Collector Saheb and the Prant Saheb will be pleased and I will collect the revenue by any means," then where is the remedy for that? The area will of course be a limited one, a few talukas in a district. Select the best possible senior men who can be trusted with these powers. If you do this, there will be no objection to the powers sought to be given under this measure.

We all regret that due to circumstances for which Government, as I said, is not responsible, over which the Government has no control, it has become necessary, absolutely necessary, that these powers should be exercised by very senior officers only. Secondly, I do say that the Honourable the Home Member has very rightly agreed to the amendment that it should be limited to one year in the first instance, subject to power being given to His Excellency the Governor to extend the period of the Act for such time, not exceeding two years, as he may think necessary. That is a very workable amendment. Then, Sir, there is this point to be considered, and it is a very important point, namely, that even if you give these powers for two years, what will be the position

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of this House by that time? In two years the new Reforms will come. Whoever may be the person responsible then for these matters will be a Minister elected by the people. Therefore, the officers who will work these powers will take very great care, and also the Minister will be entirely responsible to the House, and he will see to it that there are no excesses committed, of which some instances have been given out during the course of the debate. So, there will be no harm done by allowing this legislation to pass without any further modification than this, that the powers should be given for one year, and His Excellency the Governor in Council should have the power to extend the Act for a further period of two years.

Well, Sir, I will not detain this House with any further remarks, but I have to make a few observations with regard to one provision which I do not like to leave unlimited. I refer to the amount of fine that is to be inflicted. There is no limit placed on the amount of fine that may be awarded. I think that is not fair, because, after all, as the Honourable the Home Member very rightly pointed out, this is preventive legislation. We want to prevent the man from committing certain acts. Therefore put him in jail, give him simple imprisonment, for six months or any longer period.

An Honourable MEMBER: And feed him there.

Sardar BHASAHAB RAISINHJI (THAKOR OF KERWADA): It may be a reasonable fine. There must be some limit placed on it. You cannot have fines of Rs. 20,000, as it was in one instance, or of a lakh. I think there must be some limit imposed under this clause. [Interruption.] I leave it to the honourable members to make concrete suggestions with regard to the limit of fine that the magistrate may award. With these remarks, I support the first reading of this Bill.

Dr. P. G. SOLANKI: Sir, I rise to support the first reading of this Bill, and when I rise to support it, I know, Sir, that I have got my own feelings against the Bill. But the circumstances are forcing us and me particularly to support this Bill. Sir, this Bill is to be known as the Special Powers Act. And why are the special powers required by Government? Such an almighty Government, such a powerful Government which can put down any insurgence or rebellion: are they afraid of the mild and peace-loving people of India? Sir, as long as the Congress movement was under the wise control of persons and noble sons of India like Sir Pherozeshah Mehta, Sir Dinshaw Wacha and Mr. Gokhale, it was in safe hands. Sir, it was after the disruption at the Surat Congress that it fell into the hands of people of extreme views. Sir, even though the late Lokamanya Tilak was an extremist in views, yet, if he was living at this moment, I do not think he would have allowed the Congress to drift into this chaos. Sir, since the last 10 or 15 years, the Congress movement has fallen into the hands of people who are over-enthusiastic in getting the reins of Government into their own hands. They are over-anxious to have the country's administration in their hands, so that they may be giving out justice to the people according to the wishes

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of the people. But, Sir, I have my own doubts about our people giving justice to our own people. [*Hear, hear.*] Because my honourable friend Mr. Patel says, "Hear, hear," I will, during the course of my speech, show to him that the Congress tyranny is exercised by our own people upon our own Indian people. Sir, it has been said up till now by the opposers of the Bill that it is the Government and the Government officials who are tyrannising the people. Sir, hardships are inflicted by the Congress and by the hirelings of the Congress much more, as well as by some of the petty officers of the Government. I cannot deny that, and I cannot even shut my eyes to the tyrannies and oppressions committed by the petty officers of Government in the police department and sometimes the officers in the Revenue Department.

Sir, coming first to Bombay City itself, let me tell you to draw a picture of what used to happen in Bombay against that of my honourable friend Mr. Patel who was waxing eloquent over the miseries of the people in Kaira, the tyrannies and harassments they had to suffer at the hands of the police officers there. In Bombay there was a time when the law-abiding citizens, citizens belonging to the upper strata of society, going about their daily avocations, to their offices, in their motor cars even, were waylaid. By whom? By the agents of the so-called Congress authorities, and they were agents who had not the uniform of the Congress who had no badges of the Congress. They posed themselves as the volunteers of Congress, and they would make any man stand in the road, ask them all sorts of questions, which even the Commissioner of Police would not dare to ask a man in the street; they used to ask where he was going, and what he was doing. This unconstitutional state of affairs prevailed in Bombay, and I will tell you, Sir, that some of the shops which belong to the English gentlemen were under such great hardships that they could not carry on their business. I may mention the name of one shop, that is of Messrs. Whiteaway, Laidlaw & Co. The volunteers of the Congress took it into their heads that this one shop which is carrying on trade in British goods must be penalised. And from morning till night there were pickets, not only male pickets but Desh Sevikas also. Sir, the managers and the staff of Messrs. Whiteaway, Laidlaw & Co. were so courteous to these pickets that they used to give them chairs to sit upon by the gates of the shop, and they expected that they should persuade the people from a distance not to go to their shop. But we have seen instances where these volunteers have taken the law into their own hands. I have seen with my own eyes Parsi ladies who had gone to the silk merchants' shops on Hornby Road in their own vehicles, motors as well as victorias were stopped just near Bori Bunder by mobs of these picketers, volunteers and processionists, and they were forced to open their bundles and packets of goods which they had bought from the shops, and if they were silks or foreign goods they were confiscated. Sir, this was the sort of mob rule, and the law-abiding citizens used to say that it seems that the British Government has come to an end and this mobocracy has the rule and full sway in Bombay.

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Sir, you can imagine the hardships of the labouring classes also. People were misled by the haranguing speeches of the volunteers of the Congress. From among the labouring classes, some of them took it into their heads to go and picket the mills to which the law-abiding labourers wanted to go and eke out their daily bread. Sir, many of those labourers were mostly Mahomedans and depressed classes, who wanted to have their daily bread, but were prevented by picketers at the gates of the mills.

Rao Bahadur R. R. KALE: On a point of order. The question of picketing is being dealt with in the Assembly.

Dr. P. G. SOLANKI: It is part of the civil disobedience movement.

Rao Bahadur R. R. KALE: It is not dealt with in the present Bill.

Dr. P. G. SOLANKI: Bombay has been ruined by these ways. My honourable friend asks, what has picketing to do with the present Bill? But I say picketing has everything to do with it. It is due to picketing that Bombay has been reduced to a fourth-rate city. All business, including the mill industry, has suffered. I talked about the shops. They did not spare their own Indian merchants. The honourable member Mr. Mitha will bear me out that his firm and many European firms were on the black list. He is perfectly right when he said that Government did not go to their help. Government did not take notice of their grievances. Every merchant was incurring a loss of lakhs and lakhs of rupees, on account of the mercenaries of the Congress. The merchants had to make some compromise and come to terms with these tyrants. I do not know what happened afterwards and how it was settled. If it was settled to their satisfaction, that is all right. But it is the duty of Government to come to the rescue of these merchants, who are paying lakhs and lakhs of rupees of income-tax. [Interruption.] My honourable friend says: "Forego income-tax." He may say forego income-tax, forego excise revenue, forego land revenue and so on. If there is no revenue, how the Government is to carry on the Government? Under the Congress government, you will be the first man to arrest a person who refuses to pay land revenue and forfeit the land of the man. You will not spare him.

The officers in the higher grades who are cultured and educated are more courteous than the officers in the lower grade of service. It is for this reason why honourable members are raising objections to this Bill. If the powers under the Bill are entrusted to these low grade officers, they are afraid of the consequences. I hope the Honourable the Home member will see that these powers are not entrusted to these petty insignificant officers in the lower grade. I believe Government have already given a promise that they will see that the interest of the people is safeguarded. Great hardships have been inflicted upon the law-abiding citizens during the last two years of civil disobedience movement.

We are therefore asking for the liberty, freedom and peace in the Bombay city and in the presidency, and public safety and security of

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law-abiding citizens who are by far the largest in number than the Congress agitators. A handful of educated advanced class people are upholding the cause of the Congress; and they are crying that the Congress is fighting for the freedom and independence of this country. If that is so, my honourable friends who say so, must support this Bill. The wearer knows where the shoe pinches. The minorities have to undergo a lot of hardships at the hands of these irresponsible agitators. The labourers in Bombay city are forced to forego their daily avocations and thus the daily bread they used to bring to their family and children is snatched away forcibly from them. The result is that they are unemployed and are dissatisfied. The Honourable the Home Member said that one of the causes of the riots in Bombay was this Congress harassment and unemployment. I do fully agree with him. The picketing of shops of Mahomedans near Jumma Masjid led them to be infuriated and excited and feeling ran so high between the Hindus and Mussalman merchants—though the immediate cause was insignificant, the remote cause was that—that the Hindu and Mussalman merchants who were friends for years became strangers, not only strangers but hostile to each other. When the peace committee tried to bring about a compromise, the Mahomedan merchants would not trust the Hindus and the Hindu merchants would not trust the Mussalman merchants, result being stagnation and stoppage of commerce and industry in the city. Government intervened and brought about a compromise between the two sides. Every time the Government is maligned even though the fault lies at the feet of both communities. Sir, who prevents the two powerful communities from coming to a compromise and final settlement and make a common cause? When Mahatma Gandhi brought about an agreement between the depressed classes and the high class Hindus it was ratified by the Premier; who on earth can deny Swaraj to India if Hindus and Mussalmans join hands together and make a united demand? The Premier, the Parliament and even the King cannot refuse their united and unanimous demand. But there is no unity yet, no confidence, no change of heart. My honourable friends to my left (Muslims) said that a change of heart must come. I do say with great solemnity that, even though the pact has been signed in Poona, the change of heart of orthodox Hindus has not yet come. Mahatma Gandhi may be the best friend of the depressed classes; but the orthodox Hindus are against him. They say that Mahatma Gandhi has lost his senses when he talks of the depressed classes entering the temples. If it is not so, I challenge my friends from Gujarat to falsify my statement. I have been in touch with the correspondence, with the negotiations and talks that are going on now with Mahatma Gandhi. If that is the state of affairs, existing between Hindus and Moslems, orthodox Hindus and depressed classes, then where will be the tranquillity and peace, if the administration of the country is left in the hands of such agitators and orthodox people? The Special Powers Act is not going to touch the man who is law-abiding. I do not think up till now any law-abiding citizen,

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who has not kept company with the people who are carrying on the campaign against Government, has been touched by police authorities under the Ordinances. But I know for certain that such law-abiding citizens have been harassed and troubled by the Congress volunteers and picketers. Law-abiding citizens have been forced on pain of social boycott to join their company. In the mofussil people are made serfs in their own villages. It has so happened in the Jalalpore Taluka villages. I come from Jalalpore Taluka and I know what happened there. When Mahatma Gandhi marched from Ahmedabad to Dandi to manufacture illicit salt, he laid axe at the root of toddy trees in some villages of Jalalpore Taluka saying that these obnoxious trees have ruined the masses. When people saw and heard that Mahatma Gandhi did so, thousands of them began to cut down the toddy trees of poor villagers in the villages. To cut a green living tree is a sin to the Hindoo and still people in the villages thought it a virtue to do so when Mahatma Gandhi was cutting down toddy trees; and took it into their heads to cut the trees by hundreds and thousands, result being immense loss to villagers and drop in Excise revenue. The Kolis of Matwad, Karadi and Onjar became the devoted disciples of Mahatma Gandhi in this work and used to shout "*Tadi aur Daru pina haram hai*" as they passed from village to village cutting down toddy trees. They used to threaten people by saying that "If you drink, you will be killed". It is on account of the Ordinance many lives have been saved, villagers protected from the unnecessary harassments and persecutions at the hands of the Congress picketers. These picketers and volunteers used to put on khaddar and wear white caps and carry on this mission. The moment the Congress influence is minimised by Ordinance these very missionaries of prohibition those Kolis have bought by licenses not only toddy shops in each village but also liquor shops and thus once more the Taluka villages have taken to drinking and the Kolis are making roaring business. Sir, what was the beneficent effect of such movement! This was all done under the coercive measures adopted by the Congress picketers which they carried on ruthlessly in the villages. These very picketers and disciples of Gandhi have taken to drinking toddy and liquor with revenge and are thus throwing overboard the good effects of temperance. The change was only superficial by way of imitation only and sentimental. It was not a lasting change of heart for good. My honourable friend Mr. C. N. Patel from Kaira talked about a referendum. I do accept that challenge, although Government may not. I shall show that my people will prove that what I have stated is true. Let not a single Congressman or people with the Congress mentality, its sympathisers and friends, be allowed to approach these people. Let these people be allowed to speak out for themselves and the referendum will be against my honourable friend. It is no use challenging us to take a referendum. The poor people have been led by a handful of the intelligentsia from the advanced classes. The editors of the papers also are posing themselves as nationalists. They will not print or publish anything what the loyalists or the royalists may say; but if

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the Congresswala and the pro-Congress were to say one sentence they will print it and magnify it a hundred times. They are charging the *Times of India* with giving fabricated news. But every time I have found the *Times of India* more trustworthy and reliable in their reports and statements than these papers which give publicity to exaggerated accounts and falsehoods. I am sure that the people who sit in the Press gallery will write against me and curse me. I know that these papers have done immense harm to the country at large during the riots in Bombay City. It is these papers that fanned the flame and increased its rage. They were exaggerating and giving false news, and the result was that the riots which ought to have been checked within a week continued for three months. So much for our Indian papers. [Interruption.] If the volunteers of the Congress are stopped from influencing the masses, and a referendum is taken among the masses, they will say that the British Government and the constitutional government is the best for them. People may say "Here is an Indian who does not want self-government" but I do say that I also do want self-government provided all sections of people have a share in it.

The Honourable the PRESIDENT: The honourable member gave me an impression that he was about to conclude, but an honourable member interrupted him and he has started again.

Dr. P. G. SOLANKI: I will speak for five minutes more.

The Honourable the PRESIDENT: If the honourable member will conclude soon, I would like to give a chance to another honourable member to speak.

Dr. P. G. SOLANKI: I will speak for five minutes more.

The Honourable the PRESIDENT: I will give three minutes more. Then ten minutes will be given to another speaker.

Dr. P. G. SOLANKI: I bow to your decision. Now, coming to loyalty meetings. It has been stated, Sir, that the strength of these loyalty meetings is got up and engineered. May I ask what about the genuineness of the reports of the Congress meetings which have been appearing for the past so many years? Reports have been published that thousands and thousands attended them and passed resolutions against Government. Are these reports and meetings not exaggerated and false? Are they not engineered by agitators? Some of my honourable friends from the Surat District may say that these loyalty meetings are engineered. Take it for granted that they are engineered. Is it not our duty to inculcate loyalty in the minds of the people? If these loyalty meetings are passing certain resolutions and doing certain acts of loyalty towards Government, is that a sin? They are not breaking the law; they are not going against the constitution; they are trying to obey the law and live peacefully; they say: "Live and let live". But that is not the case with the Congress volunteers and picketers. I do not want to lay any charge against Mahatma Gandhi, who is non-violent and who is an angel of peace, and as he is looked upon by the world. But it

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is Congressmen and Congress picketers and volunteers who have been doing the greatest harm to this country by unconstitutional agitation. I have great respect for Mahatma Gandhi. Mahatma Gandhi must give up Civil Disobedience and come out of jail at this juncture and I am sure he will be of great service to the country and the Government.

With these words, I say that at this particular juncture this "Special Powers Act" is necessary for Government and so I give my full support for the first reading of this Bill.

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN *rose*.

The Honourable the PRESIDENT: Would the honourable member speak for ten minutes?

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN: I will speak only for two minutes. Will you allow Dr. Vaishampayan to speak?

The Honourable the PRESIDENT: I will allow the honourable member to speak for two minutes.

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN (Poona and Sholapur Cities): Sir, I am also one of those who have got a mandate from their constituencies, and the mandate I have got is to support the Bill. We have been hearing the honourable members questioning the necessity of the special law, but, Sir, if we look back to the history of the last three or four years, we cannot but admit that some special and even extraordinary powers are required by Government. Sir, I can probably speak with as much authority as anyone else regarding my constituency of Sholapur City [*Interruption*]*—*even as much as the honourable member Dr. Vaishampayan. I do not propose to go into the details of the unfortunate occurrences of May 1930 in my city. The followers of Mahatma Gandhi during that period made the Government no government, and we Moslems found ourselves nowhere with no support or help. Many of the Anglo-Indians and Europeans had to leave the station for their lives. It was a situation, Sir, which made us wonder whether the British Government had ceased to exist and some other had taken its place. The situation became so critical that Government had to proclaim martial law to restore order and peace and inspire the people with confidence. This itself conclusively proves that the ordinary law of the land is absolutely inadequate, and extraordinary powers are required to meet extraordinary situations. I submit that the civil disobedience movement is still alive although for the present it appears quiescent. My complaint against the Congress movement is not because it upsets Government but because it destroys business and causes misery to innocent people whose only aim is to gain bread and butter for themselves and for their dependants.

At this stage no argument is required from me to show that no Government, whether British or national, can function and perform its duties without revenue, and this is just what will have to be done if people withhold payment of taxes and rates. [*Interruption.*] I hope no argument is required to explain it. I shall do so if necessary.

The Honourable the PRESIDENT : Time does not permit.

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN : Sir, the argument against the Bill is that its provisions are too drastic and that the powers conferred by it will be misused and that it will be in force for a longer period than is wanted by the present circumstances. Well, Sir, I am prepared to support a few of the amendments to make it less drastic, but the other amendments I will not, as I have always believed that it is quite essential in the interests of law-abiding citizens. With these few words I strongly support the Bill.

Dr. V. G. VAISHAMPAYAN *rose*.

The Honourable the PRESIDENT : The honourable member can have five minutes.

Dr. V. G. VAISHAMPAYAN : I will take ten minutes.

The Honourable the PRESIDENT : The other honourable member kept his word, and there are only five minutes left.

Dr. V. G. VAISHAMPAYAN : I will hurry up.

The Honourable the PRESIDENT : I will stop the honourable member exactly at seven.

SYED MIRAN MAHOMED SHAH : If you permit me, Sir, I would like to move an amendment to the amendment.

Dr. V. G. VAISHAMPAYAN (Sholapur City) : Sir, the last speaker Dr. Solanki, when he made his speech, reminded me of a couplet in Marathi. It runs thus :

॥ साळुंकी ती कैशी बोले मंजुळवाणी । शिकवीता धनी वेगळाची. ॥

I will translate it. "How sweet does the parrot speak, but the voice behind it is his master's voice."

Dr. P. G. SOLANKI : No, no. Sir, I object to this remark and I insist that Dr. Vaishampayan must withdraw his words.

The Honourable the PRESIDENT : That is objectionable. The honourable member must withdraw it.

Dr. V. G. VAISHAMPAYAN : I withdraw it, Sir. Sir, I oppose the first reading of the Bill and in doing so I shall first of all point out that there was no necessity to call this special session of the Council which has put Government to tremendous expenses in these days of retrenchment. There was never a clamour from the people for the present Bill. I should like to ask the Government whether they have any evidence to show that there was a demand from the public to make the present Bill a law. History teaches us that such laws are never in force for more than six months in any other country over the earth. The Advocate General from the beginning of his speech to the end has not done anything except showering high abuses on the Congress and its followers. He was not able to bring any law point to satisfy us that the ordinary law of the land was not sufficient to cope with the present civil disobedience movement. I must tell him, and very frankly, that if it were

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not for the Congress agitation many of us who are sitting and adoring the chairs would never have been here. Those who are now here want to kick away the ladder from which they rose.

Sir, I have ascertained in my constituency after I got the present Bill in my hands, from the highest to the lowest, whether any one wanted me to support the present measure when it comes before this Council. But I am proud to say that not a single voice was in favour of this measure.

This Bill is like a steam-roller that will crush any and everything that comes under it in the name of law and order.

I shall cite a few cases from my district in which the powers under the Ordinances were misused or abused. It will be a big history if I were to mention all of them. I will, therefore, restrict myself to a few of them, which will be an eye-opener to many of us who say that the powers are never misused.

A weekly newspaper by name "Karmayogi" was owned by a limited company which company was declared unlawful under the Special Powers Ordinance of January 1932. The property and the Press belonging to this concern were confiscated and sold for a petty sum of Rs. 2,000 even though the original value of the property was somewhere near Rs. 20,000. Applications were made by responsible men to withhold the sale but no reply was received either from the Collector or the Government of Bombay until it was disposed of. This weekly paper had never preached civil disobedience movement nor had its editor even taken part in the same. He is out and out a Responsivist. The only act that this editor did was, to my mind, the printing and publishing of the correct information about the uncalled for and inhuman shooting of May 1930. The District Magistrate got wild over this and under the Martial Law regime put this innocent man in jail by informing the Martial Law authorities for seven years hard labour with a fine of Rs. 10,000. The editor was let off after one year after the Gandhi-Irwin Pact was made. After his release from the jail the same matter was reprinted under the signatures of hundred and fifty prominent citizens of Sholapur. This statement still remains unchallenged by the Government. It will be quite clear from the above facts that he was in the bad books of the District Magistrate and so it was with a clear idea of reaping vengeance that this man was again victimised under the Special Powers Ordinance of 1932. I have sufficiently illustrated from the above facts that when these unlimited powers are vested in the Executive they are often misused. This will prove that the plea of moderation is belied by the past experiences. I will go ahead and say that the house in which the above press was located is sealed and is yet in the possession of the police and not returned to the owner. There is not a single case of such a nature in the whole of India. I wish to bring another important matter to your notice that the editor of the above paper after his release as a detenu from the jail is on parole for the last 8 months. Is it not a sufficient proof of his conduct that he does not subscribe to the creed of the civil disobedience movement? As a public leader he has had

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sufficient humiliation. How long is Government going to continue this state ?

Another case is that of one Mr. Gulabchand Hirachand, a wealthy merchant of Sholapur and also a Director of the Karmayogi Press who was interned under the Special Powers Ordinance in January last. After his release from jail such conditions were imposed upon him which any ordinary law-abiding man would think derogatory to his self-respect. This man, as everyone of you know, was imprisoned for 18 months hard labour with a fine of Rs. 20,000, unique in the history of the civil disobedience movement in India. A novel instance of moderation !

I have in the beginning stated that it will be a big history if I were to enumerate cases after cases in all of which excesses have been done. I would therefore say that there is no difference between the present Bill and the Martial Law. The difference is only in name.

In conclusion I would like to say that instead of seeking such legislation I would suggest that a policy of conciliation be pursued like the one followed by the Indian and European cotton brokers when there was a deadlock in the cotton market since the Ordinance regime. A few Congressmen and other members intervened and issued a statement. I will read that statement :

" A statement was reached last night between European and Indian brokers as a result of which it is expected picketing will be called off and peace restored in the cotton market. The settlement is based on a statement of their attitude made by principal European firms which have been on the boycott list. The statement which is signed by Mr. N. B. Moore on behalf of these firms runs as follows : ' We understand that the present unfortunate situation in the cotton market might be solved if certain misapprehensions about the attitude of our group could be cleared up.'

With this object in view the firms of Crystal and Co., Gill & Co., Langley & Co., Ralli Brothers, Rodoconachi & Co., Spinner & Co., The Bombay Company Limited and Volkart Brothers wish to make the following statement :—

' We fully sympathise with the national aspirations of our fellow members in the cotton trade.

As we signified by supporting the resolution recently passed by the E.I.C.A., we are anxious to see the early restoration of political peace and the speedy termination of the present unsettled conditions. We believe that the withdrawal of the Ordinances and Civil Disobedience would help to achieve the desired peace in all markets.

The resolution passed respectfully submitted that the early release of Mahatma Gandhi would accelerate the end of the trouble and to this view we adhere'."

With these remarks I oppose the Bill.

The Honourable the PRESIDENT : Tomorrow being Saturday, as usual we sit early, and I propose that we sit at 10 a.m. and finish at 1-30 or 1 p.m.

Honourable MEMBERS : One.

The Honourable the PRESIDENT : Well, there is one important point to be considered before the time is fixed. Tomorrow the debate must conclude. The Honourable the Home Member must have his full opportunity, not only to reply to the amendments, but also to conclude or make his remarks on the general discussion. He has a right to speak twice, and I would give him two opportunities, one to speak on the amendments and another to wind up the whole debate. Now, only the

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amendment of the honourable member Mr. Gangoli is left. He will certainly have an opportunity to speak on it. So what I suggest is this : If it is 1 o'clock that the House would like to sit up to, then the Honourable the Home Member must be given at least one hour. Would that be sufficient ?

The Honourable Mr. W. F. HUDSON : It depends entirely upon the number of divisions the House goes to. So far as my speech is concerned, I hope that the amendment will not take more than 20 minutes and that my final reply will not take more than 20 minutes. But each division takes about 12 minutes.

The Honourable the PRESIDENT : I propose that the discussion should conclude at 11-30, within which time we would give the honourable member who has his amendment an opportunity to speak on it, and if there is time, other members will speak, and at 11-30 the Honourable the Home Member would give a reply to the amendments within 20 minutes, as he says, or half an hour. At 12, if there is a division or divisions, on the amendments, they will be proceeded with. After that the Honourable the Home Member will wind up the general debate and that may take us up to 1. If I find that a few more minutes are needed, the House will sit.

Rao Bahadur R. R. KALE : I have to say something on an important matter. I did not rise today in the middle because I thought I would be allowed to move my amendment after all the amendments were moved. I wanted to say something about the Honourable the Home Member's amendment to the amendment of my honourable friend Mr. Surve.

The Honourable the PRESIDENT : What I have noticed is that very little has been said on the merits of the Bill. So far the speeches have dealt with the general political condition. If the honourable members speak to the point, they need take much less time.

The House is now adjourned to 10 o'clock tomorrow, Saturday, the 26th November 1932.

Saturday, the 26th November 1932.

The Council re-assembled at the Council Hall, Bombay, on Saturday, the 26th November 1932, at 10 a.m., the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ACHREKAR, Mr. A. B.
 ADVANI, Mr. P. B.
 ALLAHBAKSH, Khan Bahadur
 AMINUDDIN, Mr. SAYYID
 ANGADI, Rao Bahadur S. N.
 ARBUTHNOT, Mr. C. W. E.
 ASAVALE, Rao Bahadur R. S.
 BAKHALE, Mr. R. R.
 BALOCH, Mr. HAJI MIR MAHOMED
 BANGI, Mr. A. K. J.
 BHURGRI, Mr. J. W.
 BHUTTO, Sir SHAH NAWAZ
 BHUTTO, WADERO NABIBAKSH ILLAHIBAKSH
 BIJARANI, Khan Bahadur SHER MUHAMMAD KHAN
 BIRADAR, SARDAR MAHABOORALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CHIKODI, Mr. P. R.
 CHITALE, Rao Bahadur G. K.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Saleb B. G.
 DESAI, Mr. H. R.
 DHALUMAL LILARAM, Mr.
 DHURANDHAR, Mr. J. R.
 DIXIT, Dr. M. K.
 D'SOUZA, Dr. J. ALBAN
 GANGOLI, Mr. G. S.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GHULAM HYDER SHAH, Mr.
 GHULAM NABI SHAH, Khan Bahadur
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 GREAVES, Mr. J. B.

HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.
 HUMPHREY, Mr. JOHN
 JAM JAN MAHOMED KHAN, Khan Bahadur
 JAN MAHOMED KHAN, Khan Bahadur
 JITEKAR, Mr. HAJI IBRAHIM
 JOG, Mr. V. N.
 JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHRO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SEVAI, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHAIKH ABDUL MAJID, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI

SOLANKI, Dr. P. G.

SPENCE, Sir REGINALD

SURVE, Mr. A. N.

SURVE, Mr. V. A.

SYED MIRAN MAHOMED SHAH

SYED MUNAWAR, Mr.

TALPUR, Mir BANDEH ALI KHAN

TARAPOREWALA, Mr. V. F.

THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI

TOLANI, Mr. S. S.

TURNER, Mr. C. W. A.

VAISHAMPAYAN, Dr. V. G.

VAKIL, Mr. PESTANSHAH N.

VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR.

VANDEKAR, Rao Bahadur R. V.

WINTERBOTHAM, Mr. G. L.

BILL No. XXVII OF 1932 (SPECIAL POWERS BILL).

Question again proposed: "That the Bill be read a first time."

Major W. ELLIS JONES: Mr. President, I had no intention of intervening in this debate, had it not been for the statement made by the honourable member for Sholapur regarding the statement made by certain members of the cotton trade. I do not propose at this juncture to go into the merits or the demerits of that statement, but suffice it to say that this fact, that the statement was made and signed, is one of the strongest arguments in support of the present Bill. Certain members of the cotton trade found that on account of certain circumstances in Bombay it was impossible to get ordinary normal marketing conditions for Indian cotton, and in order to bring about the normal marketing of the Indian cotton crop, certain members of the trade were compelled, in order to prevent the exploitation of the agriculturist by the ideals of certain of the extreme sections of the trade, to sign that statement. Much political capital has been made of the statement. But that statement, let me tell this honourable House, was made to permit of the Indian cotton cultivator getting a fair market for his cotton.

Rao Sahab V. S. PATIL (speaking in Marathi): Sir, I have to make an appeal. For the last four days, we, the Marathi-speaking members, have been rising in our places, but have not been given a chance.

The Honourable the PRESIDENT: Order, order. Mr. Kamat.

Mr. B. S. KAMAT: Sir, after the debate of the last four days, I confess, so far as new argument is concerned, we on this side of the House have very little to produce. But I think it is due to the House that I should endeavour to take stock of the *pros* and *cons* of the case, see how far we are on common ground, examine how far our friends on the opposite side have met any of the objections urged on this side or have refuted them, and see where we stand with reference to the real merits of the question. It shall also be my endeavour, Sir, to compare and see how

[Mr. B. S. Kamat]

this Bill, so far as its main features are concerned, stands in contrast with a similar Bill for controlling the civil disobedience movement now before the Assembly, and point out how the attitude of the local Government towards its legislature and towards this piece of legislation is somewhat illiberal as compared with the attitude of the Government of India towards their Assembly and their Bill. Lastly, I should like, if possible, to ascertain from the Honourable the Home Member how far he is prepared to meet this side of the House in reference to any modifications which have been suggested by honourable members.

Sir, the general discussion of the debate of the last four days to my mind was confined to an issue which, although broadly speaking correct, was, at least for those who could think closely and cogently, an issue somewhat clouded, somewhat confused. When my honourable friend the member for the University developed his case to the opposite side, I believe he made it perfectly clear that we on this side of the House do recognise that the Congress is harassing sections of the community by means of the boycott and various other activities. We concede that the civil disobedience movement has caused a great deal of hardship and persecution to various sections of the public. We also grant that, so far as those activities are concerned, they have created a great deal of moral harm, economic distress and persecution to all concerned. We were there on common ground. I for one have no hesitation in saying that the revival of the civil disobedience movement in January last, was absolutely an unnecessary act, which caused a great deal of wanton mischief and hardship to the public and plunged the country into economic and other distresses. I also recognise that in the practical working of the Ordinances, under the regime of the Honourable the Home Member, and I might say throughout the districts under the District Magistrates they have been worked on the whole with a great deal of moderation, restraint and judgment, barring of course stray cases as have been pointed out by honourable friends from different districts. Sir, there have been excesses on the Police side and there have been excesses on the Congress side. These facts were admitted on this side, and I think, when the several members discussed at length the question whether it is necessary to control the movement, I mean, to control the anti-Government activities of the Congress, they were rather spending their time on matters admitted and which, therefore, by all rules of debate, did not require any lengthy proof. The issue really was, whether the existing law is not sufficient to cope with the evil and if so, what should be the extent of the powers and the character of the powers to be given to the Executive; further, the question was what should be the nature of the procedure, and what should be the character of the penalties provided. These were really the issues on which we differed, and on which the discussion should have centred itself.

It is for me now, Sir, to point out that, so far as these issues were concerned, the other side have not justified the demands they make to the legislature on behalf of the executive. Sir, I was not surprised that many of those honourable members, either young or old, in this Council,

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who were not trained to law, rather went off at a tangent in examining this narrower issue. They spent a great deal of their time in graphically describing what the Congress was doing, a fact which was known to this side and was also admitted by this side. They also described at great length, I should say almost at unnecessary length, the chaos and anarchy which would result if no steps were taken to check the movement. I can quite understand my young and amiable honourable friend Mr. Mitha describing the hardships caused by the Congress to the minority communities and not only to them but even to the Hindus. Similarly I can quite understand that my honourable friend Dr. Solanki, whom I am sorry I do not see in his seat today, laboured rather too much in describing what the Congress was doing to the depressed classes. We all recognise that there is a hardship not only to the depressed classes there, but I believe even to others, to us on this side, the most depressed for the moment, the most oppressed people, on this side of the House—us who are oppressed by our erstwhile depressed friends by their attacks in and out of season. But what surprised me most was that a man trained to law, an eminent counsel, like the learned Advocate-General, devoted, out of the 90 minutes, he had to himself, nearly 75 minutes to a description of the Congress activities, and those 75 minutes were devoted mainly to giving us a political discourse, a *resumé* of all the political events during the last two years, commencing from the historic march to Dandi in 1930, down to the well-known case, *Emperor v. Gulabchand* of 1932 fame. While he was describing all those events, I felt he was trying to describe facts well known to this House. Probably he forgot that we read newspapers and have our own files, and have the whole of the events practically before us.

Having shown, Sir, that most of the honourable members who indulged in general criticism were rather off the issue, let me deal with the two principal exponents of the Government view, I mean our learned friends, the Advocate-General and the Remembrancer of Legal Affairs. The two or three points made by the Advocate-General were, that, after all, when the executive are coming before the legislature with this Bill, it is nothing but a continuation of the Ordinance No. X of 1932. We know, Sir, it is a continuation, a continuation in the sense that it is valid law, that it is the same law in being. But if he means that it is a continuation of the Ordinance X of 1932 in the sense that a one-man-made law ought to be continued in the same words, in the same spirit, almost to the letter, and to the comma, then I say it cannot be a continuation, because once we, the legislature, are seized of the Bill, we have every right not to retain it as a continuation, but to make such changes therein as the representatives of the people may like to make. The argument of my honourable friend the Advocate-General was that His Excellency, the Governor-General has the power, as he pointed out several times, to repeat and renew the Ordinances, not only once but more than once. If that was his argument, let me ask him why he has not advised the Local Government and through the Local Government the Imperial Government to continue the Ordinance in the name of His Excellency.

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the Governor-General for another period of six months. If the Government of India themselves are not prepared to take the odium, it does not then lie in the mouth of Government that they should ask the representatives of the people to take that odium on their heads for such clauses of the Bill as are repugnant to the very fundamental principles of justice and the very principles of criminal law. It would have been quite possible for the Governor-General for the third time, to renew the Ordinances for another six months and wait, as one of my honourable friends on my left pointed out, until the results of the Round Table Conference are known by February or March next. But instead of doing that, he is advising the Local Government to have the Ordinance in the form of this Bill.

His second point was that, after all, this is a preventive measure. Sir, every penal law, we know, is a preventive measure. The Penal Code, when it provides punishment for murder, means to provide some sort of preventive action. If he means that when the law is preventive, it must be deterrent in its effect, certainly we agree. But if he further means that Government are justified in having a preventive law in the sense that the deterrent effect should be produced by the humiliation of the accused, by vindictive methods to be left in the hands of the executive, I mean by clauses of the Bill which are capable of being used vindictively, I certainly deny that the law should be preventive in that sense of the term. What was the third argument he used in the course of his long address? So far as the difficulties pointed out by this side of the House are concerned, he frankly admitted that there was nothing wrong in section 4. He did not think that there was anything derogatory at all, if the magistrate inflicted anything like a parole on a man, there was anything morally wrong if a citizen was asked to go on parole and *salam* a police officer three times a day! I believe that the Advocate-General as a trained lawyer never meant it seriously. If that is his serious conviction, I would say, save us from our friends. I noticed, Sir, even the honourable member the Legal Remembrancer, although he did not give a physical start when he heard this startling utterance from the lips of the Advocate-General, he visibly evinced it in the face. That is the instinctive feeling of an Englishman. I do think, Sir, that in a hurry to put forward specious arguments, the Advocate-General went a bit too far. Otherwise, I am sure he shares the sentiment of every Indian that it is undoubtedly derogatory to go on parole. And that is the whole objection to the Bill from this side of the House.

As for the argument of the Advocate-General, whether the existing law is sufficient or not, the argument further developed by the honourable member the Remembrancer of Legal Affairs, as a layman I am not entitled to express an opinion. But I can say this much. On the one hand I heard the opinions of my two colleagues on this side, who have served as Government prosecutors; and on the other, I have heard the opinions of two eminent lawyers. After hearing the arguments on both sides, I must confess I keep an open mind; the arguments on the other side were authoritative but to me not conclusive. I recognise

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however, there is a great deal of force in the argument of the honourable member the Remembrancer of Legal Affairs that the existing law framed several years ago, I mean the Indian Penal Code and the Criminal Procedure Code, was not designed to meet mass movements and agitation on a large scale. So far as the trial and the procedure are concerned, they probably cannot cope with speedy trials and summary procedure as may be wanted. There is a great deal of force in that. I admit *prima facie* there is a case for Government to say that the existing law is not sufficient to cope with the present evils. Granting that our friends have made out a *prima facie* case, assuming that the existing law is not sufficient in the hands of Government to cope with the situation, we are yet entitled to ask: 'Does it justify Government to arm themselves with powers of a nature which are humiliating and of a nature repugnant to the sense of justice and the fundamental rights of people, repugnant to ideas in which we have been fostered and nurtured by our English education?' There is no answer to that either from the Remembrancer of Legal Affairs or from the honourable member the Advocate-General.

Now, so far as the various sections of the Bill are concerned, we have objection to section 4. I have shown, Sir, as far as the Advocate-General is concerned, he has given away his case; he does not feel any derogation in the orders under that section. So far as the honourable member the Legal Remembrancer is concerned, he is frank enough to say, "I agree, there is something humiliating." As an Englishman, he feels it an interference, to commandeer a man's motor car, for instance. We are glad we have the support of an Englishman. If the Remembrancer of Legal Affairs feels that it is humiliating to interfere with an Englishman's liberty, is the moral code of self-respect of the Indians in India below the moral code of Englishmen? Does he intend as an Englishman, sitting in the legislature framing laws for Indians, to have one standard adopted for Indians and another standard for Englishmen? [Mr. Davis nodded dissent.] I am very glad to see that. The honourable member Sir Reginald Spence is there and the honourable member Mr. Winterbotham is there. I ask those two representatives of the European group whether they would consent, sitting in the House of Commons, legislating for their own countrymen for anti-governmental activities, to a measure of such character. If these two Englishmen say they differ from the view of the honourable member Mr. Davis, I say one of them must be right and the other must be wrong. And I accept the instinct of Mr. Davis as the right one.

Sir REGINALD SPENCE: I was not here at the commencement of the honourable member's speech. I apologise to him for it. I shall be able to answer him later on.

Mr. B. S. KAMAT: We ought to take our stand on better psychology. I have to point out that one important question has not been answered by the other side. We ask Government, even supposing you want some more powers than are conferred on you under the existing law, why do

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you want absolutely unlimited powers as embodied in this Bill? For instance, section 26 can impose unlimited fines. Why should they have this power to impose unlimited fines? Then again, under section 23, why should every offence under the Chapter be non-bailable? No constitution in any part of the world exists where the executive is empowered to impose any amount of fine, to control anti-government activities. If more powers are necessary, why should those powers be unlimited?

I shall now turn to another argument urged by my honourable friend Mr. Davis. He said he had not the time to ransack the history of legislation of every country to find out a parallel for this Bill. He, however, quoted the Irish Free State Constitution Amendment Act, where there is a provision for the constitution of a military tribunal for dealing with anti-government activities. I wish, Sir, he had not quoted that precedent. I have taken the trouble to examine how far the analogy he quoted for the benefit of this House is really on all fours with Indian conditions, and how far the anti-government activities by an armed people in Ireland are on a par with the activities that are now going on in India. I have also examined the constitution there and the constitution under which we are working here. What he quoted as the new amendment to section 17 of the Irish Free State Constitution, is the power to declare martial law. Are we providing for martial law? I do not think the analogy stands here.

The Honourable Mr. W. F. HUDSON: Which is the alternative?

Mr. B. S. KAMAT: Whatever it is, it is no martial law we are thinking of.

The Honourable Mr. W. F. HUDSON: We are now trying to avoid martial law.

Mr. B. S. KAMAT: It must be remembered, Sir, that, after all, the constitution in Ireland works under responsible ministers. The minister has a right to resort to military tribunal, but the legislature has the right to call upon him, if he has worked the constitution wrongly and done any injustice to any person, to resign. It is not so here. From the summary of the amending provisions to section 17 of the constitution which I see from the Journal of Empire Parliaments in my hand, I do not see anything there humiliating in the punishments of the military tribunal. Yes, there is the sentence of death in the hands of the military tribunal. But there is no provision which enables the executive to inflict vindictive or humiliating punishments. That is a distinction between the analogy he quoted and the Bill which we are asked to pass. Sir, the honourable member Mr. Davis has no case at all in the analogy of a military tribunal he quoted.

Now, Sir, about the attitude of the Government of Bombay, I am sorry their attitude is not the same as adopted by the Government of India with regard to a similar Bill now before the Assembly. The Leader

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of the House, while criticising my honourable friend Mr. Bakhale the other day discarded the opinion of two authorities. He quoted Sir Abdur Rahim—

The Honourable Sir GHULAM HUSSAIN: It was not I who discarded their opinion, but I said that the Assembly had discarded it.

Mr. B. S. KAMAT: Anyway I am not quoting to him the authority of discarded opinions. What I am trying to point out is this. The original form of the Bill as introduced by the Government of India in the Legislative Assembly contained certain provisions and clauses, and the legal advisers of the Government of India and the Home Member there have agreed to modify the Bill in such a manner as to provide safeguards in the form of explanations and exceptions, which are in consonance with elementary sense of justice. There is now a vast difference between the Bill as it originally stood and as accepted by the select committee presided over by the Honourable Mr. Haig. We, the members of this legislature, on the other hand are being treated in a different manner by the Government of Bombay. As I just now pointed out for instance, under our present Bill Government want that every offence should be non-bailable. The select committee of the Legislative Assembly say that it is not necessary to make every offence non-bailable, except perhaps molesting which alone they have made non-bailable. In the Government of India Bill, the select committee has made, with the consent of the Home Member, molestation or picketing non-bailable. Then again take the question of picketing. The safeguard introduced is as follows:—

".....encouragement of indigenous industries or advocacy of temperance.....shall not be an offence under this section."

May I ask if we shall be allowed to have similar checks on the executive? Another safeguard provided is this. With regard to dissemination of prohibited literature, if a person does a thing in a *bona fide* way he is not liable. Another extraordinary power demanded was this. They introduced a provision to punish a parent for the offence of a youngster under 16 years of age. The select committee, however, has introduced a check that, before making an order under this section, the court should give the parent an opportunity to appear before the court. Here an opportunity is given to the parent to be heard. And no such order against the parent or guardian shall be made if the parent or guardian satisfies the court that he has not conducted to the commission of the offence by neglecting to control the young offender. That, Sir, is the healthy safeguard and check which the select committee have introduced. I have mentioned these changes in the Assembly Bill in the hope that if the present Bill is accepted at all it should be accepted with modifications which are necessary in the interests of innocent people. An opportunity should be given to the accused to be heard and to defend himself.

There are two or three modifications which my honourable friend the Honourable the Home Member told the House that he was prepared to have—

The Honourable Mr. W. F. HUDSON: To consider.

Mr. B. S. KAMAT:— to consider. One is under clause 3; by executive action he would authorize no police officer below the rank of a District Superintendent of Police to arrest a man. The second modification which Government are prepared to consider is with reference to clause 19. And the third is with reference to the time limit, on which we had an announcement from the other side yesterday. With reference to clause 17, we have been told that Government will take power to notify an area only on the ground that there is a refusal to pay land revenue assessment on political grounds. Now, I consider that clause as a very wide clause. Under what conditions will Government notify an area? Will they wait to see that a large number of payers of land revenue have by contumacy or otherwise refused to pay? Will they see that before they notify any area there was political propaganda going on in that particular area? As it is, the clause is so vague that even a man who wants to conduct a healthy and legitimate propaganda, say about revenue suspensions or the *annevari*, as my honourable friend Dewan Bahadur Patil mentioned the other day, would be prohibited or would be hauled up for instigation of non-payment of taxes. Then again, clause 19 is likely to help one class, the landlords, as against the tenants; it allows the officers of Government to help the landlord class as against the tenant class. These are the evils of these two clauses, and I wonder if Government are prepared to modify them to some extent.

Now, with reference to the time limit which the Honourable the Home Member yesterday told us that he was prepared to accept, if the life of this Bill is reduced to one year, I do recognise that the House should be thankful for that small mercy. But, Sir, that limit of one year is coupled with the condition that Government will have the power, by executive order, to extend the period to two years more. What will be the result? Under favourable circumstances that clause will limit the life of the Bill, if passed, to one year only. If, on the other hand, in November next, for some reason or other, Government find it necessary to extend the period of this legislation, the very object which Government have in view, namely, to hand over to their successors a peaceful atmosphere in the country, will be defeated. Even the very elections which are coming may be vitiated. With the help of this instrument for keeping the peace in the country, it will be possible for the district officers to influence the elections in favour of their own candidates. They may feel that one candidate is doing pro-Government propaganda and the other is doing anti-Government propaganda. I venture to think, Sir, that if Government is given the power to extend the life of the Act beyond a year, it might defeat the very object they have in view, namely, to hand over to their successors a peaceful atmosphere and a good Ministry in the country. Sir, I for one think that it would be better to leave our successors to take care of themselves. There is no reason, in my opinion, why we should hand over a soiled statute book to our successors. Let us hand over a clean sheet.

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Lastly, Sir, let me ask the Honourable the Home Member, whose career has been so bright and brilliant in this presidency, even at this late stage, to find some expedient by which the statute book of the Bombay Presidency may not be disfigured by provisions in a Bill so repugnant, as I have said, to the ordinary sense of British jurisprudence. Is it not possible for him still to avoid keeping on the statute book a record that these unjust provisions were piloted through the House by no less distinguished a person in the Civil Service than Mr. W. F. Hudson?

I do hope, Sir, that the objections raised by this side of the House will be seen in the proper light by the official side. It is not that we wish to oppose the control over the activities of the civil disobedience movement. All that we contend is that we should pass only such legislation that a decent legislature nurtured in British traditions and British institutions can be proud of passing. It is only with this object that we appeal to the other side of the House to reconsider the provisions in a select committee so as to make the Bill acceptable to the Presidency as a whole.

Mr. G. S. GANGOLI (Kanara District): Sir, His Excellency the Governor and also the Honourable the Home Member have stated that there is a no-tax campaign in Kanara, and they have justified this Bill on that ground. Several honourable members have enquired of me what the real state of affairs in Kanara is. Well, to them I shall only say that, if poverty is a crime, then they may pass this Bill into law. So far as Kanara is concerned, it is quite indifferent whether this Bill is passed into law or not. The actual state of things is this, that it is past redemption, and as they are very poor you can get nothing out of them; they have been groaning under the heavy burden of taxation, and now they have nothing to pay. You are applying the Ordinances there to get what little you can out of them. Whether this Bill is passed into law or not, the executive is there.

My honourable friend the Advocate-General asked us the other day to quote instances to show that the Ordinance was not properly administered. Well, Sir, I have come here with facts and figures. There are also answers to my questions in this Council. The examples are not one or two; they run into hundreds and even thousands. If he cares to inquire, I shall supply enough for him. I may inform him that the Commissioner is enquiring into the matters—I do not know on whose behalf. I am only sorry that small-pox is raging in those two talukas and that nearly 500 people are in jail.

The Honourable Sir GHULAM HUSSAIN: Sir, a high official is visiting the district, and yet the honourable member is asking "on whose behalf?"

Mr. G. S. GANGOLI: I am very glad to hear that he is visiting on behalf of Government. I hurriedly went and saw him, but I am only sorry that small-pox is raging and nearly 500 people are in jail. I do not know whether anybody will be going before him to give evidence as to what we are suffering from at the hands of the lower officials for the past

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three years. Even before this Bill has been passed into law, some of the landlords have been sent to jail for refusing payment of tax. I do not know under what law they are there. Well, Kanara is a place where there is no railway, no roads, no newspapers and no associations. Even with all that, those landlords are in jail, and the fact that they are in jail is never reported. Honourable members would like to know how the Land Revenue Code is being administered there. I am informed some of the bullocks which were yoked to the ploughs working in the fields were attached and sold. Houses, walls, and even rooms where the idols for worship were kept, were dug out without orders. There have been tens and hundreds of such cases. The tin sheets thatching the houses were removed and sold as moveables. If anybody wants facts and figures, I have facts and figures to give. I have stated this before, and I have repeated them also. I am sorry to say that if anybody rules in Kanara, at least in some parts it is not the British Government, but malaria, forests wild beasts, and lowest officials on their own initiative. The Government is there for the benefit of these scourges, and not for humanity or for the benefit of human beings.

What I say is not of recent origin; it is not of this year or of the last two or three years, but it has been there for the past twenty or thirty years. I shall quote only a few opinions of some friends. I shall not occupy much of the time of the House. Rao Saheb R. M. Basrur, whom my honourable friend Mr. Maxwell knows very well and who is a friend of the agriculturists, in a lengthy letter he has written to me only recently, says:

"The district is hopelessly drifting to an unknown end; nothing short of a miracle can save the district people."

This is the opinion of one who has espoused the cause of the agriculturists. I have got another letter from the Chairman of the Agriculturists' Association, the members of which are mostly in jail. He says:

"It appears that the fate of Kanara is doomed, and God only knows when our ryots can get salvation."

Well, Sir, as I say, we are quite indifferent whether this Bill is passed into law or not. Life has become a burden in Kanara, and there is nothing to eat—not to all, but to the greater portion of the agriculturists. Well, Sir, this is not a state of affairs which has cropped up quite recently. It was there even in 1918, when there was no non-co-operation movement or civil disobedience movement. A friend of Government, a late Director of Agriculture, Mr. G. F. Keatinge, once wrote a lengthy letter to Government, in which he stated—

"I cannot understand the attitude of the officers who regard the present state of affairs as satisfactory."

He also suggested some remedies which have not been adopted by Government. I may then refer to the opinion of Mr. Mountford, then Commissioner of the Southern Division, who in the course of a report says:

"The problems of Kanara are not new. They have remained unchanged for a score of years and are now increased by the menace of lantana, an evil that is coming more into prominence every year. The orders of Government dealing with these problems are clear and a careful study of these orders by all concerned will considerably facilitate their task; I allude to such Government Resolutions."

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And then he goes on quoting the G. Rs. and says:

"The directions therein contained, all designed to improve the condition of the cultivators, have too often been forgotten or overlooked. As regards Sapa, for instance, Government directed elbow room to be given to the villagers by clearing the jungle within 200 yards and placed this duty on the Collector himself and his staff. This order had been forgotten, and I had to bring it to the notice of the Collector and to direct action to be taken. Similarly, the Collector has the power to give out areas of woodland, 'hadi' to encourage rice cultivation. No action had been taken on this. Anyone who desires to tackle the problems of Kanara has a wealth of settlement reports, special reports, Government resolutions and orders on which to draw, which will repay patient study and will provide him with the remedies which Government has prescribed. It remains to see those remedies are systematically applied."

Now, if there is any law-breaker in Kanara, it is the Government official, and that is what the Commissioner has reported. How can we appeal to this Government? Times without number, I have appealed to the Government personally, through letters, by presiding at loyalty meetings, by sending representations; but all to no purpose. They say that Kanara has not paid the taxes. But is there anything to pay at all? Out of the 30 lakhs of rupees the gross provincial revenue in Kanara, what are the arrears now? About 5,000 to 6,000. There is no possibility of any no-tax campaign or any civil disobedience movement in Kanara, and if evidence is required, I will quote as witness the highest official, the highest personage in this Presidency, that is, His Excellency the Governor. He has visited Kanara recently and he saw what the state of affairs is. When I went there last time at the end of the revenue season, that is, on 31st July 1931, the land revenue arrears of a particular Taluka were Rs. 27,000. This time when I went there after the Budget Session, already 150 persons were in jail because they could not pay the revenue. I presided over the first loyalty meeting. At that time the dues in arrears were Rs. 90,000. I advised the people to pay up the dues even by pledging their ornaments and cattle. As compared to the arrears of Rs. 27,000 of last year the arrears now are only Rs. 5,000 or Rs. 6,000, and now they say that there is a no-tax campaign in Kanara. "I am not going to take much time of the House." If they find that laws should be broken, they would find in Kanara a very good place and they can swell the number of prisoners, but the laws are broken, not by the innocent villagers, but by the officers of Government. Even jail would have been better. We have heard a good many arguments about this Bill. But what oppresses us most under this Ordinance is (1) the lathi, about which this Bill makes no provision, (2) the parole, which is not even touched by this Bill, and (3) the fine. They say that the laws of the land are not enough. Out of the several arguments, the arguments of the Legal Remembrancer were very convincing to a certain extent. But he does not say how Chapter IV of the District Police Act is not enough. This chapter has been used in our district and it has been upheld even by the High Court in several cases, and it is enough to handle any situation the Government might be afraid of in India.

But apart from that, Sir, they say that the rules of evidence are too lengthy, too dilatory, and so they want to curtail that procedure. But I say that if the accused is really a congressman, he takes no part in the

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proceedings of the Court and within 2 minutes his case is decided. So far as the congress movement is concerned, there is no case for Government to say that the procedure relating to the evidence is lengthy and so they want some special powers.

There is yet another interesting feature of the Bill, that is, in addition to its being a preventive measure it is also a money-making machine. There is no limit to the fines. It may not be the intention of the Government, but it is so construed by the lower subordinates. One District Judge has said in his judgment that in these days of financial stringency they have to impose heavy fines. I know several instances wherein for not paying the fine they had to undergo another period of imprisonment in default, and after they had been out of jail their properties had been attached, even though the judgment had not provided for such recovery. So, Sir, their opinion is that though the laws of the land are enough, the method or procedure is very tedious or lengthy. That argument I have met. Again, so far as inflicting any amount of fine is concerned, there is no provision in any other Act in this land. We pleader members of this House are so very nervous because Government ask us to co-operate with them, but I think they are not co-operating with us in the spirit one would appreciate. If they want to evolve a reasonable measure, then why not refer this Bill to the Select Committee? Why not thresh out the various provisions and see what reasonable measure agreed to by all, at least by many in this House, could be brought out?

Now, Sir, they say that it is the District Magistrate alone who can do certain things. But, under the present Bill, anybody can be a District Magistrate. There is the section 16. The Legal Remembrancer has told us several times that it is the District Magistrate alone that can do certain acts, but under this Bill any one can be a District Magistrate.

Then we are told that the special tribunals are done away with, and that it is only the first class magistrate who can deal with such offences. Let me assure you that all the Mamlatdars, at least in our district, are first class magistrates with special powers. So, it does not go very far to make anybody a District Magistrate or any magistrate a first class magistrate. So, where is the guarantee?

Now, Sir, I am not going to take much time of this House. I only want to move my amendment, but, before so moving, I want to have a ruling of the Chair on one or two points. The Chair has suggested that, so far as it was possible, in view of the 400 amendments, some amendments were selected as amendments of principle, and the Chair further suggested that if there was any mistake the Honourable the Home Member may point it out. But he in his turn asked that the honourable members should point it out. If the Chair refers to the deletion of an entire clause or omission of an entire clause, then some of them have been omitted by oversight. I mean deletion of sections 16, 24, 25 and 26.

The Honourable the PRESIDENT: The honourable member has not properly understood me and the procedure that is followed in this House.

[The President]

The deletion of the whole clause is not permitted in the second reading. The deletion of the whole clause is permitted in the first reading if it is a question of principle. Now these amendments which affect the principle of the Bill have been brought together including the amendments for the deletion of whole clauses. When we read the Bill clause by clause, it is open to the honourable members to speak against any clause, but no amendment to that effect can be allowed.

Mr. G. S. GANGOLI: That is what I wanted to know. I refer to clauses 16, 24, 25 and 26.

The Honourable the PRESIDENT: Does the honourable member want to know why I have selected some as amendments of principle and not the others? I have selected the more important ones which go to the root of and are contrary to the spirit of the Bill. Those I have selected as amendments of principle and the others I have put down as amendments of detail.

Mr. G. S. GANGOLI: May I take it for granted that this amendment which relates to the deletion of clauses can be taken up at the second reading?

The Honourable the PRESIDENT: Not as an amendment. But he can speak against the clauses.

Mr. G. S. GANGOLI: Now, out of the several amendments two of mine are taken as amendments of principle. One is an amendment to clause 1, sub-clause (2), namely, for the word "three" substitute "not more than two". Well, it is an amendment midway between what the Honourable the Home Member has suggested and what my honourable friend Mr. Surve has suggested. But if the Honourable the Home Member agrees to modify his amendment by substituting the words "one year" for the words "two years" in the latter portion of his amendment I am not going to move my amendment. [*The Honourable the Home Member nodded dissent.*] I see that he is not amenable to that. But any way I am not going to move my amendment.

The Honourable the PRESIDENT: Not moving?

Mr. G. S. GANGOLI: No, Sir. Now, before coming to clause 4 I have to say something else. I have said that some new clauses may be added as clauses 3 and 4. If this amendment is an amendment of principle I will move it now.

The Honourable the PRESIDENT: Clause 4? Does he refer to the amendment "add the following at the end of clause 4"? Is that the one?

Mr. G. S. GANGOLI: No, Sir. I refer to the amendment to clause 1, sub-clause (2), namely "All the orders under this Act shall be in writing, etc."

The Honourable the PRESIDENT: I have selected it as an amendment of detail.

Mr. G. S. GANGOLI: Now, as stated by me, we are nervous that perhaps the Bill may not go to the Select Committee. We are also willing to help Government in their endeavour to maintain law and order. But the words "law and order" are not defined anywhere in the Act, and also the words "public safety". I wish that they were defined somewhere. We have been given some sort of assurance by the Honourable the Home Member that some part of clause 19 may be reconsidered. But so long as there is no regular amendment from the Government Benches I do not see how it will be reconsidered.

The Honourable Mr. W. F. HUDSON: It is quite within the power of Government to withdraw it altogether. I do not say that we are going to do that.

Mr. G. S. GANGOLI: Thank you.

The Honourable Mr. W. F. HUDSON: The honourable member's thanks are premature. What I said was that there would be no constitutional or legal difficulty in doing so.

Mr. G. S. GANGOLI: I expect nothing less from a humane man like Mr. Hudson.

The Honourable Mr. W. F. HUDSON: The honourable member expects too much.

Mr. G. S. GANGOLI: Now, as I said, Sir, in spite of the law or the spirit thereof, these petty officials, who are for the time being the first class magistrates, can do any kind of mischief under this Bill. So, I wanted certain things which in themselves are constitutional and to which nobody objects, and which do not cut at the root of this greatest, biggest and the best organised Government, to be embodied in the Act itself, so that any person who rightly and in a good spirit (and who is very loyal) undertakes those activities may not be hauled up. I do not understand the mentality of persons who unnecessarily tease innocent agriculturists simply because those persons have some caprice or grudge against the agriculturists and because they have some power. I may even amuse the House by saying that when anybody comes and apologises and says that he will not take any part, and that he is only a poor man, he is to be let off or let alone, but in Kanara such a person has to pay Rs. 1-6-0 more. This was brought to the notice of this honourable House and the Honourable the Home Member will be further amused to know that, after I asked that question, that amount was raised to Rs. 1-14-0. Knowing as I do how these Ordinances are working and knowing the mentality of the lower officials of this Government, I have tabled these exemptions. I shall now proceed to move them one by one:—

Clause 4—Add the following at the end of clause 4:—

"Exemptions."

Nothing in this Act shall be deemed to affect the following:—

(a) Encouraging Swadeshi by all lawful means.

[Mr. G. S. Gangoli]

I want to make it clear, Sir, that there is the ordinary law of sedition and there are the Police Acts, the Penal Code and the Criminal Procedure Code. So, if offences are committed under the laws of the land let them be tried under those, but this Act is a special emergency powers Act and so I say, "Nothing in this Act shall be deemed to affect the following, etc. etc.". Shall I move all or one by one?

The Honourable the PRESIDENT: I was going to ask the honourable member, as he proceeded, whether he would give up some of these fourteen exceptions, after the statement he has made just now that he did not want any action, which was meant really in a spirit of agitation, to be exempted. I shall point out to him as he proceeds.

Mr. G. S. GANGOLI: Very well, Sir, The next amendment is:

(b) Peaceful propaganda against intoxicating drugs and liquor including distribution of pamphlets, peaceful picketing at a reasonable distance from liquor shops and similar other demonstrations.

(c) Organizing any propaganda, association, committee, etc., to fight economic distress aiming at a better living.

(d) Organising any labour movement by all lawful means with a view to their better living and earning.

(e) Hoisting, demonstrating, exhibiting or selling national flags or photographs of national leaders not guilty of violence.

The Honourable the PRESIDENT: Would the honourable member like to press this, for instance?

Mr. G. S. GANGOLI: No, Sir, I omit that.

(f) Singing or repeating national slogans or songs not calculated to incite violence or sedition or hatred between different classes of His Majesty's subjects.

The Honourable the PRESIDENT: Would the honourable member like to press this?

Mr. G. S. GANGOLI: As it is worded very cautiously, I would like to press it, Sir.

The Honourable Mr. W. F. HUDSON: Which?

The Honourable the PRESIDENT: He has agreed to omit (e) and I was asking him if he would omit (f) also.

Mr. G. S. GANGOLI: I omit (f) also.

(g) Abstinence on the part of any person from doing any overt act, e.g., not opening the doors of his private shop.

I know in certain cases such persons were hauled up when they could not open their shops owing to illness of their relatives. That is why I have tabled this amendment.

(h) Resignation or relinquishment of any post, title or office held by a person.

The Honourable the PRESIDENT: Would he press that?

Mr. G. S. GANGOLI: I shall have to press it, Sir. Otherwise Government may propose any alternative amendment and I shall see whether I can modify mine in the light of their suggestion.

The Honourable the PRESIDENT: I thought he said that nothing which might take the shape of agitation or a protest against the ordered Government should be exempted.

Mr. G. S. GANGOLI: May I add after the word "relinquishment" the words "in furtherance of any movement"?

The Honourable the PRESIDENT: A man who says he has made up his mind to relinquish his title, or office or post is definitely a man who protests against the present Government. I am simply confining the honourable member to his statement that he only wanted peace in the country.

Mr. G. S. GANGOLI: Again, I submit that I withdraw that amendment (h).

(i) refusal to join any anti-national movement at the pressure of officials.

About this I can only say that during the last election (which was a by-election) which was hotly contested, one of the candidates was a high school teacher who had acted as the head master of a high school and as a forest contractor. Even after the forest depôts were boycotted, he happened to be the forest contractor and he happened to bid. His only fault was that he did not obey the person who posed there as a loyalist and for that he was ordered to report himself to the police not in that very place but in Supa, a place which as the honourable member Mr. Jog described is the Andamans of Kanara. That is why I have tabled this amendment.

(j) Settling any dispute through panchas.

The Honourable the PRESIDENT: Does the honourable member wish to press an amendment of that kind? Has the settlement of disputes by panchas been declared unlawful?

Mr. G. S. GANGOLI: Yes, Sir, it was declared unlawful by a notification in the Government Gazette. That is why I have tabled this amendment.

(k) Refusal on the part of traders to part with their goods in the usual course of business and retaining them with a view to profit.

Although, Sir, I am an agriculturist and although agriculturists are in general against traders, I think it is our duty to protect the rights of the traders as well. So, I have inserted this amendment.

(l) Mere wearing of any dress, headgear or any ornament according to the liking of the wearer.

My own experience has been my inspiration for tabling this amendment. For wearing the white cap I was once or twice roughly handled by the police and beaten like anything. The next day they said they had made a mistake and they apologised. After that the matter was dead and gone. [Laughter.]

Mr. C. N. PATEL: What a nice subject for a joke! They are all laughing at it!

Mr. G. S. GANGOLI: Every time I go out of the district I have to give my name, my address, and I have to say where I am going and what for I am going and so on and so on, and I cannot step out without being accosted by one or two constables that go by. Especially at the Hubli railway station there are two police constables. Every time they meet me they ask "Who are you? Where are you going?". This is the

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treatment I get at the hands of the police. Merely for wearing the white cap I am subjected to this indignity and humiliation. So, I say that amendment may be accepted.

(m) Organising any movement for the betterment of agriculture and home industries.

(n) Attempt to settle any dispute or to bring about compromise between the various castes and sub-sects of His Majesty's subjects.

I earnestly hope that this House will consider these amendments and now that they have known something about Kanara I trust that they will not unnecessarily saddle Kanara with this chapter and if they do that I am sure there will be no more law-breakers. With these words, I move my amendments.

Question proposed.

The Honourable the PRESIDENT: Before I put these amendments, I should like to ask the honourable the mover in regard to his second amendment whether he would like to omit the words "peaceful picketing at a reasonable distance from liquor shops and similar other demonstrations."

Mr. G. S. GANGOLI: I think the word "picketing" is now covered by the Bill before the Legislative Assembly and so I omit the words indicated by you, Sir, just now.

The Honourable the PRESIDENT: That amendment will therefore now read as under:—

(2) Peaceful propaganda against intoxicating drugs and liquor including distribution of pamphlets.

So, the amendment as a whole, which I now put, is:—

Add the following at the end of clause 4:

"Exemptions".

Nothing in this Act shall be deemed to affect the following:—

- (1) Encouraging Swadeshi by all lawful means;
- (2) Peaceful propaganda against intoxicating drugs and liquors including distribution of pamphlets;
- (3) Organising any propaganda, association, committee, etc., to fight economic distress aiming at a better living;
- (4) Organising any labour movement by all lawful means with a view to their better living and earning;
- (5) Abstinence on the part of any person from doing any overt act, e.g., not opening the doors of his private shop;
- (6) Refusal to join any anti-national movement at the pressure of officials;
- (7) Settling any disputes through panchas;
- (8) Refusal on the part of traders to part with their goods in the usual course of business and retaining them with a view to profit;
- (9) Mere wearing of any dress or headgear.....

As regards this amendment, what does the honourable member mean by "ornament"? Does he mean "a badge"?

Mr. G. S. GANGOLI : Yes, Sir, a badge.

The Honourable the PRESIDENT : In that case, would the honourable member omit the words "or any ornament" entirely?

Mr. G. S. GANGOLI : Yes, Sir.

The Honourable the PRESIDENT : So, the amendment No. 9 will read as follows :—

(9) Mere wearing of any dress or headgear according to the liking of the wearer ;

(10) Organizing any movement for the betterment of agriculture and home industries ;

(11) Attempt to settle any dispute or to bring about compromise between the various castes and sub-sects of His Majesty's subjects.

Order, order. I have yet a few minutes before I call upon the Honourable the Home Member for a reply to the amendments, and, as I outlined yesterday, if honourable members are willing to limit their speeches to only a few minutes, I will give them a chance ; otherwise I cannot do it. It would not be possible for me to give more than fifteen minutes to Rao Saheb Kulkarni.

Rao Saheb P. D. KULKARNI (Poona District) : Sir, I rise to oppose the Bill. I oppose it not because it is distasteful to me. But I honestly believe that no useful purpose will be served and much harm will be done by the passing of this Bill and hence I oppose it on some principle. My reasons for opposing the Bill are five. Firstly, as I analyse the Bill I found some of the provisions made in it are quite against the fundamental principles of the law, and I am going to prove it quoting the clauses of that nature from the very Bill. Secondly, the powers given by the Ordinances were much misused by the executive side of the Government and now the same powers in some cases in a wider scope are reserved here for them in the Bill before us. Thirdly, wider scope has been afforded to the officers to play mischief if they wished under the provisions of the Bill with a person disliked by them. Fourthly, some of the provisions in the Bill are meaningless, and naturally therefore they are not required at all. Fifthly, the nature of some of the provisions of the Bill can fitly be described by quoting the Marathi proverb "मुताच्या हातांत कोळीत देणे" which means "To give a lighted torch in the hands of a ghost" I proceed to prove my points in the order given above.

Read clause 11 (a). In that clause by making provision of the words like "about to be committed", mere intention is made punishable. Is it fair ? If we read 24 Bombay p. 287, late Justice Ranade of Bombay High Court held that mere intention does not come within the purview of the criminal law. It is not held to be a crime by the courts. Therefore, here in this Bill the fundamental principle of the law is clearly discarded. Though it has been decided by the High Court that mere intention cannot be a crime, in this Bill it is provided that the mere intention, determined by the words "about to be committed" amounts to a crime.

The Honourable the PRESIDENT: Has the honourable member read the judgment?

Rao Saheb P. D. KULKARNI: Yes, I have read the judgment and got its copy with me. The judgment says that "mere intention, not followed by any act, cannot constitute an offence, and an indirect preparation, which does not amount to an act which amounts to a commencement of the offence, does not constitute either a principal offence, or attempt or abetment of the same." This is Justice Ranade's judgment on the point raised here. Therefore it can be safely said that this provision in the Bill before us is against the fundamental principle of the law.

Then again, under clause 19 (2) the burden of proof has been laid on the wrong shoulders. If we see the Indian Evidence Act of 1872, section 101, there it is clearly laid down that the burden of proof should not be ordinarily on the accused.

Again, Sir, see clause 23 of the Bill. Under this clause all offences under the proposed Act are made non-bailable. I want to show that this is against the findings of eminent men of legal acumen. There was a committee appointed for amending the criminal law of the country i.e. the Criminal Procedure Code. Justice Shah was one of its members. That committee has strongly recommended that unless the crime is one which is punishable with transportation for life or with death, the offence should not be non-bailable. "The grant of bail is the rule and refusal is an exception" (J. Mukerjee in Meerut Conspiracy Case). As against that all offences under this Act are made non-bailable. Even if a man fails to give his income-tax on the due date, or even the sanitary cess to a municipality, and if he is taken to task by the all-powerful authorities, the offence will be taken as a non-bailable one.

Again, see section 28; under clause 28 of the Bill, if a witness cannot be found, his statement is to be allowed in evidence. Section 32 of the Evidence Act is there to serve the necessary purpose, but as it is given there with some restrictions Government want to get rid of it. These restrictions are not liked by the authorities and therefore they are done away with in this Bill. In order to serve their purpose of taking vengeance on the persons who are not liked by them they wish to have unrestricted weapons in their hands.

Again see clause 25, under which no adjournment is provided at all. That is, suppose the Collector issues an order and he wants to try the case arising in that connection before him, he will not give an adjournment to make it impossible for the accused to go to the High Court to get even a transfer of the case. That there must be no relief to the man who is so put into difficulty intentionally is one of the wonders of the world. This is again against the rules of the law.

Then again, here under clause 27, even in the absence of the accused it is provided he is to be tried and convicted. This is very strange. There is not a single instance here where the accused behaved just like the accused in the Meerut Case. There are some instances on the other hand where the accused behaved very legally in this Presidency. I take one instance only, that of Bhausaheb Soman of Satara. Though he was

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a pleader, he was handcuffed, and he waited for his turn out of the court house more than one hour under the scorching sun; yet he never tried to avoid his trial. When we have such instances in our Presidency, I think there is no necessity at all of discarding the fundamental principles of law by making provisions of this sort in the Bill.

My second ground for opposing the Bill is that the powers already given by the Ordinances were much misused by the authorities. The Honourable the Home Member in his opening speech said "I claim that the Ordinances have never harmed any honest citizen, any active politician who kept within the limits of constitutional agitation." The statement made by him I am quoting here from my memory. In that connection, His Excellency, while addressing the House, has given an idea of the case. He said :

"I would ask members to remember that the working of the Ordinances over an extended period has given rise to singularly little in the way of serious complaint, that all indications point to the conclusion that the powers conferred by them, which, in a more limited form, it is now sought to continue, have been reasonably and wisely administered."

The Honourable the PRESIDENT : It is the same statement as the Honourable the Home Member's.

Rao Saheb P. D. KULKARNI : Here it is admitted that something was done.

The Honourable the PRESIDENT : No, no. Little means none.

Rao Saheb P. D. KULKARNI : Now, let us go to the High Court to take its decision whether the powers were excessively used or not. This side of the House says they were excessively used, and the opposite side has already said "it was very moderately used." Let us see what the High Court says on this. I shall quote four cases in which the High Court has decided that misuse has been made and excesses have been committed. The first case I take is Criminal Revision Application 171/32, in which the Chief Justice has very clearly said that "ordinary judicial principles were discarded." It is in the famous Phansalkar case.

The Honourable the PRESIDENT : The honourable member has only five minutes more.

Rao Saheb P. D. KULKARNI : In that case the notice issued by the District Magistrate of Sholapur was served, not in his own district but in the jurisdiction of the District Magistrate of Bijapur. The High Court held that this is quite illegal. The same irregularity was committed in the Gulabchand case. Is that not an excess? I shall quote another case, Criminal Revision Application 153/32. That was the well-known Khadkikar case. He was fined by the Magistrate without using proper discretion. The fine of Rs. 1,500, in the appeal, was reduced to Rs. 1,000 by the Bombay High Court. In another case it was stated in the judgment itself by the Magistrate that in order to replenish the Government treasury such heavy fines are to be made. The same example was followed even in the Gulabchand case. I think to come out of the financial difficulties it would be better for Government to

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open a lottery or be prepared to confiscate the estate of the offender instead of resorting to such mean-minded procedure. I am reminded of the decision of the Bombay High Court given in Criminal Revision Application No. 150/32 in support of my statement. The principle of replenishing the Government treasury by inflicting heavy fines was advocated in the judgment given in this case by the Magistrate. All these were admittedly excesses, and these were defended in the High Court but Government failed to make out any case for them. Another case, Criminal Revision Application No. 345 of 1932. It is the Gulabchand case. There also notice of the District Magistrate of Sholapur was served on the man in the jail at Bijapur, moreover the conditions which it was not possible to obey were laid down by the notice on Gulabchand. That is said in the judgment of the High Court, that the conditions imposed upon Gulabchand were such as could not be obeyed. Many more cases of this kind there are to show the misuse of the powers. And many may have not gone to court to seek justice. This fact must not be overlooked here.

Another thing I want to show on another point is that previously Government were handicapped or put into difficulty by the recent decisions of the High Court, and they could not take vengeance against anybody they disliked under the existing laws, and therefore some provisions have been made in the Bill to enable them to do so. Is this justifiable? For instance, there is clause 30 in the Bill, under which the offences of the Government officers are exempted and safeguard is given. I shall quote, in this connection, one case decided in High Court in which the village officers, the patels and talatis, intimidated and played all sorts of mischief towards the rayat for collecting some subscriptions at the command of the officers, and the Collector gave them protection on the plea that his permission to prosecute them had not been obtained. The decision of the Magistrate was set aside by the High Court. Now, in order to nullify this judgment of the High Court, provision has been made here in the Bill before us to give protection to such officers in clause 30. The case is that of Narain Janu Mahajan, 32 Bombay Law Reporter, page 1493. The judgment says:

"Police and Mulki Patils compelling a cultivator against his will to pay subscription for the Taluka Agricultural Association started by Government, by means of force, abuse, and intimidation, cannot be regarded as 'acting or purporting to act in the discharge of their official duty' within the meaning of section 197 of the Criminal Procedure Code; and no sanction of Government is necessary to the prosecution of the Patils for offences punishable under section 323, 504 and 506 of the Indian Penal Code in respect of the acts."

This judgment given here protected the public. But in order to save their officers from the clutches of the law under similar circumstances, Government have made provision of the clause 30 in the Bill. The other two instances of the same type are there in the Bill. They are very interesting.

The Honourable the PRESIDENT: The House is not concerned so much with the interesting instances.

Rao Saheb P. D. KULKARNI: It is interesting from a public point of view. This will help them to see clearly what Government wishes.

[Rao Saheb P. D. Kulkarni]

A man was to be punished twice. An attempt was made in a case to that effect. But Government failed. *Vide* Emperor v. Bhogilal, 33 Bombay Law Reporter, page 648 :

"The accused was found carrying boxes containing salt and stamped with the words 'Swarajya, Sabras' and 'Gujrat Prantik Samiti', an association declared unlawful, and convicted under section 47 (c) of the Bombay Salt Act for being in possession of contraband salt, and also under section 17 (1) of the Criminal Law Amendment Act for assisting the operation of an unlawful association. On reference :—

Held, that by virtue of section 26 of the General Clauses Act, the accused could not be punished twice for doing the same act."

The Honourable the PRESIDENT : That has been quoted.

Rao Saheb P. D. KULKARNI : But no case was given to show how deliberate efforts are made by the Government to keep the Government servants safe from these decisions of the law courts. There is only one point. It is stated that section 19 of the Bill is for the good of the agriculturists or landlords. I received a letter, when this Bill was in the press, from the Secretary to the Government of Bombay in the Revenue Department. Though the decrees of more than four lakhs of rupees are filed without recovering the decretal amount of the *madat* suits in Central Division, Government is not willing to come to the help of the superior holders.

The Honourable the PRESIDENT : Order, order, I am not able to follow the honourable member's speech.

Rao Saheb P. D. KULKARNI : Section 155 of the Land Revenue Code is there to take care of the dues of landlords. If Government are really in favour of the landlords, as shown in the Bill, I should not have received the blunt reply in that connection from the Secretary to Government of Bombay, Revenue Department. I received a letter No. L.C. 4788-F from him on 21st of October that he did not agree to amend the Circular illegally issued by the Commissioner of the Central Division waiving the rights of landlords given to them by section 155, Land Revenue Code. Why then crocodile's tears in clause 21 of the Bill ? In clause 19 some explanation is given as a saving clause. Poverty is counted to be an exception there. If we read the speech of the Honourable the Home Member, every one of us is a poverty-stricken person and consequently there remains no meaning in the exception so liberally provided in the Bill. On page 1605 of the Vol. XXXV of the Council Debates, the Honourable the Home Member says :

"We have been told by those who believe they understand the position that India is an extraordinarily poor country, with people getting only one meal a day and so forth." If we get one meal a day only how will poverty be distinguished from intentional non-payment of person holding land ? I do not see what Government want to give by this meaningless clause.

The Honourable the PRESIDENT : I am sorry I cannot give any more time.

Rao Saheb P. D. KULKARNI : Some of the provisions may be made instrumental in taking revenge. The powers given thereby are like a torch given in the hand of a ghost. With these grievances, though the law does

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not prescribe any time limit to my speaking on the Bill at this stage the Honourable the President is pleased to stop me here and I resume my seat.

The Honourable the PRESIDENT: I understand that the Honourable the Leader of the Opposition wishes to say a few words. On what does he wish to speak?

Rao Bahadur R. R. KALE: Relating to the amendment moved by the honourable member Mr. A. N. Surve and the amendment to that amendment moved by the Honourable the Home Member.

The Honourable the PRESIDENT: I can give him only a few minutes.

Rao Bahadur R. R. KALE (Bombay University): Sir, the amendment of the Honourable the Home Member to the amendment means that the Act will remain in force for one year and then it may be extended by the Governor by notification. He said that in the future constitution the Governor would be acting with the consent or advice of his Cabinet and that the Cabinet would be wholly responsible, and in that way there is a safeguard against this clause. If we look to the English precedent we find that there is an Act passed in 1920 called the Expiring Laws Continuation Act. That shows that whenever any existing statutes expire owing to the time limit fixed when it was enacted, the extension of it has to be done by the whole House. Although the Cabinet is a responsible one, whenever the life of an Act has to be extended it has to be extended with the consent of Parliament. Similarly, in regard to the extension of this Emergency Powers Act which is being enacted for a short time, any extension should be made only with the consent of this House. Therefore, the amendment to the amendment suggested by the Honourable the Home Member is not likely to meet with approval so far as I am concerned.

The Honourable Mr. W. F. HUDSON: Sir, in accordance with the arrangement we arrived at last night, I propose to deal as rapidly as I can with all those amendments on the paper which you have considered as amendments of principle; and then, Sir, after such necessary divisions as the House may decide on, I shall sum up, as briefly as I can, the whole discussion which we have had on the first reading.

The first amendment, Sir, is with regard to the preamble. Now, I can fully understand the anxiety of my honourable friends in regard to the preamble. But I am advised by the honourable member the Advocate General that the preamble is really of first class importance only when there is any obscurity in the clauses. But I hope to see, when we have finished with this Bill, that there will be no obscurity in the clauses. In case there may be any I am quite ready to meet honourable members as far as I can. But it is quite impossible for me to accept the amendment as it stands for two reasons. In the first place, whatever the view may be of the honourable mover of the amendment, I am quite unwilling to

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place upon the Indian National Congress the stigma which he proposed to place upon them by mentioning them by name. It has been clearly pointed out in the course of the discussion that we desire to check the activities of the Congress; but I should be very sorry indeed to have to mention them actually in the statute. The Indian National Congress is not an unlawful association. As we have heard from my honourable friend Sir Rafuiddin Ahmad, the Indian National Congress has had a very distinguished history, and I certainly would not deny that it has done very useful work in the past, and we hope very much that it will do very useful work also in the future when wiser counsels prevail. I am entirely opposed to mentioning them in this Bill. Then, Sir, it is suggested that we should have power only to deal with the civil disobedience movement, which also of course is not practicable for two reasons. First of all, because in addition to the civil disobedience movement, there is also a thing called the terrorist movement. Although honourable members may imagine that that does not exist in this presidency, I regret to say that that is not the case. I do not say that it exists to the same extent that it does elsewhere, but we have clear evidence that the terrorist movement does exist in this presidency. The honourable members of the House cannot have forgotten the attack on His Excellency the Acting Governor (Sir Ernest Hotson) which nearly cost him his life. They cannot also have forgotten the attack only the other day on a sub-divisional magistrate who was doing his duty. I should be very sorry if Government's hands are tied and I think the House will agree with me that Government must have power to deal with the terrorist movement under this Act. Then, there is an organisation called the Socialist Republican Army, about which perhaps a good many of the members know less than I do, but I can assure them that that so-called organisation is doing its best to spread the wildest communist ideas. Are we not to deal with them under this Act? Both these movements, if I may say so, are even worse than the civil disobedience movement, and there is no reason why we should confine ourselves under this Act to the lesser evil and omit the greater. Then, it is quite impossible as a matter of fact to confine ourselves to any particular movement. But if the House would prefer it, I have no objection to deleting the words "for the purpose of maintaining law and order" and substituting the words "for the maintenance of the public security in case of emergency". I agree entirely with what will be said, that it is almost equally vague. But in a case like this it is absolutely necessary to be vague so as to cover all possible contingencies. But I can assure the House that Government will do its best to see that this Bill is not used against any form of lawful activity. Sir, perhaps, in the course of the debate later on, my honourable friend the leader of the opposition will say whether he prefers the words "for the purpose of maintaining law and order" or the words "for the maintenance of the public security in case of emergency". I am perfectly content with the original draft, but if the honourable House would prefer the change Government are quite ready to make it.

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Now, Sir, the next set of amendments. I do not think I need discuss them all until we get to Mr. Surve's. They relate to the question of the time limit. I cannot accept Dr. Dixit's—"months" for "years". I cannot accept "six months". I cannot accept "one year"—that is the one that comes often—for the reasons which I gave yesterday and which I think it is hardly necessary for me to repeat. It would be intolerable, Sir, if this House was called upon next year, just at the time of the elections, to do all this work over again. I do not think any honourable member would really wish that, but who can say at the present moment that the emergency will not exist then? If it does not exist, I am sure my honourable friend the Leader of the House—who, I sincerely hope will still be in his place—would never be a party to the continuation of this Bill. If it is not required, if the civil disobedience movement has ceased to exist, the Bill will fall to the ground. If it does not, it would be quite impossible, I say, for this House to be called together to go again through what we have been going through this week and will be again going through next week. We are in no way tying the hands of our successors. If our successors, when they come into office, regard this Bill to be unnecessary, they will not have to repeal this Bill by means of a special legislation. All the Chief Minister would have to do will be to advise His Excellency that the notifications then in existence—I hope they will be very few—should be withdrawn, and then the whole Bill will cease to exist. Therefore, Sir, I must adhere to my amendment to the amendment. And I will once again remind the House that in this matter we are going further than any legislature in India so far has done. The Legislative Assembly has already accepted three years, and there is little doubt that the Punjab and the United Provinces will do the same.

Now, Sir, the next is the honourable member Mr. Gangoli's.

The Honourable the PRESIDENT: Would the Honourable Member like to say anything as regards the point raised by the honourable member Rao Bahadur Kale?

The Honourable Mr. W. F. HUDSON: I have nothing further to say.

The Honourable the PRESIDENT: There might arise a legal difficulty.

The Honourable Mr. W. F. HUDSON: I am advised by my honourable friend the Legal Remembrancer that there is no legal difficulty.

Then, the honourable member Mr. Gangoli's amendment:

"For the word 'three' substitute 'not more than one'."

I think I have disposed of that: we cannot go further than we have already gone.

Then, the honourable member Mr. More's—

"In clause 1 (3) after the words 'Governor in Council' and 'may' add the following: 'with the approval of the Legislative Council'."

[Mr. W. F. Hudson]

Here, again, I must say that this is a matter for the executive Government and we cannot possibly permit the Legislative Council to fetter our discretion in the matter.

Then, the honourable member Mr. More's—the same thing—

"In clause 1 (4), after the words 'Governor in Council' and before the word 'may' add—

'after the necessary assent of the Legislative Council under sub-clause (3)'. "

That, Sir, would involve the calling together of the Legislative Council very frequently to consider whether we should apply the notification to a particular district. I am sure the House will realise the impracticability of such a suggestion.

Then, the honourable member Rao Bahadur Kale's—

"Delete the whole clause" (clause 4).

Well, Sir, if we delete the whole of clause 4, I think we might almost give up the Bill, and I am sure the House will not expect Government to do that. Clause 4, Sir, is really a preventive section, and although I have listened with great regret to instances in which it may through over-zeal have been misapplied, I think the balance of advantage has been very greatly in its favour. Through the application of clause 4, we have been able to control the leaders of this subversive movement, and, as a result of that, hundreds—perhaps I might almost say thousands—of their dupes have not had to go to prison. All that I have to say in regard to clause 4 is that Government have endeavoured, as far as possible, to control the actions of their officers in dealing with it. I propose now in the course of the next two or three months to have a review of all the orders which have been passed under this section. I think it is quite possible that if hard cases are brought to notice, we shall be in a position to remove the sense of grievance. I think the only hard case which really appealed to me in many of the cases quoted, is the one quoted by the honourable member Mr. Jog. That, I confess, made a considerable impression upon me. If the honourable member Mr. Jog will kindly communicate with the Home Secretary, we will see if anything can be done in the matter. Similarly, if other honourable members do think that there are cases—no one denies that in a matter like this mistakes do occur—if honourable members will draw the attention of Government to what they consider hard cases, I do not promise of course that I am going to remove the order, but I will promise that we will look into them to see if something can be done to modify it. The whole object is not punitive, but preventive. If honourable members will advise their friends who have come within the scope of this section to give us a written assurance that they will take no further part in this movement, I for one should be prepared in most cases to consider the possibility of modifying the order. But the deletion of clause 4, I regret to say, is a complete impossibility.

Now, Mr. More's—

"In clause 4 (1), in line 3 after the words 'is about to act' and before the words 'in a manner' add—

'in furtherance of the civil disobedience movement organised by the Indian National Congress and'."

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I need not repeat what I have said about that. The same objections apply here.

Then,—

“In clause 4 (1) delete ‘or in furtherance of a movement prejudicial to the public safety or peace.’”

I am afraid I do not quite understand the object of that amendment, but we cannot possibly omit those words.

Now, I come to my honourable friend Mr. Gangoli, his omnibus amendment which gave him an opportunity of once again repeating his grievance in connection with Kanara forests and other things. Well, Sir, I do not think in the first place it is suitable to include these exemptions in the statute, but in any case, if I may say so with all respect, it is quite unnecessary. If the honourable member Mr. Gangoli will just look at clause 4, he will see that it says—

“The Governor in Council, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace.”

If anyone does any of these eleven things, including the wearing of Gandhi cap, in a perfectly lawful manner, such action is not prejudicial to the public peace, and although I admit that occasionally a mistake might have been made where a man was acting lawfully, nevertheless I am quite sure that there is no desire on the part of Government to put down lawful activities in the name of law. I am very sorry, indeed, that Mr. Gangoli himself should have received such unwelcome attentions from the local officers. Probably it is due to his importance like that of Mr. Ramsay MacDonald or Douglas Fairbanks, whose goings and comings are noted with the same regularity as my honourable friend Mr. Gangoli's. But I may assure the honourable member that he will no longer enjoy that notoriety. The local officers will no longer take any notice of his goings and comings. As to his liberty to wear any particular headgear, I find it difficult to understand why one should bother about it. But anyway the honourable member appears here in this dress daily and he is quite welcome, and Government are not likely to take any action in that respect.

Well, Sir, I think the honourable member will not expect me to go into detail in connection with all these exemptions. He must realise that such matters as encouraging Swadeshi by lawful means are not prejudicial to the public peace. But very often Swadeshi is encouraged by unlawful means and that has given rise to some of the worst excesses in connection with this movement. So far as these things are done in a perfectly constitutional manner, without any attempt to subvert the government or make government impossible, so long section 4 will not apply. [*Hear, Hear.*]

I now come to clause 8 about the right of the District Magistrate to interfere with Posts and Telegraphs. I admit it is a considerable power, but there are two points in connection with it. One point is that Government is always possessed of such powers under various Acts which

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I need not quote. I exercised them myself as the Commissioner in Sind as local government, and I may add that one only exercises such powers with a grave sense of responsibility. But—I use the words of the Congress—when a war is going on, one of the essential things to do is to get useful information about the enemy's movements, the enemy's plans of campaign. We only use this section on rare occasions, but I may tell the House that the use of it has been a very great advantage to the Government. Now we have to delegate these powers to the District Magistrates because it is quite impossible for Government to deal with the immense correspondence from all over the Presidency. It involves very great delay if a letter which is intercepted has to be sent to the central Government. It is in the interest of the people themselves whose correspondence unfortunately has got to be intercepted that their correspondence should be dealt with by the District Magistrate on the spot rather than by the central Government. I am afraid we must maintain that clause.

I now come to clause 9 about railways. I quite realise that the honourable members do not relish the idea of being turned out of the train and I think I must assure the honourable members that nothing of the sort is likely to happen. But it happened once or twice in the course of the Congress campaign that we sent out large bodies of police to stop salt raids, and on one occasion without having the power we commandeered two railway carriages. I believe any honourable member opposite if he had been in charge of the police would have done the same thing; and there is no doubt that the prompt arrival of the police and the troops saved a very unfortunate riot. But of course we were not within our powers and the railway quite rightly pointed out to us that we were not, and so we now take these powers, but we do not propose to use them except in very exceptional circumstances. I think that since the Ordinances came in we have only used them once and it is not likely that we should attempt to interfere with any peaceful passenger unless the matter was urgent and it was important that accommodation should be provided for preventive forces. The Railways would make it very unpleasant for us if we were to exercise it too often.

I now come to clause 16. We cannot delete the whole of clause 16. It is impossible for the Governor in Council to perform all the duties of a District Magistrate. It means inevitable delay, and, after all, the District Magistrates know just as much about what is going on in their districts as my honourable friend the Home Secretary. If we delete the first part of this clause, I should want three Home Secretaries, and who are they, after all? Officers of the standing of the District Magistrates. It is obviously desirable that the first part of clause 16 (1) and (2) should be maintained.

As regards part 3, about delegation, I am prepared to drop it, and I think I am right in saying that we have never delegated, but, as I understood certain honourable members of this House were afraid that the delegation would be made to unsuitable officers, I am prepared to drop sub-clause 3 of clause 16.

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I now come to clause 32. I can understand perfectly well when the honourable member Mr. Surve says "let us have a clean slate, let us start again". It is a perfectly natural and humane instinct, but when I reply on the general discussion later on, I propose to show that unfortunately there is little in the general situation which would justify us in taking that line. If there was even one gesture from the leaders of the Congress that they were prepared to call off the civil disobedience movement, Government would have been only too ready to meet them, but, as I shall explain to the House in the course of my final speech, there is unfortunately no such indication. It is perfectly true that the civil disobedience movement is nothing like what it was. That we attribute to the Ordinances. Possibly we are wrong, but, at any rate, the fact remains that it is nothing like what it was. But the plan of the campaign is just the same, the spirit of the campaign is just the same, as I propose to show to the House later on. Government would have been very glad indeed if they could eliminate this section, but I am afraid if we do that, it will undo all the good that has been done.

I think I have now dealt—I hope not too briefly—with all the amendments.

The Honourable the PRESIDENT: Would the Honourable the Home Member move his amendment to the preamble?

The Honourable Mr. W. F. HUDSON: I was waiting for my honourable friend if he thinks it is in a better form, although I do not personally think it is. We have taken it from one of the Bills for another province, but it comes to the same thing.

Rao Bahadur R. R. KALE: There is an amendment to the effect that the Bill shall remain in force for one year. I think we should see what the fate of that amendment is and proceed with this amendment afterwards.

The Honourable the PRESIDENT: This is the amendment regarding the preamble—

Rao Bahadur R. R. KALE: My submission is that it has relation to the period, namely, that the life of the Bill should be restricted to one year.

The Honourable the PRESIDENT: I cannot understand the logical connection between the two.

The Honourable Mr. W. F. HUDSON: Does the honourable member mean to say that an emergency exists for one year and not for three years?

Rao Bahadur R. R. KALE: My point is, we always take the preamble last. So I consider that the amendments to the clauses should be taken first and then the amendment to the preamble.

The Honourable Mr. W. F. HUDSON: I do not mind.

The Honourable the PRESIDENT: The preamble deals with the reasons for bringing in the Bill. However, I do not mind.

Dewan Bahadur D. R. PATIL: I just want to know whether the amendment to delete clause 19 would be an amendment of principle or detail?

The Honourable the PRESIDENT: It is an amendment of detail. Order, Order. There are some new points that have been made out by the Honourable the Mover of the Bill. One is that the Honourable the Home Member has moved his amendment to the amendment of the honourable member Mr. More. As arranged now I shall take—

Mr. J. G. MORE: May I move an amendment to that amendment?

The Honourable the PRESIDENT: As I am taking that last, the honourable member might go over to the Legal Remembrancer and arrange with him. The second point is that the Honourable the Home Member would delete sub-clause 3 of clause 16. It is a matter of detail and it will come in its proper time. Now we proceed with the amendments which I have put down as amendments of principle. There are two amendments. The honourable members must understand everything clearly because we are following the procedure of taking amendments after amendments, after the whole debate is over after a duration of five days. Therefore, I should like to make things clear at this stage. The honourable member Mr. Petit has an amendment that for the words "three years" substitute the words "one year". There is further an amendment by the honourable member Mr. Surve, to which there is an amendment by the Home Member. Now the honourable member Mr. Surve's amendment is that it should be one year, but that it should be left to the Governor to extend that period to two years provided the House is taken into consultation. To that the Honourable the Home Member has an amendment. He accepts one year and says that the Governor in Council, if advised, can extend it to two years. I now first put the amendment of the honourable member Mr. Petit, namely, substitute for the words "three years" the words "one year", and the House will bear in mind that there are two other similar amendments but with power to extend.

Question put. The House divided. Ayes, 35; Noes, 60.

Division No. 1.

Ayes.

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
CHITALE, Rao Bahadur G. K.
DESAI, Mr. H. R.
DHALUNAL LILABAM, Mr.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GHULAM HYDER SHAH, Mr.
GILDER, Dr. M. D.
GOKHALE, Mr. L. R.
GOVER RORA, Mr.
JOG, Mr. V. N.
KADRI, Mr. J. S.
KALE, Rao Bahadur R. R.
KAMAT, Mr. B. S.
KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.
MEHTA, Mr. M. H.

MORE, Mr. J. G.
PATEL, Khan Bahadur A. E.
PATEL, Mr. C. N.
PATIL, Dewan Bahadur D. R.
PATIL, Mr. N. N.
PATIL, Mr. V. N.
PATIL, Rao Saheb V. S.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
RAHIMTOOLA, Mr. HOSENALLY M.
SHAIKH ABDUL MAJID, Mr.
SINDHA, Mr. MADHAVSANG JORBHAI
SURVE, Mr. A. N.
SURVE, Mr. V. A.
TOLANI, Mr. S. S.
VAISHAMPAYAN, Dr. V. G.
VAKIL, Mr. PESTANSHAN N.

Tellers for the Ayes: Dr. V. G. VAISHAMPAYAN and Mr. M. M. KARBHARI.

Nos.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	JAN MAHOMED KHAN, Khan Bahadur
ADVANI, Mr. P. B.	JONES, Major W. ELLIS
ALLAHBAKSH, Khan Bahadur	KALBHOR, Mr. G. M.
AMINUDDIN, Mr. SAIYID	KAMBLI, the Honourable Dewan Bahadur S. T.
ANGADI, Rao Bahadur S. N.	KHURRO, Khan Bahadur M. A.
ARBUTHNOT, Mr. C. W. E.	MASTER, Mr. A.
BANGI, Mr. A. K. J.	MAXWELL, Mr. R. M.
BHURGEI, Mr. J. W.	MEHERBAKSH, Mr. S.
BHUTTO, Sir SHAH NAWAZ	MITHA, Mr. MAHOMED SULEMAN CASSUM
BHUTTO, WADERO NABIBAKSH ILLAHI-BAKSH.	MODAK, Rev. R. S.
BIJARANI, Khan Bahadur SHER MURANMAD KHAN.	MODI, Sardar Davar T. K.
BIRADAR, Sardar MAHABOOBALI KHAN	NAMDEORAO BUDHAJIRAO, Mr.
BOLK, Rao Bahadur S. K.	NAVLE, Mr. N. E.
BRANDER, Mr. J. P.	NAWAB SHAH ROOKH SHAH YAB JUNG BAHADUR.
BULLOCKE, Mr. A. GREVILLE	OWEN, Mr. A. C.
CHIKODI, Mr. P. R.	PRATER, Mr. S. H.
CLAYTON, Mr. H. B.	RAPIUDDIN AHMAD, Moulvi Sir
COLLACO, Dr. J. A.	ROOSE, Mr. F. O. J.
COOPER, Khan Bahadur D. B.	SERVAL, Mr. A. E.
DAVIS, Mr. G.	SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
DEURANDEAR, Mr. J. R.	SOLANKI, Dr. P. G.
D'SOUSA, Dr. J. ALBAN	SPENCE, Sir REGINALD
GENNINGS, Mr. J. F.	SYED MIRAN MAHOMED SHAH
GHULAM HUSSAIN, the Honourable Sir	SYED MUNAWAR, Mr.
GHULAM NABI SHAH, Khan Bahadur	TALPUR, Mir BANDEH ALI KHAN
GREAVES, Mr. J. B.	TARAPOREWALA, Mr. V. F.
HAMPTON, Mr. H. V.	THAKOR OF KERWADA, Sardar BHASABEB RAISINGJI.
HUDSON, the Honourable Mr. W. F.	TURNER, Mr. C. W. A.
HUMPHREY, Mr. JOHN	VAKIL, the Honourable Sirdar Sir RUSTOM JEWANGIR.
JAM JAN MAHOMED KHAN, Khan Bahadur	WINTERBOTHAM, Mr. G. L.

Tellers for the Nos: Mr. SYED MUNAWAR and Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN.

The Honourable the PRESIDENT: The second amendment is that of the honourable member Mr. Surve. To that there is an amendment by the Mover.

Mr. J. G. MORE: I have got an amendment, Sir, limiting the period to $1\frac{1}{2}$ years.

The Honourable the PRESIDENT: I am glad my attention has been drawn to that. I had missed it.

But before I put the amendment to the House, there is one thing which I should like to bring particularly to the notice of those honourable members who are acting as Whips. I want the attention of one of the Whips to be drawn to this statement that I am making. The Government Whip exceeded his duties. I noticed that sitting from here, and one or two honourable members from this side of the House also went too far. So, I shall simply warn them that canvassing has a limit, and canvassing might be carried on by argument and persuasion, and there it should rest; no dragging from one lobby to another is permitted and, if I notice that again, I shall have to name the honourable member to the House.

[The President]

The next amendment is that of the honourable member Mr. More, as follows :—

In clause 1 sub-clause (2) substitute "one and half years" for "three years."

Question put, and negatived.

The Honourable the PRESIDENT : The next amendment is that of the honourable member Mr. A. N. SURVE, as follows :—

Substitute the following for the existing sub-clause (2) :

"(2) It shall remain in force for a period of one year. The Governor in Council may, by a notification in the *Bombay Government Gazette*, direct that it shall remain in force for a further period not exceeding two years : provided that a copy of such direction given under this sub-section shall be sent forthwith to each member of the Bombay Legislative Council, and shall be laid on the table of the Bombay Legislative Council at the commencement of the session next following the date of such direction, and the question whether the said Act shall remain in force for a further period be decided by a resolution duly passed in this behalf by the said Council, if so required, by due notice given at that session by any member."

To that there is an amendment by the Honourable the Home Member, as follows :—

For the words commencing from "The Governor in Council may" down to the end of the amendment, substitute the following :

"and thereafter for such period, not exceeding two years, as the Governor in Council may, by notification in the *Bombay Government Gazette* direct."

Amendment to the amendment, put, and agreed to.

Original amendment, as amended, put, and agreed to.

The Honourable the PRESIDENT : The next amendment, standing in the name of the honourable member Mr. More is as follows :—

In clause 1 sub-clause (3) after the words "Governor in Council" and the word "may" add the following words :

"With the approval of the Legislative Council."

Question put, and negatived.

The Honourable the PRESIDENT : The next amendment that I shall put to vote is again that of the honourable member Mr. More. It is as follows :—

In clause 1 sub-clause (4), after the words "Governor in Council" and before the word "may" add "after the necessary assent of the Legislative Council under sub-clause (3)".

Question put, and negatived.

The Honourable the PRESIDENT : The next amendment is that of the honourable member Mr. More, as follows :—

In clause 3 sub-clause (2), add the following proviso at the end of the clause :

"Provided further that the general order issued by the Governor in Council shall be subject to the approval of the Legislative Council and the Legislative Council shall have power to add, alter, modify or cancel it altogether."

Question put, and negatived.

The Honourable the PRESIDENT : The next amendment is that of the honourable member Rao Bahadur Kale, as follows :—

Delete clause 4.

Question put, and negatived.

The Honourable the PRESIDENT: The next amendment stands in the name of the honourable member Mr. More. It is in two parts. The first part reads as follows:—

In clause 4, sub-clause (1), in line 3rd after the words "is about to act" and before the words "in a manner" add "in furtherance of the civil disobedience movement organised by the Indian National Congress and".

Question put, and negatived.

The second part reads as follows:—

Delete "or in furtherance of a movement prejudicial to the public safety or peace".

Question put, and negatived.

The Honourable the PRESIDENT: The next amendment is that of the honourable member Mr. Gangoli. Honourable members remember that he had 14 sub-clauses to his amendment as exemptions. He gave up three, and eleven remain. Honourable members remember what those eleven are. I shall put them to the vote.

Question put, and negatived.

The amendment (of Rao Bahadur R. R. Kale) to omit clause 8 put, and negatived.

The amendment (of Mr. V. N. Jog) to omit clause 9 put, and negatived.

The amendment (of Mr. J. B. Petit) to delete clause 16 put, and negatived.

The Honourable the PRESIDENT: There is an amendment to the preamble by the honourable member Mr. More. It reads as follows:—

After the words "officers" and before the word "for" add the following:

"Only in reserve to deal with the civil disobedience movement organised by the Indian National Congress."

To that there is an amendment by the Honourable the Home Member:

For the words "only in reserve to deal with the civil disobedience movement organised by the Indian National Congress" substitute the words "for the maintenance of the public security in case of emergency" and delete the words "for the purpose of maintaining law and order" in the original preamble.

I now put the amendment of the Honourable the Home Member.

Question put, and agreed to.

Mr. J. G. MORE: I claim a division.

The Honourable the PRESIDENT: I heard one voice for the Noes.

Rao Bahadur R. R. KALE: The honourable member does not seem to understand the position.

The Honourable the PRESIDENT: Is the honourable member clear about his position?

The Honourable Mr. W. F. HUDSON: Will you read it out, Sir?

The Honourable the PRESIDENT: The preamble is:

"Whereas it is expedient to confer special powers upon Government and its officers for the purpose of maintaining law and order; and whereas....."

and so on. That is the preamble. In the ordinary course the preamble will be put to the House at the clause by clause reading after all the

[The President]

clauses are disposed of. Because this is an amendment to the preamble, I took it as an amendment of principle, and that amendment stands in the name of the honourable member Mr. More which reads:—

After the words "officers" and before the word "for" add the following:

"only in reserve to deal with the civil disobedience movement organised by the Indian National Congress."

To that there is an amendment moved by the Honourable the Home Member:

For the words "only in reserve to deal with the civil disobedience movement organised by the Indian National Congress" substitute the words "for the maintenance of the public security in case of emergency" and delete the words "for the purpose of maintaining law and order" in the original preamble.

I have put the amendment of the Honourable the Home Member to the amendment of the honourable member Mr. More and it was carried. Therefore, the original amendment as amended by this amendment is to be put to the House.

Now, the preamble as amended by the amendment to the honourable member Mr. More's amendment, will read as follows:

"Whereas it is expedient to confer special powers upon Government and its officers for the maintenance of the public security in case of emergency; and whereas....."

I shall put once again the amendment of Mr. More as amended.

Question put, and agreed to.

The Honourable the PRESIDENT: Now, the motion that the Bill as amended be read a first time. Before I put it, the Honourable the Home Member has a right of reply to the general remarks.

The Honourable Mr. W. F. HUDSON: Mr. President, we have had, I think, a remarkably interesting debate, and I am sure that my honourable friends opposite will agree with me that there has been no attempt on the part of the Government to burke discussion. I do not know how many years it is since this House took five complete days for a first reading. Even with that much more complicated Bill which we passed a couple of months ago, full of complexities and new ideas—the Cotton Contracts Bill—we got through the three readings in four days. Now, Sir, at the end of five days, we are only just approaching the completion of the first reading. Sir, I make no complaint of that. I realise fully how deeply interested honourable members and their constituencies are, and I should like to feel, when this debate is closed, that no honourable member has a grievance that he has not had a chance of voicing his views.

Sir, may I, in the first place, express the warmest thanks of Government to the honourable members who from their different points of view and from different quarters of the House have supported us in this measure: first of all, to my old friend, the father of the House, Sir Rafiuddin Ahmad, who first threw an undeserved bouquet at me, and then I am glad to say gave us an interesting account of the Congress movement. Then too, Sir Shah Nawaz Bhutto, whose experiences of the Civil Disobedience

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movement have been much more interesting, not to say romantic, than mine. Also, I should like to add Mr. Winterbotham, and Mr. Prater, whose speech, if I may venture to say so, appeared to me to be an ideal speech for a first reading debate—brief and to the point, without going into the various clauses in detail. Then, Dr. Solanki, and a number of other honourable members who gave us not only their support, but also, they said, the support of their constituencies. I am encouraged by that support. I do know how difficult it is for honourable members to get into touch with their electors; and it is encouraging to know that on this occasion they have their people behind them. It is difficult for me to remember every one, but I have not forgotten the admirable speech made by the honourable member Rao Bahadur Angadi, one of the most convincing speeches we have heard during the course of this debate.

Sir, I have also, I am glad to say, very little reason to complain of the speeches made by my honourable friends on the other side. I realised from the first why it is distasteful to the honourable members to give their consent to this Bill, brought up as they were on the doctrines of Burke and Mill. But may I remind my honourable friends that throughout the world there has been a good deal of change of thought on the subject of the freedom of the individual and the powers of the State during the last 30 years? The political ideas on which we were brought up have been discarded in many countries in Europe and in the new world. In fact I fully anticipate that India will be the last home of these ideas. I am very unwilling to disturb them myself—it is difficult to teach an old dog new tricks—but, Sir, there is no question the world moves on and political thought develops, and I am afraid that India must move with the times. Rao Bahadur Kale complained or rather commented on the fact that there was very little new in my opening speech. I plead guilty to that, but unfortunately there is very little new in the present situation and there is extremely little which is new in this Bill. We have been living, we have been “groaning under”, we have been “repressed” by these Ordinances for the last 11 months, and it would have been very difficult for me in introducing the Bill to say anything very fresh about it. Sir, I was not a little surprised to hear members opposite suggesting that Government made a mistake in coming to this House with the Bill. It has been dinned into our ears in season and out of season for the last 9 months that the ordinance rule is the worst type of rule and that it was up to us to consult the representatives of the people. Now when we come to this House to consult the representatives of the people we are told that we had no business to ask the representatives of the people to co-operate with Government in passing this nefarious law. It would have been better if we had persuaded His Excellency the Viceroy to renew the Ordinance. I think there is an answer to that. I think the argument is quite clear that as we have a legislature we ought to make use of it and the only occasion for introducing the Ordinance is when there is no time to consult the legislature. There was no time when His Excellency the Viceroy introduced the Ordinances. We never anticipated for a moment that the non-co-operation movement would be started

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again so quickly. There was no time to consult the legislatures and therefore the Ordinance was introduced. But it is now in accordance with constitutional propriety that we came to this House and asked the House to support us.

One of the many arguments that are taken against this Bill is that it is not necessary, first, because what is called the law of the land is sufficient. If I may say so, a certain amount of cant is talked about this law of the land. My honourable friend Mr. Petit spoke of the law of the land as if it was the 10 Commandments fallen from heaven or as if it was the law of the Medes and Persians which never altered. But it cannot be denied that the criminal law of all countries is continually altered. There have been many amendments and alterations in the criminal law of India since I have come to this country and I have no doubt that there will be many more alterations and amendments to it in the course of another 25 years. There is no reason why this particular Bill should not be just as much a law of the land as the Indian Penal Code. Not the slightest. When we make a contrast between the Ordinance or the Bill before the House and what is frequently called the law of the land we make a contrast which does not exist. Well, the lawyers have had a splendid innings so far, but the fact remains that the law of the land has not been found sufficient. I do not, however, propose to follow them into this fascinating controversy between the lawyer members of the Opposition and the honourable member the Advocate General. As we know, lawyers, like doctors, always differ. I will address myself to this point from an entirely different angle, that is to say, from the angle of a practical administrator. It was my unfortunate duty as Revenue Member to try and persuade certain districts in Gujarat in 1930 and 1931 to pay their lawful dues and I can assure this House that we left no stone unturned under the existing law to compel them to do so. The complaint always was, not that we did not use the laws we had in our hands but that we over-strained our powers under these laws. The continual difficulty about Bardoli—I shall not go into all that history now—was that the powers under the existing laws were not enough. All district magistrates, all revenue officers, all magisterial officers and all police officers did their level best with the weapons in their hands to keep the civil disobedience movement in order, but I am afraid I must admit that in many parts of the Presidency, they signally failed, and there was a time undoubtedly when law and order had ceased to exist, when the King's Writ was not respected, and that, I can assure you, was so not because we were not attempting to do our best, not because we were not utilising all the weapons in our armoury but because we had not got the weapons essential for that kind of warfare. I can assure the House that we were not at all forgetful either of the Regulation XII of 1827 or of section 144 of the Criminal Procedure Code, or the other laws referred to. But they were all inadequate. We now come to ask this honourable House to give us those weapons which in the last eleven months have been found to be distinctly efficacious, though not entirely, in the matter of combating the civil disobedience movement.

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The second argument is, as the honourable member Rao Bahadur Chitale rather suggested, that the civil disobedience movement is now practically dead as the result of the operation of the Ordinances that have been in force for the last eleven months and that therefore bringing in this bill now is like flogging a dead horse. I only wish, Sir, that that were true, and I can assure the House that if that were true, Government would not put itself to the immense trouble and the serious expenditure of holding this special session and of calling together all the honourable members to their great personal inconvenience. I am not going into any great detail, but I think it only right, as that may be the opinion of certain honourable members who are lucky to live in the districts where the movement is not very active, that I should just say for their information what does happen and what is being said by the leaders of that movement. Only in September the Acting President of the Indian National Congress issued this statement:—

“The whole of the national thought and energy must flow in the programme of boycott and civil resistance.”

In June, he issued the following statement:—

“A grimmer and a more determined struggle is ahead of us and we should therefore put forth greater efforts than ever for the speedy achievement of our goal.”

Only on the 13th of October, when this bill was on the anvil, the Acting General Secretary of the Congress issued a circular—these are not my opinions, I am quoting to you from what I will call “the enemy’s own despatches”—

“The civil disobedience movement has to be carried on, if anything, more vigorously than before.”

Does it look like a change of heart? Does it look as if the Congress and the civil disobedience movement are dead? All this is about what they say. Now for something about what they do. Only two or three days ago, this pamphlet was distributed in large numbers in two or three of the magistrates’ courts in Bombay:—

“Hark ye the Call of Duty

Beware!

Magistrates

Beware!

And

Be True

To your Conscience and Motherland.

You have taken up a sacred cause, should not you act up to it truly! But it is a shame that you have proved yourselves Big Humbugs and subtle Hypocrites paid and sustained by your Brothers, the Indian masses.

Shamelessly do you receive your emoluments out of the Public Coffers for being unfaithful and treacherous to the sons and daughters of your motherland.....

The only honourable course is for you to resign.”

This was a deliberate attempt to seduce from their duty the Magistrates of Bombay to whom this Council and the Presidency owe a deep debt of gratitude for the stalwart way in which they have stuck to their positions during times of great anxiety. [*Applause.*] I could go on quoting for very much longer than the honourable members would care to listen, but I think that what I have said shows very clearly that

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this movement is still there to-day alive underground, that the leaders have not given up that dangerous propaganda which, if allowed to continue, would undoubtedly re-create the situation of 1930. Does my honourable friend Mr. Petit want the conditions of 1930 to be repeated? Judging from his speech, it would appear that he was unaware of what was going on, but I cannot believe that that was really the case. The other honourable members from Bombay know perfectly well what the conditions were. Does any of them want those conditions to be repeated?

Then, Sir, the second main argument is that, even if it is necessary, even though we agree that a war is still on, nevertheless, this remedy is worse than the disease. I understand that that is really the main argument which honourable members have put forward. My honourable friend Mr. Petit says, "Oh, this remedy is not a cure for all ills" and "if we pass this Bill, we shall be reduced to the state of helots." Now, Sir, no one claims for a moment, at least no claim has ever been made on this side, that this is a remedy for all ills. I should like to find the statesman or even the politician who could find a remedy for all ills. All that we say is that we have tried this remedy for the last nine months and that it has cured a good many of our ills, and that we hope and pray that it may continue for as long as the ills persist. As to the state of helotry, well, Sir, I think there are over a hundred keen politicians in this House, leaders of the people, who take very active part in the political life of this presidency. Can any one of them put his hand on his heart and say that he feels that he has been reduced to a state of helotry since the Ordinances came into being? I am far from saying that regrettable instances have not occurred, and no one regrets them more than I do. My honourable friend Rao Bahadur Chitale got the impression that something unhappy was going to happen to him. As far as I remember, nothing did happen. Whether the honourable member's impression was correct or not, I can only say how glad I am that nothing did happen, and I can say with confidence that nothing will happen to him even when this Bill is passed; and if any honourable member has a grievance about the matter like my honourable friend, we shall be only too glad to try and redress it. This talk about helotry and slavery may be very good oratory, but it is not much sense really, and if politicians will just keep within the limits of constitutional agitation, I am prepared to guarantee that nothing serious is going to happen to any of them.

Now, Sir, I think the House is really a little tired of this first reading, and I am going to wind up, though there is a great deal more that I might say. My honourable friend from Kaira (Mr. C. N. Patel), in the course of his speech, which was humorous, though he denied there was any humour in it, suggested, amongst other things, that we should put this Bill to a referendum. Now, Sir, he knew he was on safe ground when he suggested that. A referendum is an extraordinarily difficult device to work even in a small state. In a Presidency of twenty millions, of whom a very large proportion unfortunately are still illiterate, he knows,

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perfectly well that it would be quite impossible to work anything of the kind. But, Sir, I should be very glad to accept the challenge that we should put this particular question to every one of his own constituents—"Do you or do you not wish to revert to the Congress tyrannies of 1930?" On that issue, Sir, I should be very glad indeed to have the verdict of his constituency. But, Sir, since it is not possible to have a referendum, since we cannot ask the individual man in the street whether he prefers the tyranny of the Government or the tyranny of the Congress—I should be quite willing to put it even in that form—as we are unable to make use of that very satisfactory device (if it can be worked), I am content, Sir, to take the ordinary constitutional position and to ask the representatives of the people what they think and to abide by their decision. [*Applause.*]

Rao Bahadur R. R. KALE: On a point of information. In case the first reading passes, does the Honourable the Home Member propose to send this Bill to a select committee?

The Honourable Mr. W. F. HUDSON: No, Sir, In reply to the honourable member who has asked me the question, I may say that Government have considered the question of a select committee very carefully, and have finally decided against it, and that for several reasons. If you will allow me two minutes, Sir, I will explain them to the House.

First of all, this House showed itself perfectly competent, only two months ago, to deal with a far more intricate Bill, dealing with a subject of which we knew very little—whereas we know a good deal about law and order—without a select committee, and, if I may say so, dealt with the Bill very well. In the second place, if the Bill goes to a select committee and comes back in a seriously whittled form, in other words, if the main provisions are altered to any serious extent, it will be impossible for Government to accept it, and we shall have wasted our time. In the third place, I think honourable members would probably much prefer to discuss this important question themselves, rather than leave it to 10 or 12 members. Fourthly, while the select committee is sitting, there is nothing on earth for this House to do, as there is no other business before the House, and it will be a pure waste of time. Therefore, with all respect to the proposal made by my honourable friend, there are no serious legal questions still awaiting discussion, there is nothing which cannot perfectly well be discussed on the floor of this House, and therefore Government are not prepared to refer the Bill to a select committee.

Rao Bahadur S. N. ANGADI: I particularly draw the attention of the Honourable the Home Member to section 19 which, I pointed out, was not really necessary, and I also protested against it.

The Honourable Mr. W. F. HUDSON: If the honourable member will draw our attention to clause 19 when we reach that stage, I should be perfectly prepared to meet him on that point and any other point on which there are reasonable objections.

Bill read a first time. Question, "That the Bill as amended be read a first time," put. The House divided: Ayes, 66; Noes, 29.

Division No. 2.

Ayes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	KALBHOR, Mr. G. M.
ADVANI, Mr. P. B.	KAMBLI, the Honourable Dewan Bahadur S. T.
ALLAHBAKSH, Khan Bahadur	KHURO, Khan Bahadur M. A.
AMINUDDIN, Mr. SAHYD	MASTER, Mr. A.
ANGADI, Rao Bahadur S. N.	MAXWELL, Mr. R. M.
ABBUTENOT, Mr. C. W. E.	MEHERBAKSH, Mr. S.
ASAVALE, Rao Bahadur R. S.	MITHA, Mr. MAHOMED SULEMAN CASSUM
BANGI, Mr. A. K. J.	MODAK, Rev. R. S.
BHUTTO, Sir SHAH NAWAZ	MODI, Sardar Davar T. K.
BHUTTO, WADERO NABIBAKSH ILLAHI-BAKSH	NAMDEORAO BUDHAJIRAO, Mr. NAVLE, Mr. N. E.
BIJARANI, Khan Bahadur SHEER MUHAMMAD KHAN	NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
BIRADAR, Sardar MAHABOOBALI KHAN	OWEN, Mr. A. C.
BOLE, Rao Bahadur S. K.	PATEL, Khan Bahadur A. E.
BRANDER, Mr. J. P.	PATIL, Mr. N. N.
BULLOCKE, Mr. A. GREVILLE	PRATER, Mr. S. H.
CHIKODI, Mr. P. R.	RAFIUDDIN AHMAD, Moulvi Sir
CLAYTON, Mr. H. B.	RAHIMTOOLA, Mr. HOOSENALLY M.
COLLACO, Dr. J. A.	ROOSE, Mr. F. O. J.
COOPER, Khan Bahadur D. B.	SERVAL, Mr. A. E.
DAVIS, Mr. G.	SHAIKH ABDUL AZIZ, Mr.
DESAI, Rao Saheb B. G.	SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
DHURANDHAR, Mr. J. R.	SOLANKI, Dr. P. G.
D'SOUZA, Dr. J. ALBAN	SPENCE, Sir REGINALD
GENNINGS, Mr. J. F.	SYED MIRAN MAHOMED SHAH
GHULAM HUSSAIN, the Honourable Sir	SYED MUNAWAR, Mr.
GHULAM NABI SHAH, Khan Bahadur	TALPUR, Mir BANDEH ALI KHAN
GREAVES, Mr. J. B.	TARAPOREWALA, Mr. V. F.
HAMPTON, Mr. H. V.	THAKOR OF KERWADA, Sardar BHASARAH RAISINGHI
HUDSON, the Honourable Mr. W. F.	TURNER, Mr. C. W. A.
HUMPHREY, Mr. JOHN	VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
JAM JAN MAHOMED KHAN, Khan Bahadur	WINTERBOTHAM, Mr. G. L.
JAM MAHOMAD KHAN, Khan Bahadur	
JONES, Major W. ELLIS	
KADRI, Mr. J. S.	

Tellers for the Ayes: Mr. SYED MUNAWAR and Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN.

Nocs.

ACHREKAR, Mr. A. B.	MEHTA, Mr. M. H.
BAKHALE, Mr. R. R.	MORE, Mr. J. G.
CHITALE, Rao Bahadur G. K.	PATEL, Mr. C. N.
DESAI, Mr. H. R.	PATIL, Dewan Bahadur D. R.
DHALUMAL LILARAM, Mr.	PATIL, Mr. V. N.
DIXIT, Dr. M. K.	PATIL, Rao Saheb V. S.
GANGOLI, Mr. G. S.	PETIT, Mr. J. B.
GILDER, Dr. M. D.	PRADHAN, Rao Bahadur G. V.
GOKHALE, Mr. L. R.	SHAIKH ABDUL MAJID, Mr.
GOVER KORA, Mr.	SINDHA, Mr. MADHAVSANG JORBHAI
JOO, Mr. V. N.	SURVE, Mr. A. N.
KALE, Rao Bahadur R. R.	SURVE, Mr. V. A.
KAMAT, Mr. B. S.	TOLANI, Mr. S. S.
KARBHARI, Mr. M. M.	VAISHAMPAYAN, Dr. V. G.
KULKARNI, Rao Saheb P. D.	

Tellers for the Nocs: Dr. V. G. VAISHAMPAYAN and Mr. M. M. KARBHARI.

The Honourable the PRESIDENT: The Bill is now read a first time. We shall proceed with the further stage of the Bill on Monday.

The House is now adjourned to 2 p.m., on Monday, the 28th November 1932.

Monday, the 28th November 1932.

The Council re-assembled at the Council Hall, Bombay, at 2 p.m., on Monday, the 28th November 1932, the Honourable the President Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur

ACHREKAR, Mr. A. B.

ADVANI, Mr. P. B.

ALLAHBAKSH, Khan Bahadur

AMINUDDIN, Mr. SAIYID

ANGADI, Rao Bahadur S. N.

ARBUTHNOT, Mr. C. W. E.

ASAVALE, Rao Bahadur R. S.

BAKHALE, Mr. R. R.

BALUCH, Mr. HAJI MIR MAHOMED

BANGI, Mr. A. K. J.

BHUTTO, Sir SHAH NAWAZ

BHUTTO, WADERO NABIBAKSH ILLAHIBAKSH

BJARANI, Khan Bahadur SHER MUHAMMAD KHAN

BIRADAR, SARDAR MAHABOOBALI KHAN

BOLE, Rao Bahadur S. K.

BRANDER, Mr. J. P.

BULLOCKE, Mr. A. GREVILLE

CHIKODI, Mr. P. R.

CHITALE, Rao Bahadur G. K.

CLAYTON, Mr. H. B.

COLLACO, Dr. J. A.

COOPER, Khan Bahadur D. B.

DAVIS, Mr. G.

DESAI, Rao Saheb B. G.

DHALUMAL LILARAM, Mr.

DHURANDHAR, Mr. J. R.

DIXIT, Dr. M. K.

D'SOUZA, Dr. J. ALBAN

GANGOLI, Mr. G. S.

GENNINGS, Mr. J. F.

GHULAM HUSSAIN, the Honourable Sir

GHULAM HYDER SHAH, Mr.

GHULAM NABI SHAH, Khan Bahadur

GILDER, Dr. M. D.

GOKHALE, Mr. L. R.

GOVER RORA, Mr.

GREAVES, Mr. J. B.

HAMPTON, Mr. H. V.

HUDSON, the Honourable Mr. W. F.

HUMPHREY, Mr. JOHN
 JAM JAN MAHOMED KHAN, Khan Bahadur
 JAN MAHOMED KHAN, Khan Bahadur
 JITEKAR, Mr. HAJI IBRAHIM
 JOG, Mr. V. N.
 JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOE, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAI, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHAIKH ABDUL MAJID, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dr. P. G.
 SPENCE, Sir REGINALD
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.

SYED MIRAN MAHOMED SHAH
 SYED MUNAWAR, Mr.
 TALPUR, MIR BANDEH ALI KHAN
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.
 VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
 VANDEKAR, Rao Bahadur R. V.
 WINTERBOTHAM, Mr. G. L.

STARRED QUESTIONS AND ANSWERS.

ASSISTANT PROTHONOTARY : ORIGINAL SIDE, HIGH COURT, BOMBAY.

*Mr. V. N. Jog for Mr. H. R. DESAI (Dharwar City) : Will the Honourable the Home and General Member be pleased to state—

(a) the name of the Assistant Prothonotary on the Original Side of the High Court ;

(b) in what capacities he served before he got the first substantive appointment ;

(c) what are his legal and other qualifications, if any, for the post ;

(d) whether it is a fact that he held a subordinate post in the executive line of the Bombay Police Department ;

(e) what the minimum qualifications, if any, are required for such posts ?

The Honourable Mr. W. F. HUDSON : (a) Mr. E. Fahey.

(b) Before he was first substantively appointed Master and Assistant Prothonotary, he held the appointment of First Assistant Master.

(c) He has no academic qualifications but his great experience of office and Court work extending over a period of 42 years as per details given below was considered an adequate qualification for the post which he is holding at present :

Non-gazetted appointments in the High Court and in the Chief Presidency Magistrate's Court from 7th August 1888 to 16th December 1916.

Senior Judge's Clerk and Commissioner for taking affidavits from 17th December 1916 to 20th July 1923.

Fourth Deputy Registrar and Commissioner for taking affidavits from 21st July to 18th November 1923.

Second Deputy Registrar and Commissioner for taking affidavits from 19th November 1923 to 22nd October 1928.

First Deputy Registrar and Commissioner for taking affidavits from 23rd October 1928 to 14th April 1929.

First Assistant Master (change in designation) from 15th April 1929 to 1st October 1930.

(d) No.

(e) Normally a Barrister or a man with legal qualifications is appointed to this post.

RETRENCHMENT IN GOVERNMENT DEPARTMENTS.

*Mr. G. S. GANGOLI (Kanara District): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) the number of hands reduced as a measure of retrenchment in the various departments;

(b) the number of servants and officers drawing—

(i) less than Rs. 20 per mensem;

(ii) between Rs. 20 and Rs. 80 per mensem;

(iii) between Rs. 81 and Rs. 200 per mensem;

(iv) between Rs. 201 and Rs. 1,000 per mensem;

(v) more than Rs. 1,000 per mensem;

(c) the total amount saved by the reduction of hands from each of the classes of servants or officers referred to in (b);

(d) the percentage of hands relieved from each class to the total number of hands in that particular class;

(e) when the retrenchment is complete; if not, what are the respective figures for each of the years 1930, 1931 and 1932?

The Honourable Sir GHULAM HUSSAIN: The attention of the honourable member is invited to the reply given to his question† during the last session of the Council.

Mr. G. S. GANGOLI: With regard to (e), my question was “when the retrenchment is complete; if not, what are the respective figures for each of the years 1930, 1931 and 1932?”. Now, the retrenchments are not complete, what are the figures for those years mentioned in the question?

The Honourable Sir GHULAM HUSSAIN: The whole question is under the consideration of the Re-Organisation Committee. As soon as the report is published, all its practicable suggestions will be given effect to.

Mr. G. S. GANGOLI: What are the posts actually retrenched?

RELEASE OF MR. WADHUMAL TECKCHAND, A POLITICAL PRISONER, FROM THE HYDERABAD CENTRAL JAIL.

*Mr. S. S. TOLANI (Western Sind): Will the Honourable the Home and General Member be pleased to state—

(a) whether the attention of Government has been drawn to the “Sind Observer” dated the 14th and 24th May 1932 and to other Sind papers urging the release of one political prisoner, Mr. Wadhmal Teckchand, on grounds of health;

(b) whether it is a fact that the Superintendent of the Central Jail, Hyderabad (Sind), certified that the condition of Mr. Wadhmal was such as may cause his death at any time;

(c) whether it is a fact that in accordance with the Superintendent's recommendation the District Magistrate, Larkana, also recommended his release; if so, why he has not been still released;

†Printed on pages 635-636 of Vol. XXXV of the Bombay Legislative Council Debates.

(d) whether the Civil Surgeon of Hyderabad reported to Government the exact state of health of the prisoner at the time of his admission in the hospital; if not, why not;

(e) whether Government received my letter of 18th June 1932 requesting his release on parole for some time; if so, what action has been taken in the matter and whether the Civil Surgeon, Hyderabad, was consulted about it;

(f) what the present condition of the prisoner is and what treatment, both medical and dietic, is given to him in the jail hospital;

(g) whether it is a fact that out of 12 months' imprisonment awarded to him under Ordinance No. 2 of 1932, the prisoner has completed over six months;

(h) whether it is a fact that he has been ill for $4\frac{1}{2}$ months in the jail;

(i) whether Government propose to release the prisoner, Wadhmal, now; if not, why not?

The Honourable Mr. W. F. HUDSON: (a) Yes.

(b) His condition was reported to be dangerous.

(c) The District Magistrate had no objection to release on medical grounds, but the prisoner could not then be released under Rule 436 of the Bombay Jail Manual, as he was suffering from an acute infectious disease.

(d) No. As a detailed report on the prisoner's health had already been made by the Superintendent of the Prison, another medical report was not considered necessary.

(e) Yes. No action was taken as the Civil Surgeon had already reported that the prisoner was free from fever and was regaining strength.

(f) The prisoner is fully restored to health. His weight is 116 lbs., the same as when he was admitted to prison. He is, however, still given a special diet and receives milk and rice.

(g) Yes.

(h) He was in hospital for four months.

(i) Government see no reason to release him.

Mr. S. S. TOLANI: With regard to (c), may I know whether the Honourable the Home Member is always observing this rule 436 of the Jail Manual in releasing prisoners?

The Honourable Mr. W. F. HUDSON: I have no reason to suppose that the rule is broken.

Mr. S. S. TOLANI: Is it a fact that the prisoner Wadhmal had a relapse after he was transferred to jail from the civil hospital?

The Honourable Mr. W. F. HUDSON: I do not know that. He is quite well again.

Mr. S. S. TOLANI: During the last session I had written to the Honourable the Home Member that Mr. Wadhmal had again got a relapse and that he should forthwith be released.

The Honourable Mr. W. F. HUDSON: I do not remember about the last session. From the information received in October I can say that

he is fully restored to health. He was in the civil hospital for four months and he was well looked after. He is quite well again now.

UNSTARRED QUESTIONS AND ANSWERS.

CONSTRUCTION OF SUB-DIVISIONAL OFFICERS' OFFICES AND STORES AT THE LEFT AND RIGHT ENDS OF LLOYD BARRAGE IN TWO MONTHS.

Mr. HAJI MIR MAHOMED BALOCH (Karachi City): Will the Honourable the Home and General Member be pleased to state—

(a) the estimated cost of each set of buildings newly constructed at both the ends of the Lloyd Barrage at Sukkur for offices and stores of Sub-Divisional Officers;

(b) the time allowed to contractors for construction of each of them;

(c) the dates of commencement of work and completion of each building;

(d) whether it is a fact that the rates allowed for this work were comparatively higher than those of the same class of work in the Right and Left Banks Works Divisions? If so, by how much;

(e) whether the construction of these buildings was completed by working day and night for the sake of opening ceremony only? If not, what was the cause of hurrying it up;

(f) the nearest distance of other buildings on both banks from the above two Sub-Divisional Officers' offices;

(g) how do they intend to dispose of the other buildings now, as the works are completed;

(h) the cost of construction of all buildings in Sukkur which will go out of use on both banks?

The Honourable Mr. W. F. HUDSON: (a) Rs. 73,400.

(b) The time allowed for construction was 7 weeks and this period was extended to 10 weeks.

(c) The dates of commencement were 17th October 1931 on the Right Bank and 4th November 1931 on the Left Bank. The dates of completion were 21st December 1931 on the Right Bank and 13th January 1932 on the Left Bank.

(d) No. The rates paid under these contracts were, on the contrary, lower than those previously paid for the same class of work in the Right and Left Banks Works Divisions.

(e) The buildings were completed by working day and night as has been the procedure on the whole of the Barrage work. It was desired to have the buildings, along with all other works, completed by the date of the opening ceremony.

(f) The distance of the nearest office buildings on the Right Bank is about three-quarters of a mile by road; that on the Left Bank is about half a mile by road.

(g) The question is under consideration.

(h) In view of the reply to clause (g) it is not possible to furnish the requisite information at present.

✓ LAND REVENUE CODE RULES : DHARSOD.

Mr. L. R. GOKHALE (Poona City): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether rule 10A of Dharsod in the latest revised edition of the Land Revenue Code Rules has been applied to inam villages? If so, from what year was it applied;

(b) whether it has been applied both to land assessment and local fund separately or to consolidated land revenue;

(c) what are the names of the inam villages which have been handed over to Government for revenue collection under section 94-A of the Land Revenue Code;

(d) what are the names of the inamdars whose applications for the operation of section 94-A of the Land Revenue Code to their villages were refused; and what are the reasons for the refusal;

(e) from what year is the increase in land revenue caused by Dharsod credited by Government to themselves and for what purpose is it used;

(f) what is the amount of revenue increased every year on account of Dharsod;

(g) whether it is a fact that Government charges the local boards and also the inamdars for collecting the local funds of the inam villages;

(h) will the Honourable Member be pleased to give a list of Sharkatti Khalsa, or Sharkatti alienated villages in the Southern and Central Divisions of the Presidency?

The Honourable Sir GHULAM HUSSAIN: (a) Yes, from the year 1925-26.

(b) Only to land revenue.

(c) The following villages in the Central and Southern Divisions have been handed over to Government for revenue collection under section 94-A of the Land Revenue Rules:—

Division.	District.	Taluka.	Village.
Central Division	.. Poona	.. Bhimthadi	.. Karhata.
" "	.. East Khandesh	Pachora	.. Nagar Deola.
" "	.. "	"	.. Nachan Khede.
Southern Division	.. Kolaba	.. Alibag	.. Valawli.
" "	.. "	.. "	.. Chinchauli.
" "	.. "	.. "	.. Mouje Pedhambe.
" "	.. "	.. "	.. Khar Pedhambe.
" "	.. "	.. "	.. Kurkondi Koltembli.

(d) The information is not available.

(e) No increase in land revenue in inam villages due to Dharsod is credited to Government.

(f) There is no material increase in land revenue due to Dharsod; in some cases it has caused decrease. Government are not prepared, in view of the trouble involved, to examine the matter in detail.

(g) Government charge only Local Boards for collection of local fund cess in inam villages and not inamdars.

(h) There is no distinction between "Sharakati Inam" and "Sharakati Khalsa" villages, so far as tenure is concerned. ✓

HOLIDAYS IN THE CIVIL COURTS OF AHMEDABAD AND SURAT DISTRICTS.

Mr. J. S. KADRI (Northern Division): Will the Honourable the Home and General Member be pleased to state—

(a) the number of Jain holidays on which the civil courts of Ahmedabad and Surat districts are closed every year;

(b) the number of Jain population in each of these districts;

(c) the number of Jain judges, sub-judges and clerks in the civil courts of each of these districts;

(d) which gazetted Muhammadan holidays are observed by the civil courts in the Northern Division;

(e) whether it is a fact that civil courts are not closed even on important gazetted holidays like those of Ramzan I'd, Bakri I'd and Barawafat; if so, whether Government propose to take any steps to rectify the grievance of the Mussalmans in this matter?

The Honourable Mr. W. F. HUDSON: (a) Five days in the Ahmedabad District and two days in the Surat District.

(b) 21,670 in Ahmedabad and 8,628 in Surat.

(c) There are no Jain Judges or Subordinate Judges in these districts. In the civil courts of the Ahmedabad District there are eight Jain clerks.

(d) Mohurrum is observed as a holiday in all courts. In the Broach District Ramzan Id and Bakri Id are observed as holidays and in the Surat District Ramzan Id, Bakri Id and Barawafat are observed as holidays. In other districts Bakri Id and Ramzan Id are observed as holidays in those courts in which the Judge is a Muhammadan.

(e) The attention of the Honourable Member is invited to the reply given to clauses (c) and (d) of his previous question on the same subject printed at page 345 of the Bombay Legislative Council Debates, Volume XXXV, Part IV. If the Mussalmans have any grievance in this matter they should move the High Court through the District Judge.

ABDARS AND CANAL ASSISTANTS FROM GOVERNMENT TRAINING COLLEGE, HYDERABAD: APPOINTMENTS IN GOVERNMENT SERVICE.

Khan Bahadur M. A. KHUHRO (Larkana District): Will the Honourable the Home and General Member be pleased to state—

(a) how many "Abdars" and Canal Assistants have passed from Government Training College, Hyderabad, Sind;

(b) how many of them are Hindus and how many Muhammadans;

(c) how many are absorbed so far in Government service;

(d) how many of them are Hindus and how many Muhammadans?

The Honourable Mr. W. F. HUDSON: (a) 363 Abdars and 50 Canal Assistants.

	Abdars.	Canal Assistants.
(b) Hindus	192	26
Muhammadans	171	24
(c) Total number absorbed	353	41
(d) Hindus	182	20
Muhammadans	171	21

ABDARS AND CANAL ASSISTANTS FROM PRIVATE COLLEGE IN HYDERABAD, SIND : APPOINTMENTS IN GOVERNMENT SERVICE.

Khan Bahadur M. A. KHUHRO (Larkana District): Will the Honourable the Home and General Member be pleased to state—

(a) whether there is any private College for training Abdars, Canal Assistants and Daroghas in Hyderabad, Sind;

(b) how many of those trained in that College are taken up in Government service so far;

(c) how many of them are Hindus and how many Muhammadans;

(d) whether the Chief Engineer in Sind encourages that College;

(e) whether any number is fixed for Muhammadans for admission in that College;

(f) the total number of students admitted in that College;

(g) out of that number, how many are Hindus and how many Muhammadans;

(h) what control Government have over that private College?

The Honourable Mr. W. F. HUDSON: (a) Government have no knowledge of the private College referred to.

(b), (c), (d), (e), (f), (g) and (h) Do not arise.

GRANT OF LAND TO MR. M. L. PRATAP OF PAPDI, BASSEIN.

Mr. SHANKARRAO JAYARAMRAO ZUNZARRAO (Thana and Bombay Suburban Districts): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether it is a fact that some land in Bassein Taluka in Thana District is given by Government to one Mr. M. L. Pratap of Papdi, Bassein;

(b) whether the land was sold by auction? If not, why not;

(c) whether the amount of money approved by the Collector of Thana was the same as that approved by the Prant Officer? If not, why less amount was approved;

(d) whether it is a fact that the proceedings were followed only to favour Mr. Pratap? If so, what Mr. Pratap has done to get the favour of Government;

(e) the party Mr. Pratap belongs to and the name of the Collector who sanctioned the above proceedings?

The Honourable Sir GHULAM HUSSAIN: (a) Yes; land measuring 8 acres and 15½ gunthas of survey No. 333 of Palhar was granted to Mr. M. L. Pratap of Papdi, Bassein, in April last.

(b) No. The land was given to Mr. Pratap at a price fixed by the Collector in the following circumstances:—

Land measuring 8 acres out of revision survey No. 333 of Palhar was granted by the Collector in 1908 to one Bal Patil on restricted tenure. In the village records, however, Bal Patil was shown as an ordinary occupant of land. It is not known why no entry was made in the records that the land was given on restricted tenure inasmuch as the original correspondence regarding the grant of land to Bal Patil is not forthcoming. Relying on the village records Mr. Pratap

purchased the land from Patil in 1920 along with other land. He continued to be in undisturbed possession of the land till last year when, on receipt of certain information, the Prant Officer started an enquiry and referred the matter to the Collector who ordered that the land should be forfeited for breach of the tenure. Subsequently on Mr. Pratap's representation of all the facts the Collector decided to restore the land to him on payment of occupancy price.

(c) No. The occupancy price of the land was reduced by the Collector to Rs. 60 per acre because it was found that it was varkas land of poor quality and situated by the side of a hill-slope. Besides Mr. Pratap had also paid the original owner for the land.

(d) No.

(e) Mr. Pratap is reported to be a congressman of moderate views. The land was sold to him by the present Collector, Mr. M. D. Bhat, I.C.S.

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER).

The Honourable Mr. W. F. HUDSON: Mr. President, I move that Second reading. Bill No. XXVII of 1932 be read a second time.

Question proposed.

Mr. G. S. GANGOLI (Kanara District): Sir, my motion is that the Bill be referred to a select committee. The principle is accepted by the House and the Honourable Member in charge of the Bill has given reasons on Saturday that the Bill could not be referred to select committee on the grounds stated by him. That shows that he is open to reason. Since the Bill was first published in the presidency, the report of the select committee of the Legislative Assembly on a similar Bill is out. Other provincial legislative councils have passed or are considering similar Bills. If now we consider the changes that have been made in the case of the other Bill in the Legislative Assembly and other provincial legislatures we find that our Bill is entirely different. For instance "intention" is taken as a very important thing in the Bill before the Assembly. It is not done here. So also, we would like to have a definition for expressions like "law and order", "public advantage", and the assurance given by the Honourable the Home Member "legitimate activity and acts done in good faith", and so on. We also want to know what the exact position is with regard to infliction of unlimited fine. The question of parole also is not touched. All these things could have been best arranged with the co-operation of non-official members, if the Bill had been referred to a select committee. One of the reasons given for not referring this Bill to the select committee was what the other members, who will not be members of the select committee, will do? In spite of the Address to His Excellency passed by the House in the last session to allot more days for non-official business, no days have been allotted at all for non-official business in this session. So, it is not a mistake of this House. Then, it was pointed out that the Cotton Contracts Bill was not referred to the select committee. There was a

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motion to refer the Cotton Bill to a select committee but the motion was negatived. At least for the consideration of that Bill there were some experts appointed. So far as this Bill is concerned, no expert has been nominated and there is no reason why it should not be referred to the select committee. Further, there are no amendments for defining the words I stated above and some other changes are necessitated in view of the Bills passed by the other legislatures. I think it would be advisable for the Honourable the Home Member to refer this Bill to a select committee.

The Honourable Sir GHULAM HUSSAIN : Sir, I characterise this motion as a dilatory motion. The honourable mover of this motion must understand that, after the announcement of the Honourable the Home Member that he did not want the Bill to be referred to a select committee, the House by a large majority voted for the first reading of the Bill, knowing that the Bill would not be referred to a select committee. Now, the reasons that he has advanced are not at all convincing. First, he says that the words "law and order" have got to be defined. The honourable member perhaps was not in the House when these words were deleted from the preamble. Then he referred to certain expressions which he said want definition. Most of the amendments of principle have already been discussed at full length in this House and voted upon. But the honourable member knowing fully the views of the House still persists in asking for referring the Bill to a select committee. If this Bill is referred to a select committee, I do not know what the other members who are not on the select committee will do in the meantime. Once we have accepted the principles, only verbal changes can be made. The Honourable the Home Member is ready to accept any reasonable amendments. There are a large number of amendments which will be discussed on their merits. With these words, I oppose the amendment.

Rao Bahadur R. R. KALE (Bombay University) : Sir, I had no intention to speak on this motion, because the Honourable the Home Member said that it was not going to be referred to the select committee. Since however the Leader of the House characterised this motion as a dilatory one, I am in a position to give a reply to that expression. The Bill was introduced in this month and even a motion for circulation could not have been considered as dilatory. However, it is another matter. To refer the Bill to a select committee is not at all dilatory. We know we want to save time. I wish there were a provision in the Standing Orders that the whole House would resolve itself into a committee. That means that those who are not interested in participating in the discussion may occupy themselves otherwise while others sit in the House as in a committee. I do not think there is any provision like that in our standing orders. There is such a provision in Parliament and the Senate of the Bombay University. My point is that it would not be practicable to discuss all these amendments in the open House. It must now be clear to the House that in respect of certain details it is necessary to introduce safeguards. Special powers in emergencies are necessary but at the same time if we introduce here and there some expressions,

[Rao Bahadur R. R. Kale]

some phrases by way of explanations, I think the rigour of the measure will be considerably reduced. The demand of the opposition is that even in working this Ordinance the irritation and bitterness caused on account of certain small things done by lower grade officers should be avoided. If we want to avoid that bitterness, we should be able to make small changes. Government have seen it necessary to issue instructions to their subordinate officers as to the way in which they should use the powers. If the quintessence of these instructions is embodied in the Bill by way of explanations in certain places, I think many of the objections which have been advanced from this side of the House as regards the curtailment of the liberty of the people will be met. When we see the list of amendments, we find that though the number of amendments is very large, the members who have given notices of amendments are very few, viz., ten. Therefore, if all these things are threshed out in a small committee, you will be saving time. We know that the Cotton Contracts Bill was carried in this Council without being referred to select committee but it took a lot of time. If this Bill is not referred to a select committee it will take at least three or four days if not more as the number of amendments is very large. So, the motion of the honourable member that the Bill be referred to a select committee to thresh out these things cannot be considered dilatory. It is brought forward with the best of motives. I think, therefore, that Government should reconsider their position and see if they can meet the wishes of this side of the House.

The Honourable Mr. W. F. HUDSON : Sir, I do not think that there is anything that I have to add to what I said on Saturday, and I am sure the House would not wish me to repeat it. Government have considered this to be an important Bill, and personally I feel that it is much better to have it threshed out by the whole House. I do not think we need define "law and order". Those amendments to which honourable members attach considerable importance can much better be threshed out by the whole House rather than by a select committee. Therefore, I say with regret that I must decline to accept the motion. Whether it is dilatory in intention or not, it would certainly be so in effect.

Question put, and declared lost.

Rao Saheb P. D. KULKARNI : Sir, I ask for a division.

The Honourable Mr. W. F. HUDSON : Sir, may I be permitted to make a few remarks in pressing the second reading of the Bill ?

The Honourable the PRESIDENT : I thought the honourable mover had stated what he had to say.

The Honourable Mr. W. F. HUDSON : I did not have the chance. I am only going to make a few remarks just by way of expediting the discussion. After the interesting discussion we had last week and especially as I took a considerable time of the House on Saturday, I do not want to say very much. Government are, of course, very grateful to their supporters for their speeches and their votes on Saturday ; but I would remind the House that we have passed through only one stage

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and there are still two more stages to be got over. I have spent a good deal of my time during the week-end in studying the amendments. I think perhaps it will clarify the situation if I just make one or two general remarks. Government are not prepared to accept any amendment which will, in their opinion, destroy the effectiveness of the Bill. You have ruled, Sir, that certain amendments which we have already discussed are connected with the principle of the Bill. I certainly shall not suggest that any main amendments which still remain are part of the principle, but there are certain amendments which undoubtedly will destroy its effectiveness in its preventive action—I want once again to emphasize that, preventive action—and these amendments Government will not be able to accept. But there are certain points, which I would just like to indicate, on which we are prepared to go some way to meet the wishes of the House. As the House knows we have already made what we consider—

Rao Saheb P. D. KULKARNI : Sir, I have claimed a division.

The Honourable the PRESIDENT : I never heard the honourable member.

Rao Bahadur R. R. KALE : He did ask for a division.

The Honourable the PRESIDENT : I thought the honourable member wanted to speak.

Rao Saheb P. D. KULKARNI : No, Sir. I wanted to have a division.

The Honourable Mr. W. F. HUDSON : We have passed that stage now. Does the leader of the opposition press for it ?

Rao Bahadur R. R. KALE : No ; but he has asked for a division.

The Honourable the PRESIDENT : I am sorry I did not hear him.

Dewan Bahadur D. R. PATIL : May I make a suggestion ? Those members who are in favour of the amendment may be asked to stand up. That step has been followed before.

The Honourable the PRESIDENT : That has not worked well.

The Honourable Mr. W. F. HUDSON : Sir, I venture to say that it would have been more courteous if the honourable member had drawn the attention of the House to his request when I had completed the first one or two sentences of my speech. It is rather unfair to raise this matter now, when I am in the middle of my argument. The honourable member did not take the trouble of inviting your attention at an earlier stage.

Rao Saheb P. D. KULKARNI : I stood up twice.

The Honourable the PRESIDENT : I never heard a word of his.

Rao Saheb P. D. KULKARNI : That is unfortunate for me. But it is a fact that I asked for a division and I still press for it.

The Honourable Mr. W. F. HUDSON : I have no objection. If the honourable member wants a division, I do not want to object.

Question put: The House divided: Ayes, 23; Noes, 43.

Division No. 3.

Ayes.

ACHREKAR, Mr. A. B.
 BAKHALA, Mr. R. R.
 BALOGH, Mr. HAJI MIR MAHOMED
 CHITALE, Rao Bahadur G. K.
 DHALUMAL LILARAM, Mr.
 DIXIT, Dr. M. K.
 GANGOLI, Mr. G. S.
 GOVER ROBA, Mr.
 JOO, Mr. V. N.
 KALE, Rao Bahadur R. R.
 KARHARI, Mr. M. M.
 KULKARNI, Rao Sahab P. D.

MORE, Mr. J. G.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Mr. V. N.
 PETTY, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 SHAIKH ABDUL MAJID, Mr.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SURVE, Mr. V. A.
 TOLANI, Mr. S. S.
 VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes: Rao Sahab P. D. KULKARNI and Dr. V. G. VAISHAMPAYAN.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ADVANI, Mr. P. B.
 ALLAHBAKSH, Khan Bahadur
 AMINUDDIN, Mr. SAYID
 ARBUTHNOT, Mr. C. W. E.
 BHUTTO, Sir SHAH NAWAZ
 BHUTTO, WADERO NABIBAKSH
 ILLAHIBAKSH
 BIRADAR, Sardar MAHABOOBALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 DAVIS, Mr. G.
 DESAI, Rao Sahab B. G.
 DEURANDHAR, Mr. J. R.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GRAVES, Mr. J. B.
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.
 JAM JAN MAHOMED KHAN, Khan Bahadur
 JONES, Major W. ELLIS
 KAMBLI, the Honourable Dewan Bahadur
 S. T.

KHURRO, Khan Bahadur M. A.
 MASTER, Mr. A.
 MAXWELL, Mr. R. M.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG
 BAHADUR
 PATIL, Mr. N. N.
 RAFIYUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOUSENALLY M.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHANKARRAO JAYARAMRAO ZUNZARRAO,
 Mr.
 SOLANKI, Dr. P. G.
 SYED MIRAN MAHOMED SHAH
 TALPUR, Mir BANDEH ALI KHAN
 TARAFORWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASABEH
 RAISENEJI
 TURNER, Mr. C. W. A.
 VAKIL, the Honourable Sirdar Sir RUSTOM
 JEHANGIR

Tellers for the Noes: Mr. MAHOMED SULEMAN CASSUM MITHA and Rev. R. S. MODAK.

The Honourable Mr. W. F. HUDSON: I was, Sir, pointing out that we had already met the House to some extent on the question of the limitation of the Bill and had gone further—I again wish to emphasise this—than any other legislature in the country in that matter. I also agreed on the matter of principle to eliminate sub-clause (3) of clause 16, the matter of delegation which I understood caused some apprehension to honourable members opposite.

Now, as regards the amendments, the more important ones, on which Government still have an open mind and are open to conviction, are as to the elimination or modification of clause 19 which deals with the wilful failure or refusal to pay arrears, and also the question of the rent of agricultural land in sub-clause (2) of clause 17, though on that subject we shall be glad to hear, before we decide, the views of those honourable members of the House who are in the happy position of being superior

[Mr. W. F. Hudson]

holders. We are also open to suggestion and conviction on the subject of the limitation of fines.

Those are the more important amendments which, as I say, we are prepared to consider sympathetically. What I want the House to understand before we begin discussion is that we are not prepared to confuse judicial and executive orders and that we are not prepared to go at all far in the direction of curtailing the executive action which we consider has been so successful during the last eleven months. I do not think, Sir, that I need say anything more. I thought I should perhaps help the House if I gave a general indication of the attitude of Government as regards the amendments.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I rise to oppose the second reading of this Bill, and I hope my opposition will not be considered as a dilatory motion by the Honourable the Leader of the House. I do recognise that not only our local bodies will be or are demoralised by huge majorities, but also a mighty Government like this who appear to think that because they have a huge majority of 66 against 29 they have a roller which can roll down anything that they want. I hope, Sir, that I do recognise the force, the amiable manner, the consideration with which the Honourable the Home Member, who is in charge of the Bill, has tried to convince the majority to his view. It must be taken for granted that this side does not wish to oppose this measure for the sake of opposition and if honesty is to be claimed for the one side I think it should also be allowed to the other. We do seriously think, I myself conscientiously think, that this measure, which continues the period of the present ordinances, is unfortunate. I will state at once my objection. I should think in fairness to any movement it is but due and it is necessary also to give enough time for the people to think over the matter, an interregnum, say, of a few months, of a month or two, between the 29th of December 1932 and, say, February of 1933. That will not make the heavens fall. That little period is not enough to give importance to the civil disobedience movement, especially as Government think that that movement has reached a most downward grade. I do seriously want the Government to consider one aspect of the question which I experienced when the ordinances were renewed. The Honourable the Home Member may take it from me for what it is worth, that many a man, even belonging to the Congress persuasion, would not have been in jail if the ordinances were not renewed or were not continued from that date. I know that when you say that a particular measure shall come into force—I do recognise and Government must also recognise—there is a tendency on the part of the civil resisters to single out that very law for a breach of it. We all recognise that after all the movement, as I said, represents an idealism and therefore we find that many a recruit, whom Government itself characterise as hirelings, are found to come in just to show that the movement is a living force. I believe that in their minds they feel that the movement is being now carried on only by hirelings, and if that is so, then I say it is a very

[Rao Bahadur G. K. Chitale]

high time that this Bill should not take the form of law soon after or as soon as the 29th of December next expires. Breathing space must be given to all people and this does not give any. I should think that that is a phase of the matter which specially my European friends will take into consideration. Let us watch, let us wait and see how the Presidency behaves or for the matter of that, at least how the Presidency districts behave, put them on their good behaviour—

The Honourable the PRESIDENT: I am sorry to interrupt the honourable member. I am in some sort of a difficulty in the matter of drawing the line between a discussion on the first reading and a discussion on the second reading. During the first reading, a full general discussion has taken place, in fact limitless latitude was given by me and the pros and cons of the merits of the Bill as well as the necessity of the Bill have been gone through. At the second reading, I think the speeches delivered on that motion should be limited really to the various directions that are given in the Standing Orders, namely, that the Bill be referred to a select committee or that it should be circulated for eliciting public opinion, or to show reasons why the second reading should not be proceeded forthwith; but I do not know whether I would be right in allowing a discussion which would be a sort of repetition of what has already been said on the motion for first reading. I am, in the best interests of the House, very anxious to save the legitimate time of the House and would request honourable members not to enter into arguments which have already been discussed threadbare. This is my view of the remarks on the motion for the second reading of the Bill. This is the practical stage in the passage of the Bill—the second reading—when we sit down as practical legislators to go into the merits of clauses rather than on the general merits and the necessity of the Bill. This is my view and, if honourable members would accept that, they would help the House in saving its time.

Rao Bahadur G. K. CHITALE: With due deference to your wishes, Sir, I was pointing out to this House that though the principle of this Bill may be accepted and though the Standing Orders may provide for certain dilatory motions, still I do believe that this House or at least the members who want to oppose the second reading have a right to point out and are right in pointing out when this Bill if enacted into law should take its effect. I was on that point and on that point only which I believe has not been emphasised or brought out in the whole debate of the last five days, and so I emphasise it, and I was arguing that in such a drastic legislation it is only necessary, just and reasonable that the people who want to take part in it should be given a breathing space to reconsider their position. If you make a new law, then there may be people who will come forward to disobey that very law. If there is no law, what will they disobey? Let us see if there are others who want to break the laws which are the laws of the land. That is exactly my position when I wish to oppose the second reading.

Mr. N. E. NAVLE (Ahmednagar District): Sir, as a member of the Non-Brahmin party, I should like to say that our party was much

[Mr. N. E. Navle]

concerned about certain provisions which dealt directly with the agricultural community, and as such we had tabulated certain of our grievances, which we unofficially placed before the Honourable the Home Member, and I am glad to hear from the speech which he delivered just now that he has been kind enough to make a change in the preamble, limiting the Bill to an emergency, maintenance of security in case of an emergency. That is quite satisfactory.

Now, coming to clause 19, I think that the agricultural community goes without any protection, and therefore the deletion of the clause is quite essential for the benefit of the agricultural community. As to the question of rent, which comes under clause 17, and which is made a notified liability under the clause, I wish to place before Government the difficulty about this. I suggest that the dues of rent which the superior holder has to recover from the inferior holder should not be included in the term "notified liability", because, as far as the conditions in the Deccan go, I can assure the Members of Government, who themselves also know it, that many of the agricultural lands have passed from the hands of the *bona fide* agriculturists into the hands of the sowcars. I had tabled a very important question in this House, namely, how many mortgages of agricultural land have taken place in the Ahmednagar district in a particular period, and the answer was that a large number of these survey numbers which the agriculturists owned had practically passed into the hands of sowcars. If that is the condition in the Ahmednagar district, it applies to other districts like Sholapur, Satara, Nasik, etc., practically the whole of the Central Division. So, our point is that this rent which the superior holder has to recover from the inferior holder should not be included in the term "notified liability". Of course, so far as my honourable friends from Sind, who are superior holders, are concerned, if they want it, we are prepared to suggest that it may be made applicable so far as Sind is concerned, but as far as conditions in the Deccan go, the agriculturists will be hard hit if rent is included in notified liability, and there will be a practical difficulty in our way as the poor agriculturists will be harassed. So, we are prepared to accept that only in Sind rent should be included under notified liabilities, and the rest of the presidency should not be burdened by the inclusion of rent in the term "notified liability".

Then, Sir, the Honourable the Home Member was kind enough to refer to the limitation upon fine. I think there ought to be a reasonable limit, to the amount of fine. I am not going to say what it should be, but I think there ought to be some limit to the amount of fine to be imposed under the various provisions of this Bill.

Mr. J. B. PETIT (Bombay Millowners' Association): Mr. President, I beg to oppose the second reading of this Bill.

Sir, if there ever was any doubt in my mind regarding the harmful and dangerous character of this measure, it has now been completely dissipated in view of the discussion that has taken place on the first reading of the

[Mr. J. B. Petit]

Bill: I will go a step further and say, that the worst fears of the non-official benches have been completely realised and that the pernicious nature of the Bill has exposed itself in all its nakedness before the vision of this House. The *raison d'être* of the measure, according to the Government, is the emergency that is supposed to exist, whereas on this side it is contended that no such emergency now exists, although we admit that there are unrest and disaffection in this presidency as in the rest of the country. We also admit that it is the duty of every well-regulated Government to put down all lawlessness, and to defend the rights and liberties of the subjects, particularly of those who are sought to be coerced by the majority. Up to this limit, the Government and the non-official members are agreed. The Government, however, maintain that the laws of the land are *not* adequate to deal with the situation. We maintain that they are. That is the only difference. The discussion on the first reading of the Bill has proved that the Government is unable to make out a case in favour of this contention. The speeches of the Honourable the Home Member and of his supporters, have completely failed to show how and why the ordinary laws of the land are not adequate. The honourable member the Advocate-General in a laboured and apologetic speech, lasting over a couple of hours, had only ten minutes to devote to the legal aspect of the measure; and then too, all that he had to say in its favour was that it was a preventive measure, which the existing laws of the land were not, and that therefore it was necessary to enact it. One of the supporters of the Bill, namely, the honourable member the Collector of Bombay (Mr. Master), when endorsing this opinion, was pointedly questioned by me as to whether there was any country in the world which had similar preventive measures, and, if so, to name it. He only answered the question in a general way, but was unable to give the names of such countries. It is well known to the House that the laws of all countries are punitive and not preventive. And indeed they cannot be otherwise, for a measure in order to be preventive, must draw upon the imagination of the person exercising the powers conferred by it! From its very nature, it is therefore bound to be a capricious and dangerous piece of legislation.

I accordingly oppose the second reading, particularly because, having regard to all these facts, it has now become quite clear to this House that in order to exercise the powers vested in the Government under its provisions, in every possible case they will have to go upon what they imagine is the offence that a man is about to commit. If this is so, and if this is the only purpose of the Bill,—as apparently it is,—then my submission is that in every case that the powers vested in the Executive under this Bill are put into operation, they will have to be exercised solely on hearsay information or on the mere supposition that the person who is going to be charged is about to perform some act which is likely to clash with the provisions laid down in this Bill. It is, therefore, Sir, that the measure becomes even more pernicious and mischievous than we imagined it was during the first reading of the Bill. I wish to point

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out very clearly the incidence of these provisions to this House and to ask them even at this late stage to throw out the Bill. It is clear that it will be impossible for the Government, however well inclined and sympathetic they may be, to put the provisions of this Bill into operation, unless they assume on hearsay information or by drawing upon their imagination that somebody or other is going to commit an offence, which, in their opinion, is likely to bring law and order into danger. Otherwise, there can be no practical use to which those provisions can be put.

In consequence of this line of reasoning, what is the conclusion to which honourable members are to come? The conclusion is that the only way in which the measure can be put into effect, is to proceed against somebody on the supposition that he is about to commit some offence. In short, the entire fabric of the Bill has been built upon the imagination of the executive officers. The whole of the measure thus becomes inoperative and ineffective unless the imagination of the person acting under its provisions is brought into play. For all those reasons, we now feel that it is more drastic and dangerous than we thought it was at first sight. I hope, therefore, that this House even at this late stage will throw it out.

The Honourable Mr. W. F. HUDSON: I have nothing further to say.

Question, "That the Bill be read a second time," put. The House
Bill read a second time. divided: Ayes, 52; Noes, 22.

Division No. 4.

Ayes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	KAMRIL, the Honourable Dewan Bahadur S. T.
ADVANI, Mr. P. B.	KHURRO, Khan Bahadur M. A.
ALLANBAKSH, Khan Bahadur	MASTER, Mr. A.
AMINUDDIN, Mr. SAIB	MAXWELL, Mr. R. M.
ARBUENOT, Mr. C. W. E.	MITHA, Mr. MAHOMED SULEMAN CASSUM
ARAVALE, Rao Bahadur R. S.	MODAK, Rev. R. S.
BANGI, Mr. A. K. J.	MODI, Sardar Davar T. K.
BHUTTO, Sir SHAH NAWAZ	NAMDORAO BUDHAJIRAO, Mr.
BHUTTO, WADERO NABIBAKSH ILLAH-BAKSH.	NAVLE, Mr. N. E.
BHADAR, Sardar MAHABOORALI KHAN	NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
BHOLA, Rao Bahadur S. K.	OWEN, Mr. A. C.
BHANDER, Mr. J. P.	PATIL, Mr. N. N.
BULLOCKE, Mr. A. GREVILLE	PRATER, Mr. S. H.
CHIKODI, Mr. P. R.	RAFIUDDIN AHMAD, Moulvi Sir
CLAYTON, Mr. H. B.	ROOSE, Mr. F. O. J.
DAVE, Mr. G.	SERVAL, Mr. A. E.
DEBAL, Rao Sahib R. G.	SHANKARRAO JAYARAMRAO ZUNJARAO, Mr.
DEURANDHAR, Mr. J. R.	SOLANKI, Dr. P. G.
GENSING, Mr. J. F.	SPENCE, Sir ROBINFOLD
GHULAM HUSAIN, the Honourable Sir	TARAPORWALA, Mr. V. F.
GHULAM HYDER NHAH, Mr.	THAKOR OF KEHWADA, Sardar BHARAT RAJENDJI
GRAVES, Mr. J. B.	TURNER, Mr. C. W. A.
HAMPTON, Mr. H. V.	VAKIL, the Honourable Sardar Sir ECSTON JERANGH
HUDSON, the Honourable Mr. W. F.	WINTERBOTHAM, Mr. G. L.
JAM JAM MAHOMED KHAN, Khan Bahadur	
JONES, Major W. ELLIS	
KADMI, Mr. J. S.	
KALBROH, Mr. G. M.	

Tellers for the Ayes: Mr. MAHOMED SULEMAN CASSUM MITHA and Rev. R. S. MODAK.

Noes.

ACHREKAR, Mr. A. B.
 BAKHALE, Mr. R. B.
 CHITALE, Rao Bahadur G. K.
 DHALUMAL LILABAM, Mr.
 DIXIT, Dr. M. K.
 GANGOLI, Mr. G. S.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 JOG, Mr. V. N.
 KALE, Rao Bahadur R. R.
 KARBHARI, Mr. M. M.

KULKARNI, Rao Saheb P. D.
 MORE, Mr. J. G.
 PATEL, Mr. C. N.
 PETT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 SHAIKH ABDUL MAJID, Mr.
 SHINDE, Mr. R. B.
 SINDHA Mr. MADHAVSANG JORBHAI
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 VAISHAMPAYAN, Dr. V. G.

Tellers for the Noes : Rao Saheb P. D. KULKARNI and Dr. V. G. VAISHAMPAYAN.

Bill read clause by clause.

The Honourable the PRESIDENT : Now I shall take the Bill clause by clause.

Clause 1 (*Short title, commencement, extent and operation*) :—

“ This Act may be called the Bombay Special Powers Act, 1932 .”

The Honourable the PRESIDENT : To that clause an amendment was just handed over to me by the honourable member for the Bombay University. That amendment is not in time; that is my first answer. I further find that it is a verbal amendment to insert the word “ emergency ” in the first clause after the words “ special powers ”, and that can be dealt with at the time of the third reading if the other side has no objection.

The Honourable Mr. W. F. HUDSON : I have no objection.

The Honourable the PRESIDENT : The first amendment to be dealt with under this clause is that by the honourable member Mr. Gangoli to clause 1, sub-clause (2). Is he going to move it ?

Mr. G. S. GANGOLI : Yes, Sir. My amendment is this :

Add a clause (3) as follows :—

“ All orders under this Act shall be in writing and a copy shall be supplied immediately to the person or persons concerned or affected.”

My reason for moving this amendment is this. Now we see that Government want emergency powers to deal with any agitation or to maintain law and order. They do not say that innocent persons should be harassed or lower officials or subordinates should be given undue latitude to deal with any person against whom they may have any grudge or according to their whim and caprice. I know several instances wherein persons were arrested or detained in custody and after a day or two they were allowed to go and no further steps were taken against them, and it was nowhere reported and nobody knew that they were so dealt with. If Government are really sincere, as I am sure they are, that innocent persons should not be harassed, I think this is the only safeguard against the harassment of innocent persons. If the person has an order with him to show that he was so dealt with or that he was so detained by the Police that will be a sort of security for him in cases where he is unnecessarily harassed without even Government's sanction or order and that he will have evidence to show that he was so treated by the Police. Suppose, for instance, an innocent agriculturist is

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arrested and detained by the Police for 2 or 3 days and then let off nobody will come to know why he was so detained. There will be no evidence; under this Bill for anyone to come and complain that an innocent person was unnecessarily harassed is hardly possible. To save innocent persons and also to limit the hands of the subordinate officers who have to deal with such persons I submit that this amendment should be accepted. This is only a guarantee or limitation to the caprice of the lower officials.

Question proposed.

The Honourable Mr. W. F. HUDSON: Is the honourable member moving his amendment regarding clause 4 also now?

The Honourable the PRESIDENT: No. It is a separate amendment.

Rao Bahadur R. R. KALE (Bombay University): I believe, Sir, that there is considerable force in what the honourable member Mr. Gangoli has said, because I feel that the procedure under this Act is of a special nature. For instance under section 3 a man is arrested without warrant. Offences are made cognisable and non-bailable, and it may be that there may be detention of a person for a time and then he might perhaps be let off. Ordinarily in all cases where a man is arrested by the Police in the case of cognisable offences there is a rule that he should be produced before the Magistrate within 24 hours. That is a direction to prevent illegal detention of a person by the Police, but even this rule has not been observed in many cases. The Police call a man, keep him at the chavdi or police station and even though the 24 hours' rule is not observed the usual explanation given is that he was not detained for 24 hours, that there was no detention beyond 24 hours. He was merely asked to come and go. And even though sometimes he is not allowed to go for his food, the statement is made in the committal sheet that he was not detained beyond 24 hours. So it might happen that a particular officer may have a grudge against a person and he might call him and detain him in custody for 2 or 3 days—of course it depends upon who is going to exercise these powers ultimately. So, I think, that there is nothing lost in complying with the amendment which merely says that as soon as a person is arrested or any order is passed against him whether it is an order of arrest or of detention or anything else a copy should be supplied to him. I would simply make one verbal addition in the amendment that after the word "copy", the word "thereof" should be added. When there is a general impression that the Police officers have the orders to arrest any person, the Police officers might without any order arrest any person and keep him in custody for some time and then allow him to go. But if the people realise that an order is required to be in writing before any arrest is effected the Police officers will not unnecessarily harass them. I think this safeguard should be inserted in the Act.

Dr. M. K. DIXIT (Surat District): This is an amendment full of reason and sense and I support it. During the last Budget Session I had an occasion to receive certain statements from a responsible person regarding the way in which the Ordinance was operated in certain talukas

[Dr. M. K. Dixit]

in the Surat District. If I remember aright it was in the Jalalpur Taluka and the complaint they had made was that people were arrested and kept in custody for 48 hours, and it was stated in those statements even without food. Those statements were handed over to the then Home Member. I do not know whether any record of such cases was ever kept, but the Police certainly exceeded their power of detaining a man for more than 24 hours. After 48 hours they were released. Considering such cases we find that the Police exceed their powers, and the man never knows why the Police wanted him and what was the charge against him. They are merely kept in custody for 48 hours and then allowed to go. In such circumstances it is very necessary that a man who is arrested and kept in custody should immediately get a copy of the order mentioning the reasons for his arrest. I think that this very reasonable amendment would not require any further elucidation at the hands of the members on this side, and after all the amendment does not ask much from Government, and I hope Government will accept this amendment without any hitch.

Mr. C. N. PATEL (Kaira District): Sir, I support this amendment and I do so in view of the fact that persons are known to have been detained for quite an appreciable length of time without anything having been kept on record. I will quote an instance to show why such a safeguard is deemed necessary in my opinion. You know, Sir, that members of the India League Deputation recently visited this presidency, and when this Deputation moved through my district some members of the Deputation wanted to see one Rao Saheb Bhailal—he is no longer a Rao Saheb now—who has suffered imprisonment under the Ordinance. With a view to prevent his seeing the members of the India League Deputation and telling them his mind he was kept in lock-up at Anand for over 6 hours by which time the Deputation had already left. Sir, I am quite confident that no record of the detention has been kept and I shall be very glad to be contradicted on that point if any contradiction is possible. With a view to prevent such detention which will be all right in the eyes of the local officer, with a view to prevent a recurrence of such instances, Government themselves will deem such a sort of safeguard is necessary and I trust that the Honourable Mover of the Bill will see his way to accept this amendment.

Mr. V. N. JOG (Dharwar District): Sir, I support this amendment. The amendment is quite simple and reasonable. It will prevent a lot of mischief which is being committed in the name of law and order. Various persons merely on suspicion are taken and detained by the police and kept for a few days. To quote only one instance, I am referring to the instance which I think the Government of Bombay know, viz., the instance of the special correspondent of the *Hindu*. When he was travelling in May last in the North Kanara District, he was very badly treated by the police. When the members of the India League were going round, further instances have come to light. Also I refer to the instance of Satyagrahis in Mavingundi in Siddapur Taluka, North Kanara District. The special correspondent of the *Hindu* was deputed to enquire whether the women Satyagrahis were treated very badly there. When this gentleman,

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one Mr. Parthasarathy if I remember his name correct, had been travelling, he was detained for one or two days in Mavingundi, even though he was not informed whether he was under arrest or a freeman. Nevertheless he had to follow the police wherever they went. When the police went to Siddapur, he was in their custody for two or three days. Then, he was taken to Karwar and then he was told that it was a case of mistaken identity. I do not know whether Government has anything on their record about this. There was nothing to show that the man was under arrest. In order that such occurrences may be prevented, the subordinate police officers should be made to give their orders in writing. Then Government will be in a position to know whether their subordinate officers have followed their instructions properly. Otherwise, what will happen is that detentions will take place and the superior officers may not know them at all. Therefore, I submit it is a moderate and reasonable request which Government should have no difficulty in accepting.

Mr. G. DAVIS: Sir, I should oppose this very unreasonable amendment. The only reason I can imagine that this is proposed as an amendment to clause 1 is that the appropriate clause there is provision for an order in writing. In other sections adequate provision is made that the order should be in writing, and the last sub-section of section 4, sub-section (3), also provides :

"An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for a service of summons."

If my honourable friend Mr. Gangoli so desires, he can put in his amendment properly there. He might also have moved his amendment as an amendment to sub-clause (2) of clause 3, which says :

"An arrest made by or on the direction of any officer under this section shall be reported forthwith to the Governor in Council by the officer so making or so directing the arrest, as the case may be, and such officer may, by order in writing, commit any person so arrested to such custody as the Governor in Council may, by general or special order, specify in this behalf :"

We then go to the proviso :

"provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days."

This again means an order in writing. It is further provided that a man arrested under sub-clause (2) shall not be detained for a period exceeding two months. Either the man should be released after the expiry of that period or a fresh order must be obtained for keeping him in custody. This order also will be in writing. Thus an order in writing will not prevent a wrongful arrest. There are strict rules made against wrongful arrest under the Criminal Procedure Code. I am sure my honourable friend Rao Bahadur Kale knows that sometimes when a man is arrested but is not brought up before a Magistrate, it is said he is not under arrest, he remained willingly in the company of the police for a short period. If a man is wrongfully arrested and released there is no copy of the order of arrest at all. The mere direction that an order should be in writing is not enough. These little lapses will occur. If we go to the other sections there is also provision for orders in writing. I do not know whether it is guile or misfortune

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that led the honourable member to put his amendment to clause 1. In other clauses it could be at once shown to be necessary. And where he proposes to put it is in the title and operation and extent clause. Therefore, I oppose this amendment as quite unnecessary.

Mr. P. R. CHIKODI (Belgaum District): Sir, I support the motion. The motion refers to all orders that will be passed under this measure. I go a little further and say that not only the orders issued should be in writing, but their copies should be given free of all cost. It is the elementary right that a person against whom action is taken should know on what ground action is taken against him. I whole-heartedly support the motion before the House.

Mr. L. R. GOKHALE (Poona City): Sir, we are told that the place of the amendment is wrong. That is the difficulty that has been pointed out. I believe that everything could have been properly done, if the Bill had been referred to the select committee. But we were then told that all the matters could be discussed here. It is not an important question whether the amendment has been placed in its proper place. But the purpose of the amendment is that there shall be a written order; and secondly a copy of the order shall be supplied to the person concerned. I do not know where the difficulty arises. Generally I think the amendment proposes that there should be a written order and the second part of the amendment is that a copy of the order should be supplied to the person. I think this is quite reasonable. If all orders are to be in writing, there is no difficulty to comply with the second part. There are cases when first orders will not be in writing. Under section 3 it is provided:

"Any officer of Government authorised in this behalf by general or special order of the Governor in Council may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest any means that may be necessary be used."

Whereas the provision for written orders—

Mr. G. DAVIS: I did not suggest that when a policeman arrests, he should make an order in writing. Arrest and detention will be of comparatively brief duration. If the honourable member refers to sub-clause (2), he will see that there is provision that the order should be in writing and the provisos make similar provision. That is enough.

Mr. L. R. GOKHALE: The point is that when a particular order is made it should be in writing in the first instance. How does clause 3 provide for this? Sub-clause (2) provides that the order of the officer issuing the direction for arrest should be in writing before committing the person to custody. It has reference to sending the person to custody. That does not mean that the order contemplated under this amendment is provided for in that clause. The proviso says:

"Provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days.

"Provided further that no person shall be so detained in custody for a period exceeding two months."

Is there any provision made for giving the reason for the arrest or detention of a man? All that the amendment wants is that there shall

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be an order stating the reasons and the copy of such order shall be supplied to the person. The Government may issue the order in any form they like. What the opposition wants is that there should be some restriction placed upon the police officer by requiring him to set down the reasons and give a copy of it to the person concerned. It was remarked that the person would have the pleasure of the company of the police officers. Particularly in other offences there are written complaints; but in these cases there will be absolutely nothing; there will be no material before the court and the man will not know what the charge against him is. For these reasons I support the amendment that the order should be in writing and a copy if asked for should be given to the person concerned.

Mr. J. G. MORE (Sholapur District): Sir, I support the amendment. If we look to clause 3 of the Bill, we see that the Government officers are to act on reasonable grounds. I think if they are to act on reasonable grounds, then Government do not mean that these reasonable grounds should be simply imaginary. Officers shall have to put these grounds in writing. If a copy is supplied to the person arrested—it must be free of cost—it will be quite reasonable. There are others in jail on account of not complying with parole conditions. They may return during the lifetime of the present Bill and clauses 3 and 4 will be applicable to those persons. I have already stated in my previous speech that any political activity may be brought under the present Bill. Suppose, to-morrow, some non-Brahmins are arrested, or some Mahomedans or Depressed Class members are arrested, on the ground that their actions are not in keeping with peace and safety, are they not entitled to have copies of the orders which Government or its officers are inclined to pass? I think it is quite justifiable that this amendment should be accepted. So I hope Government will be pleased to accept this amendment and make the position of those who are law-abiding people safer.

The Honourable Mr. W. F. HUDSON: Sir, I am sorry that I cannot accept this amendment. I agree with the honourable member Mr. Gokhale that a copy of the order is not much use unless it is accompanied with the reasons for which it is given. Merely to say "You are hereby directed to do this or to do that" and to give a copy of it seems to be perfectly valueless. As a matter of fact, the order is shown to the person both under section 3 and under section 4. I personally agree with my honourable friend over there (Mr. Gokhale) that it is no use unless we give the reasons on which he might hereafter be able to argue. But I cannot commit the executive officers of Government to record the reasons. First of all, in dealing with what I may call seditious movements on a large scale, the reasons are confidential; to give them away would in many cases render the rest of our actions ineffective, and also it will once again involve us in legal arguments as to what are executive actions. Perhaps the House does not realise at the present moment that there has been in the past and there will be in the future very great pressure brought upon our officers to deal with this movement in addition to their own duties, and to compel them to record the reasons, even if it were desirable to do so from the political point of view, would

[Mr. W. F. Hudson]

place upon them an intolerable burden. I am sorry, Sir, I cannot accept this amendment in any form. As the honourable member the Legal Remembrancer has pointed out, it does not come in the right place. But I do not attach much importance to the place; if we are prepared to accept it, we can find the right place for it. But I am not prepared to accept it. I hope the House will throw it out.

Question put. The House divided: Ayes, 29: Noes, 48.

Division No. 5.

Ayes

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
DHALUMAL LILABAM, Mr.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GHULAM HYDER SHAH, Mr.
GOKHALE, Mr. L. R.
GOVER ROBA, Mr.
JOG, Mr. V. N.
KALE, Rao Bahadur R. R.
KAMAT, Mr. B. S.
KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.

MEHTA, Mr. M. H.
MORE, Mr. J. G.
PARULEKAR, Rao Bahadur L. V.
PATEL, Khan Bahadur A. E.
PATEL, Mr. C. N.
PATIL, Mr. V. N.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SHAIKH ABDUL MAJID, Mr.
SOLANKI, Dr. P. G.
SURVE, Mr. A. N.
SURVE, Mr. V. A.
VAISHAMPAYAN, Dr. V. G.
VAKIL, Mr. PESTANSHAH N.

Tellers for the Ayes: Rao Saheb P. D. KULKARNI and Dr. V. G. VAISHAMPAYAN.

Noes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur.
ADVANI, Mr. P. B.
AMINUDDIN, Mr. SAIYID
ARBUTHNOT, Mr. C. W. E.
BANGI, Mr. A. K. J.
BHUTTO, Sir SHAH NAWAZ
BIJARANI, Khan Bahadur SHEER MUHAMMAD KHAN.
BIRADAR, Sardar MAHABOOBALI KHAN
BOLE, Rao Bahadur S. K.
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
CLAYTON, Mr. H. B.
DAVIS, Mr. G.
DESAI, Rao Saheb B. G.
DEUBANDHAR Mr. J. R.
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GHULAM NABI SHAH, Khan Bahadur
GREATS, Mr. J. B.
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur
JAM MAHOMED KHAN, Khan Bahadur
JONES, Major W. ELLIS
KAMBLI, the Honourable Dewan Bahadur S. T.

MASTER, Mr. A.
MAXWELL, Mr. R. M.
MEHERBAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
MODAK, Rev. R. S.
NAMDEORAO BUDHAJIRAO, Mr.
NAVLE, Mr. N. E.
NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR.
OWEN, Mr. A. C.
PATIL, Mr. N. N.
PRATER, Mr. S. H.
RAFIUDDIN AHMAD, Moulvi Sir
ROOSE, Mr. F. O. J.
SERVAL, Mr. A. E.
SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
SPENCE, Sir REGINALD
TARAPORWALA, Mr. V. F.
THAKOR OF KERWADA, Sardar BHASABHAI RAISINGHI.
TURNER, Mr. C. W. A.
VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR.
VANDEKAR, Rao Bahadur R. V.
WINTERBOTHAM, Mr. G. L.

Tellers for the Noes: Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN and Rev. R. S. MODAK.

Mr. G. S. GANGOLI (Kanara District): Sir, I move—

Add a new clause after clause 1, sub-clause (2) as follows:

“The name of every person arrested, detained, or otherwise dealt with under this Act shall be caused to be published in the local papers within a week of the happening.”

[Mr. G. S. Gangoli]

Sir, my reason for moving this amendment is the same as the one that I stated for the last amendment, which unfortunately was not carried. I think I was not properly understood by some of the honourable members. My reason was this. No doubt Government will order the prosecution of certain persons and people will know who are prosecuted. No doubt persons who come under the Act will be dealt with under the Act. But persons who are in no way connected with the subversive movement and whom it is not the intention of Government to haul up, may be harassed by the lower subordinates. Such things will not come to the notice of Government. Government say that they will know all these cases. But, if there is no report at all, how will they know of them? If persons are arrested, detained, beaten seriously, and then let off, how are Government to know at all? Yesterday, we had an assurance given by the Honourable the Home Member that he would review the orders passed till now within the next two or three months. But if these things do not come to his notice at all, how will he remove them?

When moving my first amendment I did not give concrete examples: I only stated that such things were possible and had happened.

The ordinance was applied to Kanara only in July, but long before that, in March and April, in some of the villages of the Sidhapur Taluka we had a reign of terror as it were. Several villagers vacated their houses and left the villages. There was no male adult member in the huts, because there was a rumour that everyone who did not pay would be arrested. So many police constables were moving about saying "You are under arrest" and people were put under arrest for several days together. I have seen some of the villages with not a single adult male human being as the result of this terrorism. That is the reason why I have been insisting day in and day out that some superior officer may visit the place. Now the Commissioner is there. Anyway my case is that I have known cases wherein innocent persons are unnecessarily arrested and made to carry loads, heavy burdens of constables' or talatis' kits or kits of kulkarnis; they are brought as near taluka towns as possible and there they are asked "Why did you come here? Why are you carrying this burden? What do you know about the meaning of 'arrest.' You have unnecessarily come here with me. Now you may go home." This is the way they deal with the villagers and unless these matters are reported to Government, Government will not know that any such things happen. It is only to guard against such things that I say that such things should be in writing and at least within a week of the happening of the occurrence they may be published in the newspapers.

I now refer to clause 30 which reads:—

"Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to, or in respect of any property whereof possession has been taken under this Act."

[Mr. G. S. Gangoli]

So, if any act is done by any public officer, he has only to say that he wanted honestly to do that or intended to do that under this Act and he will be exempt. I heard from the honourable member the Legal Remembrancer that there are some sections in the Criminal Procedure Code for wrongful arrest or wrongful detention. What will happen, in view of this clause 30, if the officers say that their acts were purported to be done or deemed to be done or they wished to do those acts under this Act? They will then be let off. Where is the evidence that such a person was arrested or detained or otherwise dealt with unless—

Mr. G. DAVIS: Sir, I think the honourable member misunderstood me. I said, while in the Criminal Procedure Code there were strict rules and regulations, they were sometimes unfortunately neglected, and so even if there are rules and regulations here, they also might be neglected and none would hear of these little lapses.

Mr. G. S. GANGOLI: We know that we are under the British Government and there is security of life and property, but under these ordinances the villagers may not know what all this is. It all comes to this, Sir, that whatever a Government servant shall or will do cannot be questioned by anybody in any court. That is the whole gist of this measure. Whatever order is given by any Government servant cannot be questioned anywhere in any court under this special Act. Even the remote villages are in need of security of life and property and so I think at least the man's name may be published within a week of the occurrence in the local papers. Otherwise I doubt if evidence can be made available to show that he was so dealt with. With that I move.

Question proposed.

Mr. L. R. GOKHALE (Poona City): Sir, I move an amendment to the amendment:—

After the word "published", add the words "in the *Bombay Government Gazette*".

Sir, we published in the *Bombay Government Gazette* the names of insolvents. That is known to all of us. We also publish in the Government Gazette the names of J.P.'s. Of course I do not put J.P.'s in a line with insolvents, but I simply mention this to show that their names are published in this Gazette. There are a number of other items which are published in that Gazette but I will not enumerate all of them. I do not really see why Government should not also publish the names of those persons who are arrested under these ordinances—

Rao Bahadur R. S. ASVALE: The names of J.P.'s are not published every week but once a year.

Mr. L. R. GOKHALE: I know that is a small matter. My point is whether people should not have the means of knowing who are being dealt with under this Act. There is no question of any principle here involved, there is no question of prestige here involved, there is no trouble to the executive officers, there is no question about giving reasons for issuing the order. All that needs be done is to send a copy to the Government Central Press to be published in the *Bombay Government*

[Mr. L. R. Gokhale]

Gazette. Will that cost too much? Is that heavy expenditure, is that extraordinary work for the district officers who are already overburdened with their duties? We find that a number of proceedings of local bodies such as district or taluka local boards, municipalities etc. are all published in the Government Gazette. Why not let these men who are arrested have the opportunity of having their names printed in the Gazette so that their relatives and friends and acquaintances may come to know. Suppose, further, a man goes out on a tour or on business from Bombay to Ratnagiri. He happens to be arrested in Ratnagiri and detained there. How are his people to know his whereabouts? It is only after 10 or 15 days of his arrest that people who are his relatives or who are interested in him may come to know of his detention under the orders of a particular magistrate. That will make his relatives anxious about him for some time. I know many cases where these arrests were not known to the members of the family sometimes for twelve or fifteen days. I know a case where a man's wife moved from place to place enquiring after the husband and ultimately she came to know that he was a guest of the Government in a certain place. That was after 10 or 15 days.

Another important reason is that here in the Legislative Council we often find questions put inquiring how many were arrested, how many were dealt with or from what places they came, how they were treated etc. etc. All such questions are answered in this Council and they take up a lot of time and cause a lot of expenditure. All that could be saved if such lists of men arrested or dealt with under this Act could be published in the Gazette every week. So much trouble would be saved and the necessity of answering such questions would be done away with. I do not think that Government will grudge the cost of publication of these names. These names will not be more than about a hundred a week at the most. If that is so, I do not think that that much convenience should not be shown to those who are arrested or to their relatives or otherwise interested in their welfare.

As regards the question of local papers, it may be asked which local papers will undertake publication for nothing and is it worthwhile having this publication in local papers at a cost to Government or to the public exchequer? That certainly is a point which has to be considered. I would say, let us omit publication in local papers and would confine it only to the *Bombay Government Gazette*. The *Bombay Government Gazette* is Government paper. That is Government concern. It is not a question of cost. So I say let us omit local papers and confine ourselves to the Gazette. If Government leave the cost question alone and agree to the omission of local papers, publication only in the Government Gazette ought to suffice.

There is one more point, Sir, namely, that publication in the Government Gazette will have a concrete educative value. We are assembled here for educating people, making people wiser, making people saner also. That is the function of Government. That is the role which the Legislative Council has now taken upon itself. If that

[Mr. L. R. Gokhale]

is so, we shall certainly help on the propaganda of making people wiser and saner by publishing in the Gazette the names of arrested persons. The Gazette gives a very wide advertisement. If we find that people deserve to be treated like this, the villagers will know it—

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN: How many villagers get and read the Gazette?

Mr. L. R. GOKHALE: I have got no statistics here to answer that question but I hope some member from the Government benches will satisfy my honourable friend's curiosity and say how many copies of the Gazette are printed and sent out. I know the taluka kacheries get the Gazette. Government libraries also get it. It is only for this reason namely, the educative value, that I move my amendment. I say, let the people in the towns and villages know who the people of doubtful character are. That is one more advantage. Suppose one of these men approaches the villagers, they will say "Oh, this man is against Government." Or suppose he is not against Government, but he is a patriot fighting for a certain economic question, people will say that "even though that man was fighting for an economic question not in the least concerned with politics, he was a religious preacher and still he has been hauled up by the police. So let us be rather cautious." That would be another educative effect upon these people. So, Sir, from any point of view, whether we take it this way or that, that will be a convenient way of checking the evils of this civil disobedience movement and will also provide the best way of dealing with these persons. For these reasons I move my amendment to the amendment.

Question proposed.

The Honourable the PRESIDENT: I must point out here that when an honourable member is addressing the House it is his due that he should be heard. That is one reason. The second reason is that it helps the Chair to follow an honourable member. I find honourable members are in a mood to-day to carry on a private conversation. I think they should be more seriously attending to the work that is being carried on in the House. I see that even now when I am addressing the House, some of the honourable members are still insisting on carrying on conversation. I very much object to that, because that disturbs the solemnity and seriousness of the debates in the House.

The Honourable Mr. W. F. HUDSON: Sir, I most fully endorse what you say about the seriousness of the occasion, but it is a little difficult always to take my honourable friend Mr. Gangoli seriously. He is rapidly qualifying for the post of leading humourist to the House and, unless my honourable friend Rao Bahadur Bole looks to his laurels, he will speedily find himself ousted from that proud position.

Sir, I am sorry I cannot accept either the amendment or the amendment to the amendment for two or three reasons. The first is that I think it most undesirable that we should give this free and wide advertisement to people who have been dealt with under this Act. A movement like the civil disobedience movement thrives on advertisement, and nothing has been more effective in checking it than the fact

[Mr. W. F. Hudson]

that we have had to discourage the press from giving it all the advertisement which it used to have. I think there can be no question about that.

Then in the second place we must remember—and I think honourable members ought to sympathise with this—that occasionally, as the honourable members have been pointing out to me, a mistake is made and the wrong man is hauled up, probably he is not kept very long but he is hauled up. I should very strongly object to the suggestion that such a person should be pilloried in the papers just because a mistake has been made, and the honourable member does not suggest any loophole which will cover this. It is very undesirable, when a mistake has been made that a man's name should be held up to public obloquy. For these two reasons I cannot accept the original amendment of the honourable member Mr. Gangoli.

It is, Sir, certainly very interesting to hear from the honourable member Mr. Gokhale that there is somebody who reads the *Bombay Government Gazette*. I did not know that such a person existed at all, with the exception perhaps of those people who are looking out for lists of insolvents. The honourable member knows why lists of insolvents are published in the Gazette, in accordance with a statutory provision. I do not think, Sir, that we can spend money, quite apart from the other objections, on extending the *Bombay Government Gazette* with these long lists of names, nor can we pay for advertisements in the local papers. I understood my honourable friend to say the day before yesterday that there were not many local papers in his district, but of course there are a good many papers in the presidency and if we are going to put these names in many of them, it will cost a very large sum, and I do not think the House could possibly consent to a large sum being spent for this purpose. Therefore, Sir, I hope the honourable member will withdraw his amendment.

Moulvi Sir RAFI UDDIN AHMAD (Central Division): Mr. President, I was considerably amused at the amendment to the amendment suggested by my honourable friend and colleague and fellow-citizen Mr. Gokhale. He seriously proposes and asserts that there is an educational value in the publication, and as a person interested in education it stirred me up a little. I think, Sir, the value would be considerably increased, if there is a portrait attached to the publication of the name, as it will give visual instruction, especially to the wives who will be reading the Government Gazette. As they are illiterate, they would soon find out their husbands in the Government Gazette. I say, what is the use of seriously criticising such contribution to the Debate? I think it would be much better that such criticisms as would add to the notoriety of these suggestions may be added. I think, Sir, that the time has not yet come. There are many persons who are desirous of having their names in the newspapers, specially in the Government Gazette. But, as my honourable friend the Home Member said, he has not met many people who have read or who do read the Government Gazette;

[Moulvi Sir Rafiuddin Ahmad]

but this publication of the portraits would be an additional inducement for the people to read the Government Gazette.

Mr. G. S. GANGOLI (Kanara District): Sir, I am sorry I cannot withdraw the amendment, as suggested by the Honourable the Home Member, but I think he was right when he said that in some papers the names should not be published. I also carefully considered that position when tabling this amendment. I know even under the existing orders some papers are allowed to publish the names, while some are not allowed to do so. I do not know why there is such a distinction made. Anyway, my amendment was only this: As soon as one person apologises, the entire text of the apology is published not only in the papers, but it is distributed free of cost in all the villages; it is also posted on the walls of the chavdis. If that is so, I do not know why the names of those against whom action has been taken cannot be published. What I submitted was also this. It is not to advertise their names. We are not concerned here with the offenders, but it is only to protect the innocent persons, and also to prevent the over-zealous acts by the acts by the subordinates in view of clause 30. I think, in view of what I have stated already, this is a modest demand not only to help justice but also to protect justice.

The Honourable Mr. W. F. HUDSON: I have nothing further to say. Amendment to the amendment put, and negatived.

Original amendment put, and negatived.

The Honourable the PRESIDENT: The next two amendments are by the honourable member Mr. Jog. They are amendments of principle, to be moved at the first reading, but they were then time-barred for that. They are in time to-day, but they are not amendments of detail, and therefore cannot be moved now.

Question, "That clause 1 do stand part of the Bill," put. The House divided: Ayes, 53; Noes, 26.

Division No. 6.

Ayes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	DHURANDHAR, Mr. J. R.
ADVANI, Mr. P. B.	GENNINGS, Mr. J. F.
ALLAHBAKSH, Khan Bahadur	GHULAM HUSSAIN, the Honourable Sir
AMINUDDIN, Mr. SAITID	GHULAM NABI SHAH, Khan Bahadur
ARBUTHNOT, Mr. C. W. E.	GREAVES, Mr. J. B.
ASAVALE, Rao Bahadur R. S.	HAMPTON, Mr. H. V.
BANGI, Mr. A. K. J.	HUDSON, the Honourable Mr. W. F.
BHUTTO, Sir SHAH NAWAZ	HUMPHREY, Mr. JOHN
BIJARAN, Khan Bahadur	JAM JAN MAHOMED KHAN, Khan Bahadur
MUHAMMAD KHAN	JAN MAHOMED KHAN, Khan Bahadur
HIRADAR, Sardar MAHAROOBALI KHAN	JONES, Major W. ELLIS
BOLE, Rao Bahadur S. K.	KADBI, Mr. J. S.
BRANDER, Mr. J. P.	KALBHOR, Mr. G. M.
BULLOCKE, Mr. A. GREVILLE	KAMBLI, the Honourable Dewan Bahadur
CLAYTON, Mr. H. B.	S. T.
DAVIS, Mr. G.	KHURRO, Khan Bahadur M. A.
DESAI, Rao Sahab B. G.	MASTER, Mr. A.

Ayes—contd.

MAXWELL, Mr. R. M.	SERVAL, Mr. A. E.
MEHREBAKSH, Mr. S.	SHAIKH ABDUL AZIZ, Mr.
MITHA, Mr. MAHOMED SULEMAN CASSUM	SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
MODAK, Rev. R. S.	SOLANKI, Dr. P. G.
MODI, Sardar Davar T. K.	SPENCER, Sir REGINALD
NAMDEORAO BUDHAJIARAO, Mr.	TARAPOREWALA, Mr. V. F.
NAVLE, Mr. N. E.	THEAKOR OF KERWADA, Sardar BHASARRE
NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR	RAISINHI
OWEN, Mr. A. C.	TURNER, Mr. C. W. A.
PRATER, Mr. S. H.	VAKIL, the Honourable Sirdar Sir RUSTOM
ROOSE, Mr. F. O. J.	JEHANGIR
	WINTERBOTHAM, Mr. G. L.

Tellers for the Ayes: Mr. MAHOMED SULEMAN CASSUM MITHA and Khan Bahadur ABDUL LATIF HAJI HA'RAT KHAN.

Noes

ACHREKAR, Mr. A. B.	MORE, Mr. J. G.
BAKHALE, Mr. R. R.	PARULEKAR, Rao Bahadur L. V.
CHITALE, Rao Bahadur G. K.	PATEL, Mr. C. N.
DHALUMAL LILABAM, Mr.	PATIL, Mr. N. N.
DIXIT, Dr. M. K.	PATIL, Rao Saheb V. S.
GANGOLI, Mr. G. S.	PETTIT, Mr. J. B.
GHULAM HYDER SHAH, Mr.	PRADHAN, Rao Bahadur G. V.
GOKHALE, Mr. L. R.	SHAIKH ABDUL MAJID, Mr.
JOG, Mr. V. N.	SINDHA, Mr. MADHAVSANG JORBHAI
KALE, Rao Bahadur R. R.	SURVE, Mr. A. N.
KARBHARI, Mr. M. M.	SURVE, Mr. V. A.
KULKARNI, Rao Saheb P. D.	TOLANI, Mr. S. S.
MEHTA, Mr. M. H.	VAISHAMPAYAN, Dr. V. G.

Tellers for the Noes: Rao Saheb P. D. KULKARNI and Dr. V. G. VAISHAMPAYAN.

The Honourable the PRESIDENT: Then follows the amendment of Mr. Petit. Would the honourable member like to move his amendment?

Mr. J. B. PETIT (Bombay Millowners' Association): My amendment to Clause 2, Sub-clause (2) is:

"For the words 'The Commissioner of Police' substitute the words Chief Presidency Magistrate."

I accordingly move it. My idea in doing so, is that the Chief Presidency Magistrate of Bombay, who is a judicial officer, should exercise these powers and not the Commissioner of Police, who is an executive officer. Wherever these words, viz. "the Commissioner of Police", occur the words "the Chief Presidency Magistrate" should therefore be substituted. I want the city of Bombay to be on a par with the districts. I hope that the House will therefore accept my amendment.

Mr. R. M. MAXWELL: Sir, I think that this amendment shows that the mover of it has forgotten the exact position of the District Magistrate in his district. The District Magistrate is really, as every one knows, two different functionaries combined in one in his district. In one capacity he is an executive officer, he is the head of the local police, and it is in that capacity that he is given certain powers under this Bill. His other capacity is the judicial capacity, in which, for instance, he hears appeals and transfers cases, and in other words performs functions analogous to those of the Chief Presidency Magistrate. Now, it is not in that capacity which it is proposed to invest the Commissioner of Police in the city of Bombay with powers under this Bill. He, as

[Mr. R. M. Maxwell]

I was saying, corresponds to the District Magistrate as the head of the Police and it would be most undesirable if the Chief Presidency Magistrate, who might have to deal with cases arising out of such orders, had to issue executive orders of the kind contemplated by various sections of this Bill. Quite apart from that, I am sure the House will agree with me in asking whether, as the various ordinances have been exercised throughout these past 11 months in Bombay city, they could have been exercised more fairly than they have been by the present Commissioner of Police. I am sure the House will agree with me that there is no reason to make any change in the administration of these powers by the Commissioner of Police.

Mr. J. B. PETIT : There is no question of the fairness or otherwise of the manner in which the present Commissioner of Police has exercised or is exercising his powers. But the question is one of principle, viz., that the person to exercise these powers should be a judicial and not an executive officer. That point has not been answered. The fact that the District Magistrate, besides being a judicial officer, also acts as an executive officer, makes no difference. He is a judicial officer all the same, and I want that in the city of Bombay also, the person exercising these powers, should also be a judicial officer. I do not deny for one moment that the present Commissioner of Police has discharged his duties in this respect quite satisfactorily; but it does not therefore follow that the next Commissioner of Police will also exercise his powers equally well. Hence it is that I submit that these powers should be vested in a judicial and not an executive officer in the city of Bombay also.

The Honourable Mr. W. F. HUDSON : There is a practical difficulty. If the Chief Presidency Magistrate or the Presidency Magistrates acting in their executive capacity pass certain orders it is quite impossible for them to try the cases which may ultimately emerge from those orders. The parallel between the District Magistrate and the Commissioner of Police seems to be quite complete, and it is out of the question to make this change.

Question put, and negatived.

The Honourable the PRESIDENT : Now there is one amendment in the name of the honourable member Mr. Gokhale. It is an amendment to Clause 2, sub-clause (2).

Mr. L. R. GOKHALE : Sir, I am not moving that amendment.

The Honourable the PRESIDENT : Then there is Mr. More's amendment.

Mr. J. G. MORE : I am not moving that amendment, Sir.

Clause 2 (*Definitions*) ordered to stand part of the Bill.

Clause 3 (*Power to arrest and detain suspected persons*).

(1) Any officer of Government authorised in this behalf by general or special order of the Governor in Council may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest any means that may be necessary may be used.

[Mr. J. G. More]

(2) An arrest made by or on the direction of any officer under this section shall be reported forthwith to the Governor in Council by the officer so making or so directing the arrest, as the case may be, and such officer may, by order in writing, commit any person so arrested to such custody as the Governor in Council may, by general or special order, specify in this behalf;

Provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days;

Provided further that no person shall be so detained in custody for a period exceeding two months.

Mr. L. R. GOKHALE (Poona City): Sir, I move that in line 1, after the word "any" add the words "police officers."

Sir REGINALD SPENCE: The amendment does not seem to be in order.

The Honourable Mr. W. F. HUDSON: Would the honourable member read the clause as it will stand after his amendment?

Mr. L. R. GOKHALE: In line 1 after the word "any" add the words "police officers" and delete the word "officer."

The Honourable the PRESIDENT: The amendment as it stands to-day is not like that. The honourable member may correct it.

Mr. L. R. GOKHALE: By this amendment I want to confine this power to the police officers alone. After my honourable friend Mr. Jog has moved his amendment I will give my reasons for this amendment.

Question proposed.

Mr. V. N. JOG: Sir, I oppose this amendment. I will give the reasons when I move my amendment. At least this side of the House will be reluctant to invest any Police officer with such powers. We can trust Magistrates of certain order—though not all, and therefore I have submitted an amendment to that effect. I strongly oppose this amendment.

The Honourable Mr. W. F. HUDSON: Are we only discussing Mr. Gokhale's amendment?

The Honourable the PRESIDENT: Yes.

The Honourable Mr. W. F. HUDSON: Do I understand the honourable member to say that he will give his reasons later on? He has not explained himself clearly. But let me assure him that we are not going to authorise postal peons to exercise such powers. But we shall authorise the magistrates to exercise these powers.

Mr. L. R. GOKHALE: There is no limitation put on the words "any officer." We do not know exactly what the Government proposes to do. I wanted to have an explanation on this point and hence I have moved this amendment. I wish the Government to clear the position. Because the village patels are also officers. Is the Government going to authorise these men with such powers? Government have made this section very inclusive. Anybody can be authorised under this section. That is why I say that let them be at least police officers.

The Honourable the PRESIDENT: Would the honourable member withdraw his amendment if the honourable member Mr. Jog's amendment is proposed?

Mr. L. R. GOKHALE: Provided it is accepted.

The Honourable Mr. W. F. HUDSON: He does not want even magistrates. He wants only police officers. I think I must oppose this amendment.

Mr. L. R. GOKHALE: Sir, I would like to withdraw this amendment. Amendment, by leave, withdrawn.

(After Recess)

Mr. V. N. JOG (Dharwar District): Sir, I beg to move:

"Add after the words 'any officer of Government' the words 'not below the rank of the District Magistrate' in line 1 of sub-clause (1) of clause 3."

This is one of the most pernicious sections in this Bill. This takes away the liberty of a person. This deprivation of the liberty of a person cannot be called into question. If Government find that there are no reasons to show that he has committed any offence, he is merely detained and released after a certain time. No charge is framed against him as to why he was detained or any case made against him. In this connection it would be worthwhile to note that, as the section is likely to be misused if this power of arresting a person without warrant is given to any officer of Government, I have restricted it to a responsible officer of Government, namely, the District Magistrate. No person below the rank of the District Magistrate should have this power to arrest a person or to issue any directions for arresting any person without warrant. Even if Government think that this power can be given to persons below the rank of a District Magistrate, they have provision under sub-clause (2) of clause 16 as it at present stands:

"The Governor in Council may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this Chapter."

So, Government need not be very anxious that they will not be able to filter down this power to officers below that rank. As this question vitally affects the liberty of the people, we are anxious to see that the subjects are not unnecessarily harassed.

Then, Sir, I cannot understand why this clause should be worded in this general way. There will be no difficulty, even supposing that there are grounds to believe that a person has acted, is going to act or about to act in a manner prejudicial to public safety or peace. The information can reach the headquarters very soon. In these days when travelling is very quick, the executive head of the district can get information very quickly and I submit, Sir, that there would be no difficulty in arresting such a person and nothing would be lost. Government cannot say that, before the orders are taken by the District Magistrate, the mischief will be wrought I do not think that such consequences will arise. If the general situation of an area is such as to call forth the application of these measures, in that case Government can invest the Sub-divisional

[Mr. V. N. Jog]

Magistrate who is in charge of two or three talukas with these powers. He is at hand and can deal with the situation quickly. This is a very reasonable amendment which I think Government will be pleased to accept. Otherwise the section is capable of being misused by any officer. We do not know what the circulars and orders that Government have passed, because it simply says that "a general or special order of the Governor in Council may . . ." No information is supplied what the general and special orders are. I submit that such powers which take away the liberty of the subject should be entrusted to responsible officers. I submit that there is ample provision to filter down these powers to other officers than the District Magistrate.

Question proposed.

Mr. G. S. GANGOLI (Kanara District): Sir, I rise to support the trend of the honourable member Mr. Jog's amendment. In this connection, let us take into consideration clause 16. There are three sub-sections to clause 16. The Honourable the Home Member said that he was dropping sub-clause 3 of clause 16, because Government have realised that any officer of Government cannot be authorised. So, the words "any officer" in sub-clause (3) will have to be modified. These were things for select committee. But there is no use crying over spilt milk. I hope Government will amend the words "any officer" in sub-section (3). If the honourable member Mr. Jog's amendment cannot be accepted by Government, they can accept a wording as follows: "any officer of Government named in sub-clause (2) of clause 16." Government have already thought it fit to drop sub-section (3) of clause 16. As Government themselves have put forward the suggestion, they will have to accept the one I propose. Otherwise any official will be authorised to handle any person in any manner he likes.

Mr. M. M. KARBHARI (Thana and Bombay Suburban Districts): Sir, I heartily support the amendment of my honourable friend Mr. Jog. Sub-clause (3) of clause 1 along with sub-clauses (1) and (2) of clause 16 may mean that it is just possible that the Governor in Council may not vest these powers in the District Magistrate and instead of keeping silent over the matter vest these powers in any police officer not below the rank of a Deputy Superintendent of Police. That is exactly the meaning that will be conveyed. Government will have the option either to vest the powers in the District Magistrate or by sub-clause (2) of clause 16 they have also a right to vest the power in Sub-divisional Magistrates or a police officer not below the rank of a Deputy Superintendent. For the sake of discipline and for the sake of the prestige of the District Magistrate himself, it will not be advisable to ignore him and to vest these powers in his subordinate, that is, the Sub-divisional Magistrate. In order to safeguard as against the ignoring of the District Magistrate, some provision must be made that Government on no account, unless and until they have found that the District Magistrate is not capable of exercising the powers, should vest these powers in a Sub-divisional Magistrate under him or a Deputy Superintendent of Police also under him.

[Mr. M. M. Karbhari]

My reasons are simple. The District Magistrate of the district has attained that position by virtue of a particular standard of education, a particular standard of judicial outlook of things and he is a man who is supposed to control the whole administration of the district itself. The police are under him and every department in the district is under him. It will create confidence in the minds of the people if any information that the police may have or the Sub-divisional Magistrate may have as against a person carrying on a subversive movement, will be put before the District Magistrate who will apply his judicial knowledge and administrative knowledge and will see how far he will be in a position to trust his subordinates and carry out their suggestions. It will create a sort of confidence in the minds of the people themselves. It will not only create that confidence but it will keep the Government on the safe side, because they know that the District Magistrate has more judicial authority and more administrative abilities than either the Deputy Superintendent of Police or the Sub-divisional Magistrate. If you vest these powers either in the Sub-divisional Magistrate or the Deputy Superintendent of Police, it will mean that you have no confidence in the District Magistrate. For these reasons, I would ask the Honourable the Home Member—in order to create confidence on this side of the House,—if any authority is to be given to any officer, whether that officer in the first place will be the District Magistrate of the district. If in vesting these powers in the District Magistrate, it is found that he is not able to cope with the situation, and that it is grown to such an extent, then they can fall back upon section 16 and vest these powers in the Sub-divisional Magistrate or the Deputy Superintendent of Police. For these reasons, I hope the amendment will be accepted by the House.

The Honourable Mr. W. F. HUDSON: Sir, I do not think that the honourable member who has just sat down really quite understands what the position is. But I will endeavour once again to explain. We do not propose, I say with regret, to accept the amendment of my honourable friend Mr. Jog. He wants to confine the first part of clause 3 to "any officer of Government not below the rank of District Magistrate." I think I explained that our present intention, unless the situation deteriorates very much, is only to authorise the District Magistrate and the District Superintendent of Police. I am not going further than that, because it is quite conceivable—although we hope it will not be the case—that the situation may again become as it was two years ago, in which case it will be quite impossible for the District Magistrate himself to undertake all the work which will fall into his hands. Perhaps some of the honourable members hardly realise what districts mean. I have twice had a district as large as Wales or Belgium—whole countries—and with the best of intentions in the world the District Magistrate cannot do more than a certain number of hours a day, and he cannot be in more than one place at a time; and it may easily happen that the situation is so grave that orders have to be issued very rapidly in all parts of the

[Mr. W. F. Hudson]

district. Therefore, we are not prepared to tie our hands by altering the Bill as it stands. But I will give the House an assurance that when this Bill comes into force, we shall at any rate begin—and we hope to continue—by authorising not any officer other than a District Magistrate or the District Superintendent of Police under clause 3 (1). Up till now, as I have informed the House the other day, authority has been given to officers not below the rank of sub-inspectors. This is very different, and I think the House will see that we are endeavouring, as far as we can, to restrict these powers to highly responsible officers.

I am afraid, I do not quite follow the honourable member from Thanā. We do not of course intend to invest inferior officers with powers in order to reflect on the authority and good sense of the District Magistrates. When we are obliged to invest them with these powers, it will have nothing to do with the suggestion that we want to supersede the District Magistrate, it will be because the District Magistrate cannot cope with all the work that may fall on him under this Act. The District Magistrates themselves will welcome the delegation of powers to the Sub-divisional Magistrates. And all that they will get will be the powers of a District Magistrate under sections 5, 6, 7 and so on : that has nothing whatever to do with section 3. And as I have already explained to the House, we are not going to allow the District Magistrate to do the delegation : we are going to reserve that to Government.

Mr. V. N. JOG : I cannot follow the Honourable Member when he says that it has nothing to do with sections 3 and 4 under this chapter.

The Honourable Mr. W. F. HUDSON : Clause 16 (2) says "with any of the powers of a District Magistrate under this chapter." What powers has the District Magistrate under clause 3, which merely says "Any officer of Government authorised in this behalf...."

Mr. V. N. JOG : Under the amendment ?

The Honourable Mr. W. F. HUDSON : There is no amendment.

Mr. V. N. JOG : If the amendment is accepted, then the District Magistrate will come in.

The Honourable Mr. W. F. HUDSON : If it were, quite so. But I do not propose to accept that amendment, and I doubt very much if the House will accept it either,—I hope not. I think I am quite right in saying that clause 16 (2) refers to cases in which the District Magistrate is mentioned by name. The honourable member will see the clauses to which I have referred.

Rao Bahadur R. R. KALE (Bombay University) : Sir, I cannot understand the objection of the Honourable the Home Member to this amendment. He has given an assurance that Government in operating this Act will authorise only District Magistrates. But it will be admitted that the wording of the clause is very wide. We are dealing with an enactment, the solemn act of the legislature. Even the statement of objects and reasons of an enactment cannot be looked at in interpreting its sections ; we have to deal only with the sections. Where is the

[Rao Bahadur R. R. Kale]

difficulty in putting in the words "not below the rank of the District Magistrate" as proposed by the mover of the amendment? The Honourable the Home Member says that Government have no intention at present to invest any officer below the rank of a District Magistrate with these powers. When there is additional work, then under clause 16 (2), the Governor in Council may delegate the powers of the District Magistrate to the Sub-divisional Magistrate or to District Superintendents of Police. That quite serves his purpose. Where is the objection? I am not in a position to see. Then, under the Criminal Procedure Code, there is power vested in Government to appoint additional district magistrates. There have been cases in which additional district magistrates have been appointed owing to pressure of work. If, therefore, only a superior officer is intended to be clothed with these powers, I do not see any reason why a provision to that effect should not be incorporated in the statute itself. There are no practical difficulties. If the work increases, they can resort to clause 16 (2), where it is stated—

"The Governor in Council may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this chapter."

So, all the powers of a District Magistrate can be given under this clause to Sub-divisional Magistrates or police officers not below the rank of Deputy Superintendent, when occasion arises. If I am right in my interpretation, which I think is correct, I do not see any the least objection to accepting this amendment. If there is any difficulty which is being created by the amendment, then certainly we shall be in a position to consider that. But, Sir, the Bill, as it stands, clause 3 (1) read with clause 16 (2), makes ample provision for the state of affairs which the Honourable the Home Member said might arise in future, when work increases and it may be necessary to have additional magistrates. Besides, as I have explained, additional district magistrates may be appointed by Government under the Criminal Procedure Code. So, I certainly welcome the amendment. These powers are of a very drastic character and they have caused harassment and grievances of which we on this side have been complaining from the very beginning of the promulgation of the ordinances. I am really thankful to the Government for expressing their intention to vest these extraordinary powers only in the superior officer, namely, the District Magistrate. I only wish that there will be no objection to carrying out that intention by making it a part of the law. Unless the honourable member the Remembrancer of Legal Affairs or the honourable member the Advocate General puts forward any further reasons, I cannot see any difficulty in the way of Government accepting a provision to carry out what they intend to do.

Mr. J. G. MORE (Sholapur District): Sir, if we read clauses 3 and 16, then the position is very clear. By "any officer" in clause 3, Government probably mean the district officers, that is the District Magistrate and the District Superintendent of Police. If Government are pleased

[Mr. J. G. More]

to accept, I may bring a further amendment, to the amendment with your permission. I wish to add 'the District Superintendent of Police.' If that is added, I hope Government will be pleased to accept the amendment as amended.

Mr. G. DAVIS: Sir, I think—I hope I may be pardoned if I am wrong—that there is a certain misapprehension among certain honourable members as to the relation between clause 3 and clause 16. I have always read clause 3 as a thing which stands by itself. If one sees clause 3 it reads as follows:—

“ Any officer of Government authorised in this behalf by general or special order of the Governor in Council may, if satisfied that there are reasonable grounds for believing

I have always taken that to mean that the Governor in Council must himself, in so important a matter, authorise an officer either by general or special order, to arrest any person under clause 3. I think, Sir, that was the intention. To me it is perfectly clear. Now, if we go to clause 16 (2), it reads as follows :

“ The Governor in Council may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this chapter.”

It says 'with any of the powers of a District Magistrate under this chapter.' It does not say 'with any of the powers which may have been conferred by Government on a District Magistrate under section 3.' To me the matter is perfectly and entirely clear. The District Magistrate, under the provisions of the chapter, has power to do certain things. I take clause 16 to mean that the Governor in Council may delegate to a subordinate of the District Magistrate those powers which the District Magistrate, as such, exercises under the chapter. Therefore, speaking with all respect to the honourable member, so far as I can see, the provisions of clause 16 (2) do not work in relation with, and cannot affect, the special provisions of clause 3.

Mr. C. N. PATEL (Kaira District): Sub-clause (2) of clause 16, for the matter of that even all the provisions of clause 16, do not govern the provisions of clause 3. I do not think, Sir, that clause 16 controls or governs the provisions of clause 3. There is nothing in clause 3 which would prevent Government from authorising even a police constable from exercising these powers. It is better, Sir, that, at this stage, the House should understand the real motive of Government in opposing this amendment. Government do not choose to say so in so many clear words that they do want to have in reserve this power of authorising any officer, however low his status in service may be, to exercise the powers under clause 3. In view of this, the amendment is a necessary one and the House should adopt it.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I remember, Sir, the debate of last year during which the Honourable the Home Member assured this House that the arrests that were being

[Rao Bahadur G. K. Chitale]

effected under the ordinances and under the sections which were akin to the clauses under this Bill were being scrutinised closely by the Governor in Council, inasmuch as even the District Magistrates were not being authorised to act haphazardly, but were being made to report the names to Government, and the lists of those names were being carefully gone into by Government before being passed on to the District Magistrates. May I remind the Government benches that that assurance disarmed a lot of reasonable opposition. The House will remember that the Government, last year in about September or October before the ordinances were promulgated, were arming themselves with a contingency that they may have to take steps, very drastic steps, in order to see that no ugly scenes occurred in the civil disobedience movement which was coming on, and it is common knowledge that from every district names were made out and forwarded to Government and the lists were ready showing the names of persons against whom this power of arrest was to be used. That was a precaution taken even under the regime of ordinances. Now when we are enacting a law, I do accept the assurance of the Honourable the Home Member, but Home Members may come and may go, these assurances are not translated into plain language, the sections stand by themselves, and it is just possible an abuse may be made of that power. Therefore, it is absolutely necessary to see that some words are inserted in clause 3. May I draw the attention of the honourable member the Legal Remembrancer to the marginal note in this, namely, in clause 3 we say "Power to arrest and detain suspected persons" and in clause 16 we find "Delegation of Powers." They do not as a matter of fact mean one and the same thing. Here this power to arrest and detain suspected persons is being given to any officer of Government and though the assurances may be quite clear at this stage, all that we want is that you may put in words about which there can be no misunderstanding. You now tell us that these powers are intended in the first instance to be exercised by the District Magistrates, but who knows—

The Honourable Mr. W. F. HUDSON: I said, and the District Superintendent of police.

Rao Bahadur G. K. CHITALE: Yes, and the District Superintendents of police. If that is so, why not say so here in the clause itself so that there will be no ambiguity? So far as this important power of arresting and detaining suspected persons is concerned, I know that this power must be exercised with very great care. It is no use saying "Just depend upon us", and therefore, I should think that it is necessary in the interests of the general public, even in the interests of the suspected persons themselves, that that power should be exercised by a responsible officer so that the criticism of the passing of this Act will be disarmed.

Mr. V. N. JOG (Dharwar District): Sir, no doubt, as has been pointed out by the honourable member the Legal Remembrancer, he feels a doubt whether clause 16 would be of any use because he has drawn a distinction that the powers mentioned in clause 16 are the powers which have been

[Mr. V. N. Jog]

specifically and inherently given by clause 5 and onwards. In that connection, I submit, Sir, the difficulty would be solved if Government really wishes that these powers should be exercised only by the district magistrates or police superintendents by making verbal changes because as the Government has assured to drop sub-clause (3) of clause 16, we may add one or two words to sub-clause (2) and make the whole situation quite clear. Instead of my amendment which is "not below the rank of a district magistrate," we can have "any district magistrate or district Superintendent of police authorised in this behalf." That will cover all the objections which have been raised by Government. Then they might say that they cannot give these powers if there be necessity to any officer below these officers. In that case, just at the time when we will be considering clause 16 we may have some such words as "not below the rank of a Deputy Superintendent of police with any of the powers inherently given by this Act to the District Magistrate or authorised by the Governor in Council to be exercised by him". Some such words would meet the situation, and I think there would be no legal flaw and there would be no quibble on the words. Now they are feeling a difficulty that the point may be raised that this is a power which the officer, i.e., District Magistrate, has been authorised to exercise given by the statute itself. To meet this difficulty, I submit that Government would be pleased to accept the present amendment which I am suggesting, "the District Magistrate or the District Superintendent of Police authorised in this behalf" and then a verbal amendment when we consider clause 16 saying "powers which are inherently given to the District Magistrate or authorised under this Act," to be exercised by him and I submit, Sir, Government will be pleased to accept this amendment.

The Honourable Mr. W. F. HUDSON: Sir, though I should like indeed to respond to these appeals, it is quite impossible for me or for any one in this House to foresee any emergency with which Government may in future be faced. As I have already told the House, we have up to now empowered officers down to the rank of a Sub-Inspector of police, and we may have to do it again, but I cannot, in view of the possibility of a serious difficulty arising in many parts of a district or districts, bind us as the honourable member would wish to do. I cannot say more as regards the assurance which we have given that if and when notifications are issued under this Bill, if and when it is passed we shall authorise no one except the Commissioner of Police, the District Magistrates and District Superintendents of Police of such districts as this chapter will apply to, but further than that I am not prepared to go because it is very foolish to bind yourself when you cannot foresee the future, and no one at this stage, I regret to say, can foresee the future. Let not the House imagine that I do not consider this a matter of first class importance. I do regard this as a matter of first class importance and I am as anxious as any one else that this power should not be misused, but I am also equally anxious that if and when an emergency arises Government should not be hampered by statutory provisions which they could not possibly override without coming into conflict with the courts.

Question put. The House divided: Ayes, 32; Noes, 48.

Division No. 7.

Ayes.

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHITALE, Rao Bahadur G. K.
DESAL, Rao Saheb B. G.
DHALUMAL LILARAM, Mr.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GILDER, Dr. M. D.
GOKHALE, Mr. L. R.
JOG, Mr. V. N.
KADRI, Mr. J. S.
KALE, Rao Bahadur R. R.
KAMAT, Mr. B. S.
KARBHARI, Mr. M. M.
KRUSHO, Khan Bahadur M. A.

KULKARNI, Rao Saheb P. D.
MODI, Sardar Davar T. K.
MORE, Mr. J. G.
PATEL, Mr. C. N.]
PATIL, Mr. V. N.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
RAHIMTOOLA, Mr. HOOSENALLY M.
RESALDAR, Mr. A. K.
SHINDE, Mr. R. B.
SOLANKI, Dr. P. G.
SURVE, Mr. A. N.
SURVE, Mr. V. A.
TOLANI, Mr. S. S.
VAISHAMPAYAN, Dr. V. G.
VAKIL, Mr. PESTANSHAH N.

Tellers for the Ayes: Mr. M. M. KARBHARI and Dr. V. G. VAISHAMPAYAN.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
ADVANI, Mr. P. B.
ALLAHBAKSH, Khan Bahadur
AMINUDDIN, Mr. SAIYID
ARBUTHNOT, Mr. C. W. E.
ASAVALE, Rao Bahadur R. S.
BANGI, Mr. A. K. J.
BHUTTO, WADERO NABIBAKSH
ILLAHIBAKSH
BJARANI, Khan Bahadur SHEER
MURHAMMAD KHAN
BIRADAR, Sardar MAHABOOBALI KHAN
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
CLAYTON, Mr. H. B.
COLLACO, Dr. J. A.
DAVIS, Mr. G.
DHURANDHAR, Mr. J. R.
D'SOUZA, Dr. J. ALBAN
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GHULAM NABI SHAH, Khan Bahadur
GREAVERS, Mr. J. B.
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur

JAN MAHOMED KHAN, Khan Bahadur
JONES, Major W. ELLIS
KAMBLI, the Honourable Dewan Bahadur S. T.
MASTER, Mr. A.
MAXWELL, Mr. R. M.
MEHERBAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
NAMDEORAO BUDHAJIRAO, Mr.
NAVLE, Mr. N. E.
NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
OWEN, Mr. A. C.
PATIL, Mr. N. N.
PRATER, Mr. S. H.
RAFIUDDIN AHMAD, Moulvi Sir
ROOSE, Mr. F. O. J.
SERVAL, Mr. A. E.
SPENCE, Sir REGINALD
TALPUB, MIR BANDEH ALI KHAN
TARAPOREWALA, Mr. V. F.
TRAKOR OF KEKWADA, Sardar BHASABEH RAISINGHI
TURNER, Mr. C. W. A.
VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIE
WINTERBOTHAM, Mr. G. L.

Tellers for the Noes: Dr. P. G. SOLANKI and Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN.

The Honourable the PRESIDENT: The next amendment, standing in the name of the honourable member Mr. C. N. Patel, is as follows:—

In clause 3, sub-clause (1), delete the words "authorised in this behalf by general or special order of the Governor in Council."

I do not think I could allow the amendment to be moved.

Mr. C. N. Patel: I am serious, Sir.

The Honourable the PRESIDENT: Serious in the light of the remarks that he made the other day?

Mr. C. N. PATEL : Is there anything inherently wrong in the amendment ?

The Honourable the PRESIDENT : Yes, and I shall explain it to him. If his amendment is carried, the section would read :

" Any officer of Government may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant..... "

The side of the House on which the honourable member is sitting has been struggling hard to see that there are further shackles put on the authorities by confining these powers to the higher officers. The honourable member cannot be serious in that case, and I cannot allow him to move the amendment.

Mr. J. G. MORE (Sholapur District) : Sir, I beg to move the following amendment :

In clause 3, sub-clause (1), line 2, omit the words " general or " .

Sir, it has been admitted on all hands that clause 3 is a very drastic one. By the debate that has just taken place we know that the powers may be given to any officer ; they are not to be confined to the District Magistrate or to the District Superintendent of Police. The powers may be delegated to any officer, even to a sub-inspector of police if not to a police constable. If we know the full import of sub-clauses (1) and (2) of clause 3, then the position becomes clearer. The Government are not bound to give reasons. The reasons will be confidential. Any man may be arrested at any time. As soon as a man is arrested the authority arresting him has to report forthwith. That means no delay is contemplated by Government in sub-clause (2). I am afraid, Sir, the powers under clause 3 are likely to be abused, and any man who may be law-abiding may be brought under the clutches of the powers. In order to safeguard the interests of those who are law-abiding and who are constitutionally agitating, it is incumbent upon Government to take extraordinary care when an extraordinary measure is to be passed by this legislature.

Now, if general powers are given, then the sub-inspector of police may arrest any man at any time. There is a full scope to a police officer or to any officer who may be inimically disposed towards any person to arrest him. We are giving powers to officers such as sub-inspectors who may, out of personal revenge or personal hostility, go to the length of arresting any man and keep him in custody for 15 days, as contemplated by sub-clause (2) of the clause. I think it is not safe that we should entrust such drastic power into the hands of such officers. So, what I propose by my amendment is, that if special orders are to be issued, then the officer arresting will have forthwith to report to the Governor in Council, and so he will, before arrest, have to take care to see that the man is not wrongly arrested. If the words " general or " are dropped and if a special order is required in each and every case that may come, then I think we are safeguarding the interests to certain extent.

The Honourable Sir GHULAM HUSSAIN : May I interrupt the honourable member ? If the order is general, then he is not to report ? Is that the honourable member's reading of the clause ?

Mr. J. G. MORE : Not that way.

The Honourable Sir GHULAM HUSSAIN : Then ?

The Honourable the PRESIDENT : The amendment is to omit the words "general or".

The Honourable Sir GHULAM HUSSAIN : That means that the honourable member has been arguing that if the order is general, then the officer is not to report forthwith.

Mr. J. G. MORE : No, no.

The Honourable Sir GHULAM HUSSAIN : What is the difference between the two ?

Mr. J. G. MORE : I read it in quite a different way. The provision is for arresting a person. If a person is to be arrested—

The Honourable the PRESIDENT : Under a special order he can do it, and under any general order also.

Mr. J. G. MORE : If a man is to be arrested, then before his arrest is made, the officer arresting should report the matter to the Governor in Council, and a special order should be issued by the Governor in Council and then he should be arrested. What I propose is this. In each case that may come up before the Governor in Council, the Governor in Council should take due care to see that the powers are not abused. With that view, I propose my amendment, so that we who are carrying on our agitation constitutionally may not have any fear under the powers that are contemplated in clause 3.

Question proposed.

Mr. M. M. KARBHARI (Thana and Bombay Suburban Districts) : Sir, I support the amendment, and I want this honourable House to understand completely what the underlying meaning of this Bill and particularly of this clause is. We suggested that if these powers were to be given, then an officer should mean the District Magistrate, and words to that effect should be included in the clause. But Government, in their wisdom, have refused to do so. And now, when we read the section and find the words "general or special" included in it, the meaning conveyed to my mind is that Government are going to create a sort of unnatural competition among their own servants. They may give general powers to certain officers, and they may give special powers to certain other officers, in order that they may exercise those powers. That is to say, the officers have got to compete among themselves to please the higher authorities, to see that the larger powers which they want may be given to them. That is the meaning, and that is the sense which is conveyed to my mind between these deputations of the power by the word "general" or "special". At any rate the powers must be special because it is a special measure, and if it is going to be a special measure the powers must be under the special orders of the Government and they cannot be given under the general order. Once you make a general order the result is that that officer can by his own actions have a superiority complex over those other officers who do not have those powers and therefore in order to enjoy those powers—because

[Mr. M. M. Karbhari]

human nature is such—he might go to the field and try to compete with the man who is enjoying these powers, to get these powers. Under the circumstances, I beg of the House, to those men specially who have been sitting on the fence and who have been giving their wholehearted support to the Bill, to come to the help of this House in at least toning down the tyrannical effects that would be created by this Bill. I would, therefore, suggest that all honourable members would think well before they enter the lobbies to register their votes. It may be quite easy for the honourable members to give their silent assent to this Bill now, but let me tell them one thing that today you think that you are going to bring under control a particular class of persons by this Bill, but I will not be surprised if those members who have given their assent to the Bill will themselves come under the control of this Bill. Of this you have got to be very careful (Some Honourable MEMBERS: “Oh!”) You may say “Oh” now, but let me tell my friends, the European members, that in the event of any national Government coming here these European members may be perhaps the first to suffer and not the Indians.

Sir REGINALD SPENCE: I assume you will be found to be a prophet—I trust a false one.

Mr. V. F. TARAPOREWALA: Mr. President, the object of section 3 is to authorise an officer of the Government to arrest a person on his being satisfied that such person is engaged in unlawful activities or is about to engage in illegal activities. The whole object is to give the authority to certain officers because Government cannot exercise the powers in the whole of the presidency. The Government is therefore empowered to give such authority by a general or a special order so that the Government may by a general order give general authority to a class of officers, e.g., all the district magistrates, or if circumstances are such that all the district magistrates need not be invested with the powers, only particular district magistrates may by special orders be invested with the powers. Again the general order may authorize an officer to arrest all persons generally who are engaged in illegal activities or are about to engage in illegal activities. The special order will give authority with limitations; that is to say, it may be with regard to a particular person, or a particular district or a particular area. You must remember that the officer who is authorised either by a general order or by a special order has to be satisfied as to illegal activities. Because the Government authorises him by a special order, it does not mean that the discretion which has to be exercised by the officer under this clause is taken away. If you read this clause as a whole you will see—I refer particularly to the lawyer members of this House—that the discretion is to be exercised by the officer so authorised. To construe the clause otherwise would be to put an absurd meaning on the clause. The Government must have power to issue both a general order and a special order because it may be expedient to issue one general order authorising all the district magistrates to exercise powers under this section or authorising any other superior officers. The Honourable the Home

[Mr. V. F. Taraporewala]

Member assured the House that the District Superintendents of Police may be so authorised. Similarly after some time the powers may not have to be exercised in all the districts. Then only certain District Magistrates will be invested with this power. It will be a special order with regard to these particular magistrates. Again the Government may find that the situation in a particular district requires that the district magistrate of that district should have powers under this clause. Then there will be a special order giving him these powers. The lawyer members of this House know very well what is the meaning of a general power of attorney and a special power of attorney. General power authorizes the person to do all acts. Special power implies limitations on the power. Here the general order would be one authorizing all officers of a certain rank to deal with all persons coming within the clause. At the same time the officer must satisfy himself as to the necessity of action under this clause—it is his discretion and not the discretion of the Government. Therefore, I submit, that the amendment proposed cannot be accepted. We cannot omit the words “general order” because Government must have the authority to invest their officers all over the presidency with the powers under this clause by a general order. At the same time the power to issue a special order should also not be denied to them because it means that on particular occasions, in particular areas at particular times they might have to invest their officers with these powers by a special order.

Mr. L. R. GOKHALE (Poona City) : I believe, Sir, that there is some confusion about the word “power”. Here the word used is “order”. The section says :

“ Any officer of Government authorised in this behalf by general or special order ”.

So it is not a question of any power to be given. It is a question of an order to be issued by the Governor in Council. That may refer to a class of officers or that may also refer to a certain district or area. That may be limited or unlimited. The Governor in Council may say that all those who are district officers are authorised or even those who hold the offices of Superintendents of Police or Sub-Inspectors of Police are also authorised to act under this Bill. That would be a general order. The special order would mean that a particular person is only allowed to act under this Bill. That appears to be the meaning of the phrase used here. So, this section contemplates giving power to arrest and detain suspected persons. Now, who are to use this power? The section contemplates that the Government may say that every one who is an officer of Government may use this power or any person having certain qualifications may act under this section. Sir, is it desirable that all persons who are officers of Government should be allowed to use this power? Is it not more desirable to invest only such persons who have got some special fitness with these powers? Supposing you issue a general order that all sub-divisional magistrates will act under this section. We know that there are sub-divisional magistrates who are very junior. If such a general order is given, will not that act to the detriment of the public or to the detriment of the good intentions of the

[Mr. L. R. Gokhale]

Government? We take it that the intentions of Government are honest and fair. They do not want to make this Act a measure of repression or oppression. What they want is to allow a citizen peace and prosperity, to allow him to trade properly, to allow him to enjoy his property freely. These are the intentions of the Government. If so, is it not a serious danger or serious difficulty if a general order is issued authorising every officer, without looking to his status in life, without taking into consideration his past record, to act under this section? Suppose there is a sub-divisional magistrate whose record is not as it ought to be. Will not the general order entitle him to act under this section? Will not such a general order include all magistrates? We know that there are magistrates and magistrates. Is it not then reasonable to expect Government to use a certain amount of discretion in authorising these persons? Is it not desirable that certain officers should be excluded? Suppose, in district A, B is the Magistrate. For certain reasons he is on the black list of Government. If such a person is invested with power to act under this section, what will you do? Therefore, in order to avoid the difficulty the amendment suggests that you may consider properly the status of an officer, his past character, everything about him and then invest him with these abnormal powers. That is all what is wanted. If the Government wants to give a blank cheque to each and every officer, then it is a different thing. Suppose, after such a general order, Government finds that they better had not invested a particular officer with such powers. What will they do then? Can they stop him from exercising such powers? No. The Act will come in the way. So, the amendment means that the black sheep which may be in the fold may be turned out and may not be invested with these powers. We know that there are some over-zealous officers. What will you do with them? I take it that there will be bad officers and there will be good officers. So, in order to help the Government in the proper administration of this section the amendment is put in to strengthen the hands of Government, to stop the misuse of this power by officers of questionable integrity, of questionable character, of questionable honesty. I would put it to the Government Benches that is it not desirable that certain officers should be excluded from such an order? I do not mean order but order of officers. In such a case what Government will do? Therefore I say we should provide a solution for this difficulty. If this solution is provided Government will be in a position to exclude some and include others. That is a reasonable demand that has been made with a view to help Government with the best of motives. Therefore, I support this amendment.

Mr. PESTANSHAH N. VAKIL: On a point of information. I want to know the exact meaning of the expression "general order". I shall cite a concrete instance. The District Magistrate of such and such a place is authorised under the Bombay Special Powers Act to exercise all the powers mentioned in section 3 of that Act. Is it a special order or a general order? Or, say, an order to this effect—From 1st January 1933 the District Magistrate of such and such a place is hereby invested

[Mr. Pestanshah N. Vakil]

with all the powers under section 3 of the Bombay Special Powers Act. Would it be a general order or a special order ?

The Honourable the PRESIDENT : It is a special order. Suppose this Act is applied to the Northern Division, then if all the District Magistrates are authorised to act under this section that would be a general order. If, when the Act is applied to the Northern Division, a distinction is made that the District Magistrate of Surat will act, the District Magistrate of Broach will not act, the District Magistrate of Ahmedabad will act and the District Magistrate of Godhra will not act, that would mean a special order.

Mr. PESTANSHAH N. VAKIL : There is no mention of any division.

The Honourable the PRESIDENT : " It shall come into force in any district or area." The area may be Northern Division.

Mr. V. F. TARAPOREWALA : Sir, any order made under section 3 can be modified or cancelled by Government under section 21 of the Bombay General Clauses Act.

An Honourable MEMBER : Can the honourable member speak now ?

The Honourable the PRESIDENT : He can explain.

Mr. V. F. TARAPOREWALA : The difficulty was raised by the honourable member that the order cannot be cancelled so as to divest any over-zealous officer of his powers. I am pointing out to the House that under section 21 of the Bombay General Clauses Act Government have such power. Government which issues a special or a general order has power to modify, alter or cancel any such order made under section 3. Therefore, there is no fear at all that even if Government are satisfied that in a particular district or area an officer should not be entrusted with this power, they cannot divest such officer of the powers which have been given to him. They have ample power to modify their orders in virtue of section 21 of the Bombay General Clauses Act.

Mr. L. R. GOKHALE : Is it all a waste of energy in discussion, if Government have got powers independent of this Council ?

Mr. V. F. TARAPOREWALA : My honourable friend has not understood me. Only when the order is made section 21 of the General Clauses Act can come into operation. Government can cancel such order without such power being specifically given by this Act. There is no question of waste of time. I may again point out that the powers of Government to modify, vary or cancel are provided for by a general enactment of this presidency, namely, the General Clauses Act which will apply to this Act, if it is passed as much as to all other Acts in Bombay. The power need not be given by this Act.

Mr. L. R. GOKHALE : That provision under section 21 of the General Clauses Act comes into operation, after these powers under the Bill are invested. But we are discussing here what should be the general

[Mr. L. R. Gokhale]

policy. Is there anything in the section which says that even in investing these powers Government have discretion ?

Mr. G. S. GANGOLI: The Advocate General has explained that Government have power. May I know whether an appeal to Government is allowed so that they may see the other side of the picture ?

The Honourable the PRESIDENT: Appeal to Government against their own order ?

Mr. J. S. KADRI (Northern Division): Sir, what I understand from the amendment is that the mover wants special orders to be passed for the exercise of special powers under this Act. It is very reasonable that special officers should be entrusted with these powers under the Act. It is not desirable to vest such powers in the officers of a particular division or district by a general order. I think only specially selected officers should be authorised to exercise special powers under this Bill, because there is every likelihood of the powers being misused by officiating or inexperienced officers. It seems necessary, therefore, that the powers should be given by a special order and not by a general order. On this ground, I support the motion that the word "general" should be removed from clause 3 while "special order" should stand which would mean that only special officers of experience, ability and discretion will be allowed to exercise these special powers. I therefore support the motion.

The Honourable Mr. W. F. HUDSON: Sir, I think, after the very clear explanation given by the honourable member, the Advocate General, it is unnecessary for me to go into the details of special and general orders. The lawyers may try to get round the law, but to the plain man, as the Advocate-General said, it is quite clear.

As regards the objection raised by my honourable friend Mr. Karbhari we cannot say that all our officers are men of experience but they are all men of education and ability. The District Magistrate is, of course, an officer of ability and education. It is not very much use, if we say that the District Magistrate of Ahmedabad or Broach shall exercise these powers, if there is trouble to be dealt with in Surat. So, if a District Magistrate is an officer who does not come under the description of "a man of experience",—I do not admit there is any such District Magistrate—but it is quite possible we may have an officer as a District Magistrate who is a junior and we may have to make a distinction and say that he should not have these powers conferred on him. If the trouble arises, these powers have to be exercised by some responsible officer. We are going in the first instance to confine these powers to officers, who, at any rate, have been considered by Government to be of sufficient ability and experience to manage the districts in their charge. And I leave it at that.

The prophet from Thans said that Government by these general and special powers will be encouraging an unhealthy rivalry among their officers. What I understood him to say was that, if we did not confer these powers on the District Magistrate, we would be making an unfair

[Mr. W. F. Hudson]

distinction. So, I can assure the House that no District Magistrate thinks that he should have these powers. It is a wrong impression that any District Magistrate would like to use these powers. A District Magistrate would thank God if the district in his charge is free from trouble and he is not compelled to ask for these powers. There may be professional jealousy, but it will not proceed on these lines. I can assure the honourable member that there will be no complaint from any District Magistrate that he does not possess either the general or special powers. Well, Sir, I am afraid, in view of what has been stated on this side, that we cannot possibly accept this amendment.

SYED MIRAN MAHOMED SHAH : Will these powers be conferred on district officers or on officers of any rank ?

The Honourable the PRESIDENT : That has been explained several times before. The Honourable the Home Member has assured the House that as a matter of fact in the first instance Government will authorise only the most responsible officers, the District Magistrate and the District Superintendent of Police, but he said he could not bind Government by mentioning any particular officer in the clause, as necessity might arise when orders would have to be issued to larger numbers.

Mr. J. G. MORE (Sholapur District) : Sir, my interpretation of the clause is this : as the sub-clause (1) stands there will be an order, which may be general or which may be special, by which any authority may be empowered to arrest a man who is likely to act in a manner prejudicial to public peace or safety. Instead of that the order should be special, and should contain certain directions by which certain magistrates should be empowered to arrest a man.

The Honourable Sir GHULAM HUSSAIN : Sir, it is a wrong interpretation.

Mr. J. G. MORE : I want to say that there ought to be a special order, and in that special order Government ought to take care that the authority on whom this power is conferred should take care not to arrest any person who has no connection with the civil disobedience movement whatever.

The Honourable Mr. W. F. HUDSON : Sir, I am afraid that the honourable member has misunderstood the position. But I despair of explaining to him again. And therefore I think we had better proceed.

The Honourable the PRESIDENT : There are so many amendments tabled. If the House would take up every amendment under a misconception such as has been proved in this case, then I do not know when we will come to the end. It has been sufficiently explained what those words "general or special order" in this clause actually mean. If all the amendments are pressed in this way, I am afraid much of the time of the House will be lost.

Question put. The House divided : Ayes, 26 ; Noes, 48.

Division No. 8.

Ayes.

ACHREKAR, Mr. A. B.
 BANNALE, Mr. R. R.
 BALOCH, Mr. HAJI MIE MAHOMED
 CHITALE, Rao Bahadur G. K.
 DHALUMAL LILARAM, Mr.
 DIXIT, Dr. M. K.
 GANGOLI, Mr. G. S.
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 JOG, Mr. V. N.
 KADRI, Mr. J. S.
 KALE, Rao Bahadur R. R.
 KARBHARI, Mr. M. M.
 KULKARNI, Rao Sahab P. D.

MEHTA, Mr. M. H.
 MORE, Mr. J. G.
 PATEL, Mr. C. N.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 REBALDAR, Mr. A. K.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SYED MIRAN MAHOMED SHAH
 THAKOR OF KERWADA, Sardar BHASABH
 RAISINGHI
 TOLANI, Mr. S. S.
 VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes : Mr. M. M. KARBHARI and Dr. V. G. VAISHAMPAYAN.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan
 Bahadur.
 ADVANI, Mr. P. B.
 ALLAHBAKSH, Khan Bahadur
 AMINUDDIN, Mr. SAHYD
 ARBUTHNOT, Mr. C. W. E.
 BANGLI, Mr. A. K. J.
 BHUTTO, WADERO NABIRAKSH
 ILLAHIBAKSH.
 B LABANI, Khan Bahadur SHEH
 MUHAMMAD KHAN.
 HIRADAR, Sardar MAHAROOBALI KRAN
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Sahab B. G.
 DRUMANDHAR, Mr. J. R.
 D'SOUSA, Dr. J. ALBAN
 GREENING, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GHULAM NABI SHAH, Khan Bahadur
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.
 HUMPHREY, Mr. JOHN
 JAM JAM MAHOMED KRAN, Khan Bahadur

JAN MAHOMED KHAN, Khan Bahadur
 JONES, Major W. ELLIS
 KALSHOR, Mr. G. M.
 KAMBLI, the Honourable Dewan Bahadur
 S. T.
 MASTER, Mr. A.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MODAK, Rev. R. S.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG
 BAHADUR
 OWEN, Mr. A. C.
 PATEL, Mr. N. N.
 PRATER, Mr. S. H.
 RAHMTOOLA, Mr. HOOSENALLY M.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHANKARRAO JAYARAMRAO ZUNZARRAO,
 Mr.
 SOLANKI, Dr. P. G.
 TARAFORWALA, Mr. V. F.
 TURNER, Mr. C. W. A.
 VAKIL, the Honourable Sirdar Sir RUSTOM
 JEEANGIE
 WINTERBOTHAM, Mr. G. L.

Tellers for the Noes : Dr. P. G. SOLANKI and Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN.

Rao Bahadur R. R. KALE (Bombay University) : Sir, the amendment which I wish to move is :

" Clause 3, sub-clause (1). In line 3, after the words " if satisfied " add " after giving the person reasonable opportunity of being heard."

Now, Sir, this portion of the Bill in my opinion is the crux of this Act, namely, the use of those words which enable a person to be arrested on suspicion and also the use of similar words in clause 4 whereby the Governor in Council is authorised to control such suspected person. In both cases I take it that the suspicion against a person is the basis of action. Clause 3 contemplates an arrest so that it is a sort of a preliminary step, the first step, the order of arrest being only a temporary

[Rao Bahadur R. R. Kale]

measure ; but under clause 4 that order is to be confirmed and made absolute as it were, with the consequence that the suspected person is required to observe certain conditions, I mean his liberty is controlled. Now, my point is that whenever a person is arrested, he ought to be given a reasonable chance of learning why he is arrested. Here I would ask the Honourable the Home Member's attention to what we have been talking of all along, that by "any officer of Government" is to be meant a district magistrate in the first instance. My submission is that it would not be possible to do so because if we look to clause 16, sub-clause (1), we find there that the Governor in Council may invest a district magistrate with the powers of the Governor in Council under sub-section (1) of section 4. Now section 4 deals with powers to control suspected persons, persons who are suspected and arrested under section 3. If you give powers of arresting on suspicion to a district magistrate, then the final orders that are to be passed to control such arrested persons may also be delegated to the same individual. There is an anomaly in that. Therefore, Sir, my amendment is the more necessary in this way, that a person who orders the arrest of another is under this measure as it is drafted to be the person who is afterwards to pass an order controlling that arrested person's movements after being satisfied that the arrest was proper. Therefore, it is necessary, in the first instance, if a man is arrested, to give him an opportunity to say, to explain what is said against him. This is a fundamental right. If a man does not know why he is arrested, if a man is all of a sudden arrested without being told what it is that is against him, what is to be the position ? There may be an anonymous petition, there may be such petitions of persons who are his enemies, who have some sort of a private grudge to satisfy, and they may have laid information before the district magistrate, or other officer who may be giving the order for arrest but who may be acting in perfect good faith, I mean to say he has no bias or predilection of any kind, he is acting on certain information. There may be persons who have the ear of the district magistrate ; I mean to say, he is a human being, he may have the ear of certain persons, some information may have been carried to his ears. But what that information is, at least the person against whom that information is to be used for the purpose of arresting him in the first instance, does not know. Then for a period of 15 days he is to be detained, without anything further being done. After 15 days, the Governor in Council is to be satisfied. Probably the breathing interval is intended for the Governor in Council, through his agents, to enquire about the reasonableness of the suspicion. And then, after that, the final order is to be passed. When the suspicion is well-founded, then he is to be ordered to enter into certain conditions, which are laid down in clause 4, for the purpose of controlling his movements. Now, Sir, what is it that I ask by this amendment ? All that I ask is, as soon as the police officer or any person who has been empowered to arrest goes to the person to arrest him, let him be told "This is against you. Have you any explanation to offer ?" If he chooses to offer any explanation, well, let him be heard. That is all. Nothing is to be done. There is no trial or anything of the sort. Only he is to be

[Rao Bahadur R. R. Kale]

given an opportunity to be heard, which is the fundamental principle of any criminal law. It may be that this Act is intended against the civil disobeyers. Well, Sir, those who are real civil disobeyers will certainly not offer any explanation. They will be ready to go to jail. The matter is finished so far as they are concerned. But what about the others? There are people who are agitators in their own way, who are carrying on certain movements, the movement of temperance for instance, or any other movement. Very well. If those persons feel that they ought not to suffer for whatever they are doing in a constitutional manner, they should have a right to say "I have been doing this. You should not misunderstand me. If there is anything which I can explain, let me explain for fifteen minutes only. If you are satisfied, well the matter ends there. If however, after the explanation, you are not satisfied, by all means arrest me, take me into custody, and make your further enquiry. If after that also you find that it is necessary to place any restrictions on my movements, you can do so, but do not keep me in the dark." I submit, Sir, this is a reasonable protection. It is very necessary, in my humble opinion, to remove the bitterness which at present prevails on account of the administration of these Ordinances. I do not say there may not be good ground. There must be some grounds, no doubt, for suspecting such persons. The Honourable the Home Member said in this House in March last that at the beginning of January the Government had in its possession a list of persons who had been put on the black list, persons who had been chosen and marked out. Certainly, I can understand that those persons may have in the previous year, in 1930, participated in any wrong movement. Very well. The list which was prepared some time before December 1931 may have contained the names of people who had, I mean to say, participated in the movement. But I know at least of some cases in which those people had abandoned it, for various reasons. Therefore, when they were arrested in January 1932 they might have at once stated—in fact the conditions are supposed to be imposed upon them later on after 15 days or two months according to the under-trial imprisonment which is contemplated against them—they might have stated "I may have fallen into error; I may have succumbed to this cult of civil disobedience, but I have given it up. Now I have nothing to do with it. I do not feel any shame in saying that I have severed my connection with it". So, he is given an opportunity in the first instance of saying what he has got to say, instead of two months after when the order is to be made final restricting his movements. Take the case of a man who was in the movement previously. There is *locus penitentiae*. He has repented, and if he says "I have severed my connection with the movement", why then put him to the trouble of being arrested and kept in custody for 15 days or 2 months? My point is therefore that this is nothing but giving him a simple hearing. You know that the British administration of justice is founded upon this giving of an opportunity to the man of defending himself. Every man ought to be given an opportunity to defend himself. The non-co-operators, the civil disobeyers, do not

[Rao Bahadur R. R. Kale]

want to put up a defence. All right, let them suffer. But there are others who do want to defend themselves, to put up their case. My point is, should not they be given this opportunity? Here only on suspicion the man is to be arrested. It is non-bailable and cognizable offence. On mere suspicion, the offence is made non-bailable and cognizable. The order is made final, and the man has no chance of giving bail or anything. He is to be confined to some prison or whatever other form of custody they may choose. My point is that this is very reasonable protection, a very sensible safeguard, which will do no harm, which will not prolong proceedings. When I had pointed out in my speech that the proceedings under sections 108 and 120 of the Criminal Procedure Code, good behaviour proceedings will serve the purpose. I was told that these proceedings are prolonged. But what I am suggesting will not affect the object which Government have in view, namely that proceedings should be speedy and should not take a long time. I mean to say, the leading of evidence, and then proceeding to make the order final, and so on. I submit, Sir, without all that procedure, if the District Magistrate saw the person who is to be arrested, and if he comes to know that the man has done nothing, that he has explained, the matter will rest there. I do think, therefore, that the amendment to insert these words in the clause is certainly one which I hope the Honourable the Home Member will be pleased to accept.

Question proposed.

Mr. V. A. SURVE (Ratnagiri District) (Addressed the House in Hindi): Mr. President, I rise to support the amendment moved by my honourable friend Rao Bahadur Kale. All that the amendment seeks to provide is that the person who is to be arrested on suspicion should be given an opportunity of offering his explanation about any charge that may be made against him, that the District Magistrate should hear what he has got to say and convince himself about the guilt of the person who is to be arrested. If he can prove that he has committed no offence, then it is not justice to arrest him; it will be *zolum* to do so. Sir, the Bill before the House is of such a character that one is tempted to go into the merits of all the clauses in it, but I realise that the present motion is only an amendment to the clause, and I shall confine myself to it.

Under this Bill, if an officer is empowered, he can arrest any one whom he thinks necessary. Government say that no one but the District Magistrates and the District Superintendents of Police will be empowered in the first instance. Government of course always say "We will not do this; we will not do that, and so on". But after all they do it. Under this Bill, all the people who live in the villages are affected. Whenever the revenue officers and the police officers visit the villages, if they feel that they have not been received by the villagers with the respect that, in their opinion, is due to them, then this will be a handy weapon in their hands to retaliate against the villagers by arresting them. The provision is that after the arrest is made, the matter is to be reported to the Governor in Council.

[Mr. V. A. Surve]

I submit, Sir, that a person before he is arrested and detained in custody must be given proper opportunity to explain himself before a Magistrate.

Now as regards the amendments. So far Government have not accepted a single amendment coming from this side of the House. That shows that they do not want to consider any amendment to the Bill. If Government do not want to give any consideration to the amendments by the representatives of the people, I do not understand what was the necessity of bringing this Bill before the House. Where was the necessity of calling this extra session and incurring an expenditure to the tune of some lakhs of rupees ?

Some of the honourable members in this House who are big landlords and zamindars gloat over the fact that this Bill is going to give wider powers to the revenue officers, and that now the arrears of their dues could be recovered easily with the aid of the revenue officers. But I would ask these honourable members to pause for a moment before they give their consent to the Bill and think hard what the plight of the poor agriculturists will be if this Bill is passed into law. Every one knows what kind of justice we get at the hands of the revenue officers, how they harass poor agriculturists and villagers. I am sure the real representatives of the people will not vote against this amendment. I appeal to those honourable members of this House who have to show their face to the agriculturists when they go out, not to cast their vote against this amendment.

The Honourable the PRESIDENT : The time is up. Before I adjourn the House till tomorrow, I would like to point out to the honourable members how small is the progress we have made today. Today we have gone through only two clauses. There are 34 clauses in the Bill. So, 32 clauses are left yet. If we go on at this rate, at least a fortnight will be required to go through the whole Bill. Whether the honourable members are prepared to carry on the discussion for a fortnight, it is for them to decide. I simply point out that the progress is very slow. The amendments are many, and if every amendment is considered to be important, and honourable members must speak on it, the prospect lying before us can easily be imagined.

The House is now adjourned to 2 o'clock tomorrow, Tuesday, the 29th November 1932.

Tuesday, the 29th November 1932.

The Council re-assembled at the Council Hall, Bombay, at 2 p.m., on Tuesday, the 29th November 1932, the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ACHREKAR, Mr. A. B.
 ADVANI, Mr. P. B.
 ALLAHBAKSH, Khan Bahadur
 AMINUDDIN, Mr. SAYYID
 ARBUTHNOT, Mr. C. W. E.
 ASVALE, Rao Bahadur R. S.
 BAKHALE, Mr. R. R.
 BALOCH, Mr. HAJI MIR MAHOMED
 BANGI, Mr. A. K. J.
 BHUTTO, Sir SHAH NAWAZ
 BHUTTO, WADERAO NABIBAKSH ILLAHIBAKSH
 BIJARANI, Khan Bahadur SHEER MUHAMMAD KHAN
 BIRADAR, Sardar MAHABOOBALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CHIKODI, Mr. P. R.
 CHITALE, Rao Bahadur G. K.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Saheb B. G.
 DHALUMAL LILARAM, Mr.
 DHURANDHAR, Mr. J. R.
 DIXIT, Dr. M. K.
 D'SOUZA, Dr. J. ALBAN
 GANGOLI, Mr. G. S.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GHULAM HYDER SHAH, Mr.
 GHULAM, NABI SHAH, Khan Bahadur
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 GREAVES, Mr. J. B.
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.
 HUMPEREY, Mr. JOHN

JAM JAN MAHOMED KHAN, Khan Bahadur
 JAN MAHOMED KHAN, Khan Bahadur
 JITEKAR, Mr. HAJI IBRAHIM
 JOG, Mr. V. N.
 JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHRO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETTIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIYUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHAIKH ABDUL MAJID, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dr. P. G.
 SPENCE, Sir REGINALD
 SURVE, Mr. A. N.

SURVE, Mr. V. A.
 SYED MIRAN MAHOMED SHAH
 SYED MUNAWAR, Mr.
 TALPUB, MIR BANDEH ALI KHAN
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.
 VAKIL, the Honourable Sirdar Sir RUSTOM JEBANGIR
 VANDEKAR, Rao Bahadur R. V.
 WINTERBOTHAM, Mr. G. L.

STARRED QUESTIONS AND ANSWERS.

NON-OPENING OF NEW PRIMARY SCHOOLS : DR. PARANJPYE'S CRITICISM.

*Rao Bahadur R. S. ASAVALE (Bombay City, North): Will the Honourable Minister for Education be pleased to state—

(a) whether the attention of Government has been drawn to the criticism by Dr. Paranjpye in the *Bombay Chronicle* dated the 4th July 1932, with regard to the non-opening of new primary schools and the complete non-application of the principle of compulsion in the Bombay Presidency;

(b) whether it is a fact that no new primary schools have been opened after Dr. Paranjpye vacated the office of Minister and no compulsion is applied in any part of the Presidency;

(c) if not, how many new schools have been opened after Dr. Paranjpye ceased to be Minister and in what areas in the Bombay Presidency compulsion is applied during the same period?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) Yes.

(b) No.

(c) The total number of new schools opened between 1924-25 and 1931-32, that is, after Dr. Paranjpye had ceased to be Minister, is 2,158. The areas during the same period in which compulsion was introduced are:—

Name of the Local Authority.

- (1) Bombay City Municipality (in F and G wards).
- (2) Sholapur Municipality (in three wards).
- (3) Ahmednagar City Municipality.
- (4) Broach Municipality.
- (5) District Local Board, Larkana (in Larkana Taluka).
- (6) District Local Board, West Khandesh (in villages with a population of 1,000 and over and in five non-Local Authority Municipalities).
- (7) Poona City Municipality (in five Peths only).
- (8) Karachi Municipality (in Lyari and Trans-Lyari quarters).

SCHOOL BOARD OF THE LOCAL AUTHORITY (DISTRICT LOCAL BOARD), KOLABA.

*Rao Bahadur S. K. BOLE: Will the Honourable Minister for Education be pleased to state—

Dhauransai School.

- (a) the amount of grant given by the District Local Board, Kolaba, for the building of the Dhauransai School in the Roha Taluka ;
- (b) the number of boys and teachers respectively in that school ;
- (c) whether it is a fact that a request was made to the School Board of the local authority to send one more teacher to that school ? If so, with what result ;

Nidi School.

- (d) the number of boys in the Nidi School in the Roha Taluka ;
- (e) whether any grant is given by the District Local Board for the building of that school ;
- (f) whether any rent is paid for that school by the School Board ;
- (g) whether it is a fact that the School Board was requested to pay the rent of the building ? If so, with what result ;

Pen School.

- (h) the amount of rent paid to the owner of the building which is used by the Local Board School at Pen ;
- (i) the name of the said owner ?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) There is no such school as Dhauransai School. The Honourable Member apparently refers to the Dhamansai School. If so, the question does not arise as the school at Dhamansai belongs to the District Local Board, Kolaba, itself.

(b) The number on the rolls is 34 and the average attendance is 26·8. There is only one teacher.

(c) The Chairman, District School Board, Kolaba, reports that it cannot be ascertained when and by whom the request was made. The number of pupils on the rolls and the average attendance do not justify any addition to the teaching strength.

(d) The number on the rolls is 71 and the average attendance is 45·8.

(e) No.

(f) No.

(g) Yes: The school board could not comply with the request owing to financial stringency.

(h) (1) Rs. 20 for the non-Local Authority Municipal Boys' School.

(2) Rs. 18 for the non-Local Authority Municipal Girls' School.

(3) Rs. 4 for the non-Local Authority Municipal Urdu School.

(i) (1) Mr. Gangadhar Narayan Mandlik and Mr. Anant Narayan Mandlik.

(2) Mr. Ganesh Vishwanath Kamat.

(3) Mr. Phakir Mahomed Mumbaikar.

Rao Bahadur S. K. BOLE: Are there no buildings available at lower rents for the Municipal Boys' School and the Municipal Girls' School at Pen?

The Honourable Dewan Bahadur S. T. KAMBLI: I require notice of that question.

SANSKRIT PATHSHALAS IN THE PRESIDENCY.

*Rao Bahadur S. K. BOLE: Will the Honourable the Minister for Education be pleased to state—

(a) how many Sanskrit Pathshalas are there in the Presidency which are conducted by Brahmins and are receiving Government grants;

(b) whether non-Brahmin students are admitted in them?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) 23.

(b) Yes.

Rao Bahadur S. K. BOLE: Are Non-Brahmin students allowed in all the Sanskrit pathshalas?

The Honourable Dewan Bahadur S. T. KAMBLI: The answer is clear that in all the schools they are allowed.

RECOVERY OF ARREARS OF LAND REVENUE IN THE VILLAGE OF KALCHE.

*Mr. G. S. GANGOLI (Kanara District): Will the Honourable the Revenue and Finance Member be pleased to state with reference to the village of Kalche in the taluka of Yellapur in the district of Kanara—

(a) the amount of assessment that was in arrears in that village from all the land-holders in that village payable for land revenue in that village and of other villages in other talukas on 23rd June 1932;

(b) whether it is a fact that three children of one Samba Narayan Hegde in the said village and another boy was held in custody by the Mamlatdar of Yellapur on that date;

(c) whether it is a fact that the acting Collector was encamping in the Taluka Headquarters on that date;

(d) how many land-holders were defaulters in that village on that date;

(e) whether it is a fact that the said Samba Narayan Hegde was made to pass a promissory note for double the amount of arrears minus Rs. 2 which he paid in cash in favour of a friend of the Mamlatdar;

(f) whether it is a fact that after such payment the said Samba was released from nominal custody;

(g) whether the four children were clapped under the ordinances and whether the Mamlatdar had got ten additional special policemen by wire;

(h) whether they were also released at that time under section 562, Criminal Procedure Code;

(i) if so, whether the copy of the judgment would be placed on the Council table;

(j) whether it is a fact that all the receipts for the payment of the land revenue were passed in favour of the said Samba, though he was not a defaulter himself;

(k) whether Government have made any enquiries into the matter?

The Honourable Sir GHULAM HUSSAIN :

(a) Rs. a. p.

261 9 1 on account of Kalche-village.

150 0 0 on account of other villages.

411 9 1 Total due from the villagers of Kalche on 23rd June 1932.

(b) No. Only one son of Samba Narayan Hegde and three other adults were in custody on that date. They were in magisterial custody under trial.

(c) Yes.

(d) 15.

(e) No.

(f) Samba and the other accused were released on probation after conviction on the 24th.

(g and h) Four adults including one son of Samba Narayan Hegde were arrested on 13th June 1932 under section 30 of Ordinance III, section 4 of Ordinance V and section 334, Indian Penal Code. They were released on 24th June 1932 on condition of entering into a bond for Rs. 200 each with one surety for a like amount. No special policemen were sent for.

(i) A copy of the judgment is placed* on the table.

(j) No. Receipts were passed in the name of the defaulters with the remark that the amounts were received through Samba.

(k) No. No enquiry was called for.

Mr. G. S. GANGOLI : With regard to part (f) of the reply, may I know when that Samba was brought under arrest?

The Honourable Sir GHULAM HUSSAIN : If notice is given I shall find out.

Mr. G. S. GANGOLI : As he was released on the 24th, it must be presumed that he must have been in custody until that date.

The Honourable Sir GHULAM HUSSAIN : Then, there is no necessity for a supplementary question.

Mr. G. S. GANGOLI : Then, how could he pay the amount on the 23rd? With regard to part (k), the reply is "No. No enquiry was called for." This is a peculiar instance to show how the ordinances are worked there. My point is that he is made to pay the assessment on behalf of 15 others: he by himself was not a defaulter.

The Honourable Sir GHULAM HUSSAIN : I do not admit the premises.

Mr. G. S. GANGOLI : He was made to pay on the 24th and he was released on the 24th. If he was under arrest, how could he pay on the 23rd?

* Kept in the Secretary's office.

The Honourable Sir GHULAM HUSSAIN: I do not follow the question.

Mr. G. S. GANGOLI: My another point is, if he was not a defaulter, why was he made to pay for 15 others who were defaulters?

The Honourable Sir GHULAM HUSSAIN: The reply is very clear if the honourable member will read it carefully.

Mr. G. S. GANGOLI: The reply is clear that even when a case is made out, Government are not going to enquire.

The Honourable Sir GHULAM HUSSAIN: There is no case made out, and there is no necessity for an enquiry.

Mr. G. S. GANGOLI: Was he a defaulter himself?

The Honourable Sir GHULAM HUSSAIN: Read the reply.

Mr. G. S. GANGOLI: The reply is that he was not a defaulter.

The Honourable Sir GHULAM HUSSAIN: Then, he paid on behalf of others?

Mr. G. S. GANGOLI: Why was he made to pay on behalf of 15 strangers?

The Honourable Sir GHULAM HUSSAIN: Will the honourable member point out that part of the reply where it is so stated?

Mr. G. S. GANGOLI: The reply to (d) is that there were only 15 defaulters, and the reply to (j) is that receipts were passed in his favour. He is made to pay for all the 15 defaulters.

The Honourable Sir GHULAM HUSSAIN: Where is it so said?

Mr. G. S. GANGOLI: In part (j) of the reply.

The Honourable Sir GHULAM HUSSAIN: He must have undertaken to pay on their behalf.

Mr. G. S. GANGOLI: If he was under arrest on the 23rd—

The Honourable Sir GHULAM HUSSAIN: I do not know whether he was under arrest on that date. If the honourable member gives notice, I shall find out. I do not know when he was arrested.

Mr. G. S. GANGOLI: The money was due on the 23rd, although it is stated that it was paid on the 24th. If persons are not a menace to public peace can they be arrested and left under security?

The Honourable Sir GHULAM HUSSAIN: This question asks for an expression of opinion.

The Honourable the PRESIDENT: The next question.

Mr. G. S. GANGOLI: Now that I have brought all this material to the notice of the Honourable Member, will he enquire into it?

The Honourable Sir GHULAM HUSSAIN: Enquire about what?

Mr. G. S. GANGOLI: He along with his children were detained in custody, although he was not a defaulter.

The Honourable Sir GHULAM HUSSAIN: Those are not the facts.

Mr. G. S. GANGOLI: The replies are there.

The Honourable Sir GHULAM HUSSAIN: I have already given the reply.

✓ Co-OPERATIVE SOCIETIES AND BANKS: CLASSIFICATION.

*Mr. G. S. GANGOLI (Kanara District): Will the Honourable Minister for Education be pleased to state—

- (a) the basis on which co-operative societies and banks are classed as A, B, C and D;
- (b) the authority or person that does the classification work;
- (c) whether Government hold any guarantee for the classification for the safety of the depositors;
- (d) who is responsible for the break-down of a society or bank if C or D classification leads to loss of business and public confidence;
- (e) the total amount of reserve fund at the disposal of the Registrar as the result of liquidation?

The Honourable Dewan Bahadur S. T. KAMBALI: (a) The basis for classification of co-operative societies as A, B, C and D is as follows:—

- (1) punctual and *bona fide* repayments;
- (2) maintenance of well-written accounts by a local secretary;
- (3) provision of adequate local deposits;
- (4) holding of regular meetings of committees and general meetings
- (5) up-to-date knowledge of members regarding the principles and practice of co-operation.

The classification is a question of degree to which the factors mentioned above are present in a society and no rigid instructions can be issued in the matter. A class societies possess all the above qualities in a marked degree whereas the others in a relatively lower extent.

(b) The auditors classify the societies at the time of audit. The classification is subject to modification by the Registrar, if necessary.

(c) No.

(d) The society itself is to blame if a C and D classification leads to loss of business or public confidence.

(e) None. ✓

REPEATERS AND REGULARS AT THE B. J. MEDICAL SCHOOL,
POONA: FEES.

*Mr. L. R. GOKHALE (Poona City): Will the Honourable Minister for Local Self-Government be pleased to state—

- (a) the periods for the terms that are required to be attended by the Repeaters and Regulars of the B. J. Medical School at Poona;
- (b) the amount of fees required to be paid by the Regulars and the Repeaters;
- (c) whether Government are aware that, when the Repeaters are required to attend a three months' term they are charged the same fees as the regulars;
- (d) if so, what the reasons for the same are?

The Honourable Sirdar Sir RUSTOM J. VAKIL:

(a) *Regular students*—

Two terms during an academic year, one from 16th June to 15th October and the other from 15th November to 15th April.

Repeaters—

For the 1st and 2nd L.C.P.S. examinations at least one full term and for the final L.C.P.S. examination at least 3 months.

(b) *Regular students*—

Male students Rs. 50 per term.

Female students (advanced communities) Rs. 25 per term.

Female students (Muhammadian and Backward) Exempt.

Repeaters—

Male students Rs. 16 per subject in which the candidate has to appear subject to the proviso that the total fees paid do not exceed the full term fee of Rs. 50.

Female students (advanced communities) Half the above fees for male student repeaters.

Female students (Muhammadian and Backward) Exempt.

(c) A repeater would pay the same fees as a regular student only if he was required to appear in more than three subjects.

(d) Does not arise.

MEDICAL OFFICER, DHARWAR: ALLEGED NEGLECT OF DUTY.

*Mr. SHAIKH ABDUL AZIZ ABDUL LATIF (Central Division): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware that Abasali Gous Mahomed, Telegraphic Lineman (Government), was serving under the sub-divisional officer, Government Telegraphic Department, Belgaum, on the 1st of August 1932 or thereabout;

(b) whether he fell ill on the 6th of August or thereabout at Head-quarters Alnawer or somewhere in that sub-division;

(c) whether he was admitted in the Civil Hospital at Dharwar on the 6th of August or thereabout as an indoor patient;

(d) whether he was operated upon in the above hospital without the permission of his father; if so, why;

(e) whether he died on the 12th of August in the hospital after the operation;

(f) whether the father of Abasali was kept in dark about the death of his son till the 20th of August or thereabout;

(g) if the answer to (f) is in the affirmative, why there was so much delay caused;

(k) why the father of Abasali was not informed on the same day when he died in the hospital;

(i) whether Government have taken any steps against the gross negligence on the part of the Medical Officer of Dharwar in this connection;

(j) if so, what? if not, why not?

The Honourable Sirdar Sir RUSTOM J. VAKIL: (a) Yes;

(b) and (c) He was admitted into the Civil Hospital, Dharwar, on the 6th August 1932 from Alnawer.

(d) He was twenty-two years old and there was therefore no reason to get his father's consent. He was operated upon for strangulated Hernia on the 7th August.

(e) Yes.

(f) No. His father was informed of the serious condition of his son on the 8th August 1932 and the letter was acknowledged by the father who said that he was too poor to come to Dharwar. He had sufficient notice to have reached Dharwar before his son's death. Unofficial report of the death was sent to the deceased's father and the official death report to his department on 13th August 1932.

(g) and (h) Do not arise. The patient died on the evening of 12th August after the clearance of the postbox.

(i) and (j) The questions do not arise.

KALYAN MUNICIPALITY.

*Mr. SHANKARRAO JAYARAMRAO ZUNZARRAO (Thana and Bombay Suburban Districts): Will the Honourable the Minister for Local Self-Government be pleased to state—

(a) whether it is a fact that there are two parties, viz. the Swarajya Party and the Non-Brahmin party in the Kalyan Municipality in the Thana District;

(b) whether it is a fact that some members of the Non-Brahmin party were sued in the Kalyan Civil Court by the Kalyan Municipality;

(c) whether it is a fact that before the judgment and after the argument in the above case, the then Collector of Thana had given a note to some members of the opposite party to see the Sub-Judge in connection with the above case;

(d) whether it is a fact that some persons of the Kalyan public have taken photos of the above note;

(e) the name of the Collector?

The Honourable Sirdar Sir RUSTOM J. VAKIL: (a) So far as Government are aware, there were two parties in the late board of the Kalyan Municipality generally known as Brahmin and Non-Brahmin parties.

(b) It is a fact that some persons, who apparently belonged to the Non-Brahmin party and were formerly members of the Kalyan Municipality, were sued by that body.

(c) No.

(d) Does not arise.

(e) Does not arise.

Mr. J. G. MORE: The reply to part (c) of the question is "No". I wish to know whether the Collector and the Sub-Judge were consulted in this matter—regarding the note sent to the Sub-Judge.

The Honourable Sirdar Sir RUSTOM J. VAKIL: Government do not admit the existence of a note, and there is no necessity to consult either the one or the other official.

Mr. J. G. MORE: My point is that this must have been referred to the District Magistrate there. Was any explanation asked for from the Sub-Judge in this respect? Both the officers were concerned in the matter.

The Honourable Sirdar Sir RUSTOM J. VAKIL: He wants to know, Sir, whether the Sub-Judge and the District Magistrate were consulted?

Mr. J. G. MORE: Yes.

The Honourable Sirdar Sir RUSTOM J. VAKIL: By whom?

Mr. J. G. MORE: By Government.

The Honourable Sirdar Sir RUSTOM J. VAKIL: The allegation made was absolutely without any foundation, and therefore Government did not see any necessity either to consult the District Magistrate or the Sub-Judge.

Mr. J. G. MORE: Did Government readily believe in the explanation that was given by the Collector, or did they go into other circumstances?

The Honourable Sirdar Sir RUSTOM J. VAKIL: Which explanation is the honourable member referring to?

Mr. J. G. MORE: The reply is that there is no foundation for such an allegation. I want to know how Government came to know that. What is the material before Government to say that there was no foundation for the allegation?

The Honourable Sirdar Sir RUSTOM J. VAKIL: Government got information from the District Magistrate that the allegation was absolutely untrue.

Mr. J. G. MORE: And that Government believed?

The Honourable Sirdar Sir RUSTOM J. VAKIL: Certainly.

Mr. J. G. MORE: With regard to part (e), the reply is "Does not arise." I do not see the propriety of the reply. The question is "Will the Honourable Minister be pleased to state the name of the Collector?" How does the reply fit in?

The Honourable Sirdar Sir RUSTOM J. VAKIL: Because the allegation is believed to be absolutely untrue, and there is no necessity to name the Collector.

Mr. J. G. MORE: Apart from the allegation, the name of the Collector should have been mentioned.

The Honourable Sirdar Sir RUSTOM J. VAKIL: Surely, the questioner must himself know the name.

EMPLOYEES IN THE REVENUE DEPARTMENT IN THANA
DISTRICT : NOTICES OF DISCHARGE.

*Mr. SHANKARRAO JAYARAMRAO ZUNZARRAO (Thana and Bombay Suburban Districts): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether it is a fact that notices of discharge were served on the employees in the Revenue Department by the Collector of Thana during the retrenchment by getting the reports from the Mamlatdars and Mahalkaris direct instead of getting them through the Prant officers;

(b) whether it is a fact that the appeals made by some non-Brahmin clerks and talatis and supported by the Prant officers were not considered by the Collector and that those people were discharged;

(c) whether it is a fact that Mr. Deshmukh, Circle Inspector, Bhiwandi, was discharged without an inquiry being made as to his caste, age and period of service and in preference to some Brahmin servants who had put in more service and had been more advanced in age;

(d) whether it is a fact that a certain person belonging to the backward class, who was formerly a dafterband but was subsequently posted as a talati as a special case in the Wada Taluka was discharged by the Collector on obtaining the report of the Mahalkari instead of that of the Prant Officer;

(e) whether it is a fact that although his appeal was supported by the Prant Officer, the notice of discharge given to him was not cancelled nor was he posted as a dafterband;

(f) the castes of the Mahalkari, the Prant Officer, the Collector and the talati in the case;

(g) whether Government are aware that some of the officers, taking advantage of the retrenchment, have meted out harsh treatment to some of the Mahomedan and backward class servants?

The Honourable Sir GHULAM HUSSAIN: (a) Taluka officers whose headquarters were distant from the camps of Prant Officers were asked to send their reports direct to the Collector since time was short. The orders of Government were issued on the 10th December 1931 and the notices of discharge had to be served before the 31st, with the Christmas holidays intervening.

(b) Applications for withdrawal of the notice of discharge were received by the Collector from 6 Non-Brahmin, Christian and Mussalman clerks and talatis, but were rejected as their past record was unsatisfactory and some of them were personally known to the Collector to be very inefficient.

(c) Mr. Deshmukh was discharged after a proper inquiry. Besides being inefficient and negligent in his duties he was found to have made spurious entries in his diaries.

(d) Yes, but the Mahalkari's report was endorsed by the Prant Officer.

(e) Yes. The Prant Officer's recommendation was inconsistent with his previous report. Mr. Powar could not be given a dafterband's appointment since he had no lien on such a post.

(f) Brahmin, Lingayat, Brahmin and Agri, respectively.

(g) No.

URDU SCHOOLS RUN BY THE SCHOOL BOARD OF THE DISTRICT
LOCAL BOARD, NASIK.

*Rao Bahadur R. V. VANDEKAR (Nasik District): Will the Honourable Minister for Education be pleased to state—

(a) whether it is a fact that the school board of the District Local Board, Nasik, is running Urdu schools in villages where the total population of Mahomedans is below two hundred;

(b) if so, how many such schools there are in the Nasik District;

(c) how many boys from each school of this kind passed the vernacular fourth standard, during the last ten years;

(d) whether it is a fact that these Urdu schools have failed to create any literacy; if so, whether Government intend to advise the District Local Board, Nasik, to close them?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) Yea.

(b) 10.

(c) Only one boy from one of these 10 schools passed the vernacular fourth standard within the last three years. Government have not collected the information for the last 10 years, as requested, as they consider that its collection would entail undue labour.

(d) The results have been unsatisfactory probably partly because they are one teacher schools. An enquiry regarding the future of these schools is being made and Government will on receipt of the Director of Public Instruction's report consider the matter further.

UNSTARRED QUESTION AND ANSWER.

SCHOOL BOARD OF THE DISTRICT LOCAL BOARD, KOLABA
CONSTITUTION OF THE OFFICIAL STAFF.

Mr. N. N. PATIL (Kolaba District): Will the Honourable Minister for Education be pleased to state—

(a) whether it is a fact that the official staff of the school board of the district local board, Kolaba, consists exclusively of men from the Brahmin or the forward class with the exception of one Kumbhar;

(b) if so, whether this action of the board is in contravention of the rules framed for the district board and also in contravention of the resolution of the district local board dated the 24th March 1930 laying down the policy of giving preference to the backward, Mahomedan and depressed classes;

(c) if the action of the board is in contravention of the rules and the above resolution, whether Government intend to take any steps in the matter and if so what steps they intend to take?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) No.

(b) and (c) Do not arise.

SPECIAL POWERS BILL.

(Clause by clause reading resumed.)

Dewan Bahadur D. R. PATIL (East Khandesh District):
Mr. President, I beg to move an amendment to the amendment moved by my honourable friend Rao Bahadur Kale. His amendment runs thus:—

In clause 3 (1), line 3, after the words 'if satisfied' add 'after giving the person reasonable opportunity of being heard.'

My amendment is—

"Omit the word reasonable."

In moving this amendment to the amendment, I beg to submit that whenever Government or the police suspect a person and want to arrest him, when you say that they must give an opportunity to the person of being heard, that opportunity, if allowed, will necessarily be a reasonable one. Therefore, I do not see the propriety of the word "reasonable." To my mind this word is redundant.

Sir, clause 3 gives power to Government to arrest and detain in custody a man whom they suspect as per clause 3. If, unfortunately, the civil disobedience movement revives and occasion arises for Government to arrest a man because of suspicion, naturally Government are entitled to do so. But I say that it is the principle of Western civilization that before a man is condemned he should be heard. It is only right that a suspected person should be heard before he is arrested. I think this amendment is reasonable and is quite in consonance with the principles of Western civilization. We know that these are emergency powers. When a man is arrested, the police will take him into custody and then he will be detained, and perhaps, later on, he will be treated under clause 4—certain conditions will be imposed upon him and if he breaks them he will be prosecuted. Perfectly so; as the Honourable the Home Member said, and very rightly, if a man who is arrested gives an explanation that he wishes to have no connection whatsoever with the civil disobedience movement—and he gives an undertaking to that effect—the man would be released.

My point is, before the man is detained in custody why should not that right of being heard be given to him before his arrest? Because, after a man is arrested, he is kept in custody for a particular period as prescribed in clause 3, and naturally if Government find that the man is stubborn and does not want to yield to Government, naturally he will be treated under clause 4 and certain conditions will be imposed upon him as prescribed in clause 4. That is quite all right, and in that case, if he says that he has no connection whatsoever with the civil disobedience movement, Government will be pleased to release him as has been stated by the Honourable the Home Member. I suggest that before he is arrested actually an opportunity of being heard should be given to him, and if at that stage before he is actually put into custody he says to the police or to any government officer who arrests him "Well, Sir, you want to arrest me on account of a reasonable suspicion against me. But I tell you plainly that I have no concern with the civil disobedience movement.

[Dewan Bahadur D. R. Patil]

I shall never take any part in that movement. For God's sake, do not put me into custody," and in the light of the remarks made by the Honourable the Home Member it is quite clear to this honourable House that if such a statement is made by the suspected person he will not be arrested. If that is the state of things, then I submit that my amendment may be kindly accepted by Government. With these words I move my amendment to the amendment moved by the honourable member Rao Bahadur Kale.

Question proposed.

Mr. J. G. MORE: On a point of information, Sir. The honourable member Dewan Bahadur Patil has made out no case for the omission of the word "reasonable". I wish to know the reasons which he wants to advance for the omission of that word.

The Honourable Mr. W. F. HUDSON: Sir, I hope it will tend to shorten the discussion if I say that although Government are not prepared to accept the exact wording of the amendment or the amendment to the amendment, we do recognise the desirability of introducing some sort of a system such as is proposed by my honourable friend Rao Bahadur Kale, and I hope that he and his friends will be prepared to accept the amendment which we are now going to propose. The reason why we cannot accept this particular one is that in our opinion it comes in at the wrong place. The position really, Sir, is this. In the first place, it is impossible to give a person an opportunity of being heard if he runs away. You have got to arrest him first and then hear him. I think that must be obvious to everybody. Quite a number of people whom we think it necessary to arrest disappear and it is quite impossible for the District Magistrate to hear them until they have been arrested or for the Commissioner of Police until they have been arrested. What in fact happens is that about 90 per cent. of these people who are arrested say at once "It is quite right. We are in for the civil disobedience movement and we are going on with it", and they have nothing further to say, and about 5 or 10 per cent. do say "We have nothing to do with the civil disobedience movement, we never had anything to do with it and we are never going to have anything to do with it". Those are the cases which my honourable friend Rao Bahadur Kale wishes to cover. What actually happens in Bombay is that everybody who is arrested is produced before the Commissioner of Police himself and has an opportunity of being heard although it is not laid down actually in the Act, and if the man who is arrested can satisfy the Commissioner of Police, that settles it; otherwise he records an order of commitment to custody for a certain number of days while he makes further enquiry to substantiate the suspicion of the charge for which the man has been arrested. In the morass it cannot be quite like that and that is inevitable because the District Magistrate cannot run about the district arresting everybody he wants to arrest. That is obvious. I suppose the person who is accused is arrested by a sub-inspector of police and is then produced before the District Magistrate as soon as may be. But, Sir, we do realise that it is desirable that everybody who is arrested should have an opportunity, as the honourable member Rao Bahadur

[Mr. W. F. Hudson]

Kale says, of being heard. I hope I am not going further than I should, but I think it will clear the discussion if I say that we are prepared to add this in sub-clause (2) :—

“ After the words ‘ as the case may be ’ add the following words ‘ who shall forward with his report a written record of the statement, if any, made by the person so arrested.’ ”

That is I think even a better safeguard than what the honourable Rao Bahadur suggested, because it means not only that the man has an opportunity of putting in a written statement but also that that written statement will be before Government, so that Government will have an opportunity of making sure that the officers directing the arrest are proceeding on the lines which we desire; that is to say, the lines of moderation, the lines of giving the man every reasonable chance of not being sent to custody unless it is necessary. If the honourable member Rao Bahadur Kale thinks that that will meet the case, perhaps that will help to limit this discussion.

Mr. V. N. JOG (Dharwar District) : Sir, I was also thinking of giving some such amendment but the Honourable the Home Member rose before I could do so. The amendment which he suggests does not give any opportunity to the person arresting to release that man even if the explanation is satisfactory. Therefore, I have worded my amendment a little differently. I wish to add a proviso as under :—

“ Provided that no person shall be committed to such custody unless he is given an opportunity of being heard in his defence and any explanation he offers, if not satisfactory to the officer mentioned in this section, shall be forwarded to the Governor in Council along with his report.”

The Honourable Mr. W. F. HUDSON : There is no compulsion to commit an arrested person to custody. It is only if his answer is unsatisfactory, if the man's statement is unsatisfactory, that the officer may by order in writing commit such an arrested person to custody.

Mr. V. N. JOG : But that is not in the amendment.

The Honourable Mr. W. F. HUDSON : It is in the Bill. If the honourable member will kindly study the Bill, he will save the time of the House. There is no compulsion whatever. Quite a number of people—I will not say a very large number—quite a number of people, in regard to whom people use the expression “ hauled up ”, are never committed to custody at all, they explain their position, they say a mistake has been made and are never committed to custody. That has always been the case and that is actually in the Bill, but we have never had a written statement.

Mr. V. N. JOG : But after arrest.

The Honourable Mr. W. F. HUDSON : Of course, after arrest.

Mr. V. N. JOG : There is nothing to show that after arrest the arresting officer has got any power to release the man. The officer is forthwith to make a report. Has he got the power to release ?

The Honourable Mr. W. F. HUDSON: Of course, he has. The section says "such officer may, by order in writing, commit any person so arrested to such custody," not 'must', but 'may'.

Mr. V. N. JOG: The second portion of that clause reads "such custody as the Governor in Council may, by general or special order, specify in this behalf". The case is to be forthwith reported. So my amendment only seeks—

Mr. G. DAVIS: Sir, any considerable period of time must involve committal to custody and what clause 2 specifically provides for is (1) the arrest and (2) the optional committal to custody, and if there is no committal to custody, the man is bound to be released, because there is no power in the clause to detain him. So, the fears of the honourable member are not justified by the words of the clause, and I think that the amendment, as has been drafted here (and as has been suggested by the Honourable the Home Member) really serves even a greater purpose than the purpose which the honourable member the Rao Bahadur has in view.

Mr. L. R. GOKHALE (Poona City): Sir, a man is usually committed to custody for a fortnight or less than a fortnight and during that interval this opportunity may be given. Does the proposed amendment of the Honourable the Home Member mean that after the arrest and before he is released or before the orders of Government are obtained, he may submit an explanation? The procedure of obtaining the orders of Government necessarily takes some time during which period he will be in custody and as the report is to be made to Government immediately after the arrest, there will be no opportunity for the man to submit an explanation.

The Honourable Mr. W. F. HUDSON: That may take a little time. That is inevitable. The point is that everybody now will have an opportunity of making a statement in writing giving his reasons why he cannot reasonably be suspected or arrested on suspicion. The number of such cases is very small, but I realise the possibility of that and when the report comes in to Government, it will give Government an opportunity they have not yet hitherto had of seeing that these matters are being properly dealt with by the District Magistrates.

Mr. J. B. PETIT (Bombay Millowners' Association): Sir, I think the point which my honourable friend (Rao Bahadur Kale) has in view is that an opportunity should be given to the person concerned of offering an explanation before the arrest is made, so that the necessity of the arrest may be averted and the man may be saved the indignity of it. But according to the proposal that the Honourable the Home Member makes, the explanation would have to be given after the arrest, that is at the time that the report is about to be sent on to the Governor in Council. Under the circumstances, I think the House should accept the amendment moved by my honourable friend Rao Bahadur Kale.

The Honourable the PRESIDENT: I must put the amendment of the Honourable the Home Member if that satisfies the honourable member Rao Bahadur Kale, but the reply to the point made out by Mr. Petit has already been given. The Honourable the Home Member has said

[The President]

that the difficulty was that an explanation cannot be asked for or obtained from a man before the arrest, if the man absconds or if the man is not found. The officer must lay his hands on the person first, and as soon as that is done, it is proposed that his explanation should be taken and forwarded to Government along with the officer's report.

The Honourable Mr. W. F. HUDSON: The report is to be sent forthwith to Government and I may inform the House that the reports are sent forthwith. We get them in almost as quickly as the post can bring them from the District Magistrates. The reports of the Police Commissioner come in every day so that I think the House need not worry particularly about that.

The Honourable the PRESIDENT: The question which this side of the House wishes to be answered is, when can the man be released after his explanation has been obtained?

The Honourable Mr. W. F. HUDSON: He can be released immediately, there is nothing to prevent that, and that is what actually happens. He may be released immediately. If, on the other hand, the officer who is dealing with the matter considers that further enquiries should be made, he is entitled to commit the man to custody for 15 days, and at the end of the 15 days, the matter comes within the purview of the Local Government.

The Honourable the PRESIDENT: I think the explanation is satisfactory, but that was the difficulty of this side of the House.

The Honourable Mr. W. F. HUDSON: I have explained over and over again that there is nothing to compel; as a matter of fact, it happens every day that a satisfactory explanation is given and the man is released at once and that ends the matter as far as he is concerned, there is no committal to custody or anything of that sort. If the man can give a satisfactory explanation, the matter is over.

The Honourable the PRESIDENT: The officer arresting has also the power of releasing?

The Honourable Mr. W. F. HUDSON: Yes. We are now on sub-clause (1) and this comes under sub-clause 2. I do not know whether it is in order for me to put my amendment now. I have no objection. We are still on sub-clause (1). If the honourable member Rao Bahadur Kale will withdraw his amendment, now that he knows that I am going to propose this amendment under sub-clause (2), then we can get on with the other amendments.

Rao Bahadur R. R. KALE: I think I had better say that I am quite amenable to what the Honourable the Home Member has said. But there are other amendments to sub-clause (1). After they are discussed and disposed of, then I shall withdraw my amendment, because I wish to see how the other amendments fare. Many of those amendments are mixed up with this amendment of mine, so that I shall not withdraw my amendment at this stage.

The Honourable the PRESIDENT: Does the honourable member want me to postpone the consideration of his amendment until all the other amendments to sub-clause (1) are over?

Rao Bahadur R. R. KALE: Yes, Sir. It may be postponed till all the other amendments are disposed of.

The Honourable the PRESIDENT: Very well.

Mr. V. N. JOG (Dharwar District): Sir, the amendment which I wish to move is as follows:

In clause 3 sub-clause (1), line 4, after the words "any person" insert the words "after the passing of this Act".

The object of moving this amendment is this, that there are many cases in which persons have been arrested and detained in custody, though at the time they were so arrested they had ceased to have any connection with the civil disobedience movement. They have been arrested and detained simply in view of their previous connection with the Congress or with the civil disobedience movement. Many times it has happened in the course of these two years that persons who have been detained like this, even after they were released have been again detained a second time. Apart from that, there are persons who have come to know that they have made a mistake in joining the Congress, that in their enthusiasm they had gone a bit further than they ought to, and they have made up their minds not to have any connection with the civil disobedience movement, and have been leading quite peaceful lives, without having anything to do with the Congress or the civil disobedience movement. But the officers, in their enthusiasm, have dragged even such persons as had no connection whatsoever with the Congress at the time when they were arrested. Therefore, Sir, as these people have already seen their mistakes and they have repented, and in order that these persons should not be harassed, this amendment is moved. Otherwise, it will so happen that, simply because they were connected with the Congress some years back, they are likely to be arrested, taking into consideration their antecedents. The purpose of the Government will also be served if they accept this amendment. Because within the course of these two years rounding up has taken place, I can say, four times. First there was the first rounding up. Again a selection was made and then there was the second rounding up. Then there was the third rounding up and the fourth rounding up in the various districts, and I think by this time Government have exhausted the whole list. Now, if this clause stands as it is, it is capable of being interpreted to include past conduct also. If the words "has acted" have got only the sense of the present tense, then I think there would be no objection. But if it is also capable of being interpreted to mean the past tense also, then I submit that there would be difficulty in regard to persons who had ceased to take any active part or any part in the civil disobedience movement, and they are likely to be harassed by this provision. I think this amendment is necessary even to give the people who have a mind to change their activities an assurance that they would not be molested. Otherwise, if an impression is created that even if they have ceased to have any connection with the Congress and are leading quite innocent lives, this sword will be hanging over them, I think they would be rather

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inclined, when they see that on account of their past conduct their fate is sealed, to join the civil disobedience movement again. Therefore, in the interest of peace, it is better that we must have a clear understanding that such persons will not in any way be further molested. With these words, I propose this amendment.

The Honourable the PRESIDENT : If I have followed the honourable member correctly, what he fears is that the words "has acted" in the clause convey to him the idea that acts which are objected to and have taken place before the passing of this Act might be got hold of in order to proceed under this Act. Is that the idea ?

Mr. V. N. JOG : Yes, Sir.

The Honourable the PRESIDENT : In that case, there is an amendment to omit the words "has acted". If that amendment is carried, the honourable member's object will be served. The addition of the words "after the passing of the Act" will not be necessary then.

Rao Bahadur G. V. PRADHAN : If the amendment to omit the words "has acted" is not carried, then what will happen ?

The Honourable the PRESIDENT : Then the honourable member's amendment will come in in proper time.

Mr. V. N. JOG : My amendment would serve the purpose of all — "has acted, is acting, or is about to act", it will apply to all. "Has acted", "is acting" and "is about to act" must be after the passing of this Act. It has reference not only to "has acted", but to "is acting" and "is about to act" also, though the words "is acting" and "is about to act" must naturally be after the Act.

The Honourable the PRESIDENT : Quite.

Mr. V. N. JOG : If the words "after the passing of this Act" are inserted, it will be applicable to all the three.

The Honourable the PRESIDENT : Does the honourable member wish to apply them to all the three ?

Mr. V. N. JOG : Naturally, "is acting", or "is about to act" must be after the passing of this Act—

Question proposed.

Mr. P. R. CHIKODI (Belgaum District) : Sir, I support the amendment moved by my honourable friend from Dharwar (Mr. Jog). It is really very strange that a man should be arrested or punished on account of his past acts. I know of cases where persons were arrested immediately after the promulgation of the Ordinances without waiting for the commission of any objectionable acts by them. Perhaps they could have quietly remained in their homes. But unfortunately, being arrested, they have to be in jail. It may be that some persons having had experience of jail life in the previous year, or on account of a certain change that might have taken place in their mind or in their policy, might refrain from doing any overt act that will bring them under this measure. But because some two years ago they have done something in furtherance of the civil

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disobedience movement, or they had any connection with the Congress movement, that they should now be hauled up and arrested and proceeded against does not appear to me to be fair. The amendment moved by my honourable friend seems to be quite reasonable. If a man commits any overt act in furtherance of the civil disobedience movement after the passing of this Act, then surely he deserves to be proceeded against, and his action will have been committed with his eyes open. But the man should not be punished for what he has done in the past.

Therefore, I hope that Government will accept the reasonable amendment that has been moved by my honourable friend Mr. Jog.

Mr. G. S. GANGOLI (Kanara District): Sir, the difficulty is that the deletion of the expression "has acted" may embarrass the Government in some cases. So my honourable friend Mr. Jog says like a lawyer that all the three expressions, "has acted", "is acting" and "is about to act" should come within the scope of his amendment. But in stating that he says that the words "after the passing of this Act" must be inserted. I would suggest another amendment to that, and it is as follows:

For the words "after the passing of this Act" substitute the words "after this Act comes into force".

The Honourable the PRESIDENT: It means the same thing.

Mr. G. S. GANGOLI: No, Sir. My point is that this Act will be passed within a week or so, but it will not be brought into operation before the end of this year, because till that there is the special Ordinance of 1932 in force. Now, let us look to clauses 31 and 32. Clause 31 says:

"Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Act."

That would mean that if a person commits an offence to-day, or, say, after the Act is passed, or after a week after that, he will be punishable under two different Acts, once under the Ordinance and again under this Act. If my honourable friend's amendment is accepted, in view of clause 31, the offender may be hauled up both under the Ordinance and again under this Act, if my interpretation of clause 31 is correct. If not, then why is clause 31 there at all? So, I move that:

Instead of the words "after the passing of this Act" the words "after this Act comes into force" may be inserted.

Question proposed.

Mr. V. F. TARAPOREWALA: Mr. President, the first mistake made by honourable members with regard to this clause is that it is meant to provide for the punishment of an offence. There is no question of punishment of an offence at all. It must be remembered that it is a preventive section. There is no question of a person being proceeded against under two Acts or three Acts on the same facts. Further, the words "has acted" are absolutely necessary, first because this Bill will be really for the purpose of continuing the law which is already in existence for the prevention of these activities. It is not a new law coming into force for

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the first time. An existing law is being again extended by this Bill when it is passed into an Act. Honourable members will see that those words are absolutely necessary, because, take this instance. Supposing a man has acted one day before the Bill comes into force, is preventive action not to be taken till he is supposed to be acting or he has acted again after the—

Mr. P. R. CHIKODI : On a point of information. Will the honourable member the Advocate General explain the significance of clause 32, which is intended for the continuance of the Ordinance ? I am drawing his attention to this clause 32 which is intended to cover the continuance of the cases under the Ordinance.

Mr. V. F. TARAPOREWALA : The honourable member will see that it only provides for the continuance of orders which are made. Supposing that a person has acted and it is not known that he has acted in contravention of these provisions to the officer who wants to arrest him for that purpose, how can the continuance of the orders under Ordinance help him ? The orders under the Ordinance are validated so far as they are made. But if a person acts say seven days before the Act comes into force and it is not known to the officer there would be no order made under the Ordinance to arrest or detain him. The whole object is to prevent such a person from taking further part in the illegal activities. Therefore, I submit to honourable members that these words "has acted" are absolutely necessary. There is no question of offence being committed. It is only a question of preventing the person from acting in an illegal manner which is prejudicial to public safety and peace. If he has acted a month before and it is not known and no action was taken, it is necessary that the officer should have power to take action under this Act.

Then, again, there is no question of punishment. If he has acted say four months before, immediately after he is arrested he will be asked what he did ? He can explain that he did so four months ago and he ceased his activities four months ago. If the District Magistrate is satisfied with his statement he will not order his detention at all. Again after 15 days, if Government are satisfied with his explanation, he will be released. There is no question of punishment of a man once or twice. There is no question of inflicting hardship for something which he has done in the past. I submit that the words "has acted" are absolutely necessary. So, neither amendment can be accepted by the Government.

Dr. M. K. DIXIT (Surat District) : Sir, I support the amendment moved by my honourable friend Mr. Jog. My reasons are as follows : I have an amendment immediately following this which asks for the omission of two things—"has acted or is likely to act." The first part of my amendment was tabled only on this consideration that many people who would have been spared the arrest and conviction had to go to jail, because of this procedure. In spite of what the Advocate General said, I do not feel convinced about this point. He says in Bombay Police behave with great moderation in operating the Ordinance. It may be true for Bombay. He imagines that the whole Bombay

[Dr. M. K. Dixit]

presidency resides in the Bombay city. That is not the case. What happened during the promulgation of the Ordinance of 1932? All people who have taken part in the civil disobedience movement during and after the memorable march of Mahatma Gandhi for breaking the Salt Act, all the people who took part in that were convicted and sent to jail. Probably a list of those who were convicted was kept and as soon as the Ordinance of 1932 was promulgated, all of them were rounded up and sent to jail. They were kept in jail for 15 days. The District Magistrate issued orders that they should attend the parole ranging from once a week to three times a day or reside in a particular place or give an undertaking of this or that. All these people considered the compliance with the conditions of the order humiliating and were driven to break them. Then they were brought up before the Magistrate for disobeying the order and convicted. I assure you, if these people, after arrest, were given an opportunity to explain their position they would have said that they once acted unlawfully or once did an unlawful act and that they had no idea of breaking the law again. But this opportunity was not given to them. If the same procedure is adopted in the mofussil as it has been done uptil now, all these people who have been convicted a second time and released from jail after the expiry of the sentence they will be again sent to jail, if such humiliating orders are repeated. I am afraid they will not obey the orders, because they consider that very humiliating and again they will be hauled up. This process of finishing the period of sentence and again being arrested by the police again disobeying the humiliating orders and again convicted because they once acted against the laws of Government or laws passed by this Council, there will be no end to this sort of repression. I am afraid that the object for which this Act is being passed will be frustrated altogether. The Honourable the Home Member said that it is more a preventive law than actually punitive. But in practice it has turned to be provocative of disobedience of orders of the District Magistrate in one form or another. Instead of provoking people to disobey orders, if in the Act it is provided that those who have acted in any way prejudicial to public safety after the passing of this Act, it will be perfectly reasonable to say that they are taken hold of and dealt with under the Act. But those who had acted in 1930 and served a term of imprisonment were again hauled up in 1932 and sentenced to a further term of imprisonment; after the passing of this Act, they will be again dealt with according to this Act as they had acted in 1930-32 in a prejudicial way and then put into jail a third time for not obeying the orders of the District Magistrate. If the object of the Bill is to prevent civil disobedience movement, an opportunity should be given to these people without subjecting them to any molestation or humiliation. I submit, therefore, as this tallies with the first part of my amendment, I heartily support it.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I want to know exactly the position which Government want to take on this basic principle. I will illustrate it. Supposing that a man commits theft or dacoity he is tried and sentenced to imprisonment. He suffers for

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the sin or crime he has committed. Not only that, if the criminal was so dangerous, the police authorities or the public prosecutor insist that an order should be made that he should report himself to the police for a certain period. Now, to my mind, if the explanation offered by the Advocate General is true it appears to me to be quite clear that Government want again to send to jail the 13,000 or 14,000 people who are now in jail. In Ahmednagar itself—I am not talking about Bombay where the public freedom is on a higher level—last year when this Ordinance was promulgated and these people returned to Ahmednagar, after having suffered imprisonment, were again arrested under a similar provision, and kept in jail for 15 days and transferred under the orders of the Governor in Council to Yeravda. The only offence that they committed was that in 1930 they had disobeyed the order. Nobody asked whether they would act in that way or not. I can cite instances in hundreds. In Poona also those gentlemen who had gone to jail did not want to go into jail for a variety of reasons which I make a present of to the Advocate General. They did not want to go to jail because of family circumstances. They are heads of their families and they have suffered imprisonments. Simply because a man has acted in a manner prejudicial to public safety, he is to be hauled up. If that is done, why should he be arrested in the first instance ?

The Honourable Sir GHULAM HUSSAIN : You are wrong.

Rao Bahadur G. K. CHITALE : I thought, Sir, that some suggestion was made that it was not correct. We lawyers are habituated to look to the wording of the section ; the wording of the section is clear to me. If I were an officer, I would use the powers. There is nothing to prevent me from doing so. If I am an officer to administer this particular section if I am satisfied with all the conditions that there is reasonable ground for believing that A has acted in a prejudicial manner in 1930 and likely to act in the future, I will haul him up. So, what this side is entitled to know is if that is the object with which this Bill has been brought, I hope we will bid good-bye to this House in a body and it is much better that we do not take part in the proceedings. We are here for a particular purpose. The words are capable of that meaning. I stake my reputation as a lawyer and am prepared to take that case to a court and offer myself for arrest and see that the court will say that the order is correct.

The point at issue is this. Reading the section as I hope the Advocate General would read in rather cooler moments, he will find that the power is this. It is a preventive power so that I may not do any mischief, and as prevention is better than cure, because I have done some act and suffered imprisonment for it in the past I am a bad character. And because I have done some act in the past it is likely that I might repeat it again and so I come within the four corners of this section. You will see, Sir, that any officer of Government, authorised of course, can arrest a person provided that there are reasonable grounds for believing that any person has acted, or is acting or is about to act. The section does not say that the action complained of ought to be after the passing of the

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Act. These are the words, which to any person who understands the language clearly are only capable of that meaning. The officers, though some of them are liberal-minded, must administer the law as they find it. Therefore, Sir, the section is very calamitous. If Government insist upon having the section as it stands now, I do not think there is any fun in co-operating with Government by taking part in the discussion of this Bill. Sir, it is a calamity. Suppose I have committed an act. I have suffered imprisonment for my action. Which criminal jurisprudence in the whole world is there which causes an action to be taken against a man for an offence which has already been purged? I should consider it is a position which is intolerable to this part of the House. I hope that the honourable members on this side of the House, if they are capable of any self-respect will resent this, that a man should be punished by arrest—because arrest is in itself a punishment—for an action for which he has already suffered, and I hope the House will not accept the wording of the section as it is unless a safeguard is put in, namely, “after the passing of this Act.”

The Honourable Mr. W. F. HUDSON: I hope that the honourable member who spoke last does not contemplate action in the nature of a walk-out. That parliamentary gesture can be used too often, and it is not very long since honourable members opposite resorted to a walk-out. But it will be a source of great regret to Government if anything of the kind occurs, and I am sure it is not the intention of Government not to give a fair consideration to the honourable members of this House in the matter of discussion even though we might not agree with much of what they say.

I bow with all respect to the legal knowledge of my honourable friend Rao Bahadur Chitale, but we must interpret this section as plain men. It is perfectly true that if a man purges his offence by going to jail we do not take action against him for his previous misdeeds again. We do, of course, take action against him if he repeats those misdeeds. There have been quite a number of people who have come out of prison—and a good many of them have learnt their lesson—yet apparently there are some who have not learnt their lesson, and who think, to quote the words of one of their leaders, that civil disobedience is a religion or political faith, and who consider that it is absolutely essential to continue in the course which they have adopted. Do you mean to suggest that in such cases Government should not take any action? I cannot agree to that, nor do I think that the House will approve of any such action. But if a man comes out of jail and proceeds to lead a quiet life like a good citizen he is not hauled up again under any circumstances whatever. I do not say that there may not have been a case or two of the kind. But I do say that the policy of Government is that when a man comes out of jail we give him *locus poenitentiae* and there is no notice taken of him because he took part, say, in a salt raid in 1930. But what we want to take notice of are his actions during the last few months. If we omit this section the result will be this. Suppose somebody organises a serious salt raid on the 28th of December this year and the

[Mr. W. F. Hudson]

Act comes into force on the 29th of December. Is no action to be taken against him ?

Rao Bahadur G. K. CHITALE : He comes under the Ordinance.

The Honourable Mr. W. F. HUDSON : The Ordinance will have expired by that time. What we are doing by this section is making action possible. He is a man who organised the raid and then disappeared into the United Provinces. So, by this section we are validating the order for his arrest.

Mr. V. N. JOG : On a point of information, Sir. When does the Ordinance expire ?

The Honourable Mr. W. F. HUDSON : I think on the 29th of December.

Mr. V. N. JOG : You can take action against him under the Ordinance.

The Honourable Mr. W. F. HUDSON : Will the honourable member try to understand the position ? I am putting it as a test case. I am quite prepared to say that the salt raid takes place on the 28th December. A very serious attack on Government property ! After doing it he disappears. We know quite well who the man is. On the 29th of December the Ordinance lapses. If my honourable friend's amendment about " after the passing of the Act " were enforced we would not be able to do anything against this man. Surely this is not a logical position. Our section permits an order made under the Act. That is what is meant by " has acted ". The honourable member will see that there is no particular reason why a man who has committed an attack on Government in the last month before the Act came into force should go scot-free. That would be the result of this amendment. I may assure the House that Government have no intention to go back on past history. Every month the number of orders under section 4 are decreasing. From 700 a month the number has come down to 100. I am able, I am glad to say, to close jails, and no one is better pleased than Government by this change in the situation. Our desire is that as few people as possible should go to jail. But the amendment would make it impossible to take action against a man who has committed an offence before the passing of the Act, and therefore, I cannot possibly accept it.

Mr. L. R. GOKHALE (Poona City) : Sir, the point at issue is very clear. The question is when a person has acted in a certain way before the new Act comes into force, whether his acts should be made punishable under this Act even though he has taken no steps or has not acted in any particular way after the Act comes into force ! That is the only issue before the House. The opposition thinks that a person should not be hauled up for actions done previous to the passing of this Act. There are two reasons for this. One is that if he has acted in a particular way while the Ordinances were in force he might have been dealt with under the Ordinances. If he was not so dealt with under the Ordinances then his case was either trivial or did not deserve the attention of Government. Is it necessary to deal with such acts under this Act ?

[Mr. L. R. Gokhale]

We all know that the times have now cooled down so much. Is it therefore worthwhile to take notice of past actions? I think it is a point on which the Honourable the Home Member will certainly give in. Then I would also suggest that the amendment to the amendment proposed by my honourable friend Mr. Gangoli is also reasonable. The Act may be passed on a certain day and it may come into force later on in a particular district. The amendment of Mr. Gangoli suggests that the date on which the Act comes into force should be the day on which Government should take cognisance of an offence. Perhaps if the whole Act is not to be enforced throughout the presidency, as we expect, it is just likely that for certain months the Act will not be enforced in Deccan or in Kanara; I therefore suggest that the amendment to the amendment should be accepted by the honourable the mover of the amendment Mr. Jog.

Now, all this discussion is very valuable from various points of view. The first phraseology in section 3 is "has acted", the second is "is acting" and the third is "is about to act". So there are three stages in the action of an individual. He might have acted, he may be acting and he may be about to act in future. His actual actions are covered by the first clause. As regards the second clause there are certain amendments following and I do not wish to take the much valuable time of Government at this stage. I agree entirely with the statement of the Advocate General that this is a preventive measure. In ordinary cases where a man has suffered punishment for his acts, he is not hauled up again. But here the very punishment that the man has suffered is sought to be made the ground for an officer to bring a man under the clutches of this section. That appears to be the burden of the statement of the Advocate General when he says that this Act is a preventive measure. I ask, Sir, is it certainly so important that such a man should be brought again under the clutches of this Act, unless the Government thinks that there are certain individuals who should be kept in custody all along. If the Government really think that a particular man must be in jail, then I think, such a person will again break the law and in that case he will be jailed. But is it necessary that because he acted once in a particular way he should always be in jail and liable to be jailed as often as the executive officer may think it necessary? This is the question to be considered. The Advocate General said that it is a preventive measure. Although it is a preventive measure, is it necessary that a man who has actually suffered a punishment for his actions should again be arrested? However preventive the measure may be, there is a limit to which it should go. I therefore suggest that it will not be unwise if we say that such a man should not be touched unless he does an overt act after the Act comes into force. So long as he does not do any overt act after the Act comes into force he should be allowed to be a free man. That would not be too kind to anybody and would be in keeping with the principles of law. The extraordinary powers given should not be allowed to be exercised in the manner I have suggested as possible. From that point of view, I support the amendment and also the amendment to the amendment.

The Honourable Sir GHULAM HUSSAIN : Mr. President, I have heard the last speaker and one or two other honourable members who belong to the legal profession. The Honourable the Home Member has made a very clear statement about clause 3. He made it clear to the honourable House that the object of this clause was not to convict a man twice. Yet, I was surprised when the last speaker tried to confuse the issue and to give an impression to the honourable House that the position was "once a thief always a thief". It is far from the intention of Government or of this clause. If a man is once sentenced, after the expiry of his sentence, unless he commits an overt act as is contemplated by clause 3, nobody will arrest him. Sir, that should satisfy the honourable House. That was the explanation given by the honourable member the Advocate General and by the Honourable Member in charge of the Bill. Yet, attempts are being made to frighten the House that under this clause once a man is a thief he will always be a thief—if he has once gone to jail, as soon as he comes out of jail, he will again be arrested and put into jail. That is not the intention of this clause at all.

Then, the second point that the honourable member was making—

Mr. P. R. CHIKODI : Sir, on a point of information. Is the Leader of the House willing to insert a provision to the effect that unless a man does any overt act no action will be taken against him ?

The Honourable Sir GHULAM HUSSAIN : It has been made clear by the legal officers. It is quite clear; there cannot be any other interpretation of this.

Mr. P. R. CHIKODI : What harm is there if a provision is inserted to that effect in order to satisfy this side of the House ?

Mr. L. R. GOKHALE : Sir, does the honourable member the Advocate General accept this interpretation of the Leader of the House ?

The Honourable Sir GHULAM HUSSAIN : Sir, the object is this. We have at present the Ordinances; they are to expire on a particular date. Now, if a man does anything which can bring him under clause 3 and absconds, then no action can be taken against him under the Ordinances, because a man has to be arrested and after that only an order can be passed. In order to bring him under the Act, the words "has acted" have been put in.

Again, another point made by the last speaker was that we give a man no *locus poenitentiae*. Taking for granted that his construction of the clause is correct, and that a man who once acted against the provisions of this Act and went to jail is arrested when he comes out, even then, if he makes a statement, as proposed by the Honourable the Home Member, that he will have nothing to do with the movement, he will be let off; he will not even be sent to custody or be prosecuted. Therefore, it is not the case that he is not given a *locus poenitentiae*. If he wants to repent, he can say "I will have nothing to do with the movement" and he will be let off.

Mr. L. R. GOKHALE : On a point of personal explanation, Sir. I do not want to confuse the issues. I want to know whether the honourable

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member the Advocate General accepts the explanation given by the Leader of the House.

The Honourable the PRESIDENT: The honourable member is repeating the question which he asked a little while ago and which was not answered.

Rao Bahadur R. R. KALE: I do appreciate the contingency which he said might arise. If it does arise, however, cannot that be provided for by adding some words to that effect? Say, "after the Ordinances"?

The Honourable Mr. W. F. HUDSON: I am afraid I cannot accept that. It is quite possible—I do not know of any particular case—but it is quite possible that there may be one or two dangerous agitators who gave us immense trouble and have disappeared even for over a year. On their return action will be taken against them. I am not denying that for a moment. But those numbers must be very few and that can only be in the case of conspicuous individuals who will certainly repudiate any suggestion that they have given up civil disobedience.

Mr. V. N. JOG (Dharwar District): Sir, I am sorry to say that the Honourable Member the Advocate General has not properly understood me. I never meant that this clause was meant to punish persons in the sense that a person is taken before a criminal court, tried under the Penal Code and punished. I said that if there was any offence at all, the punishment was detention. On his own showing, he said that it was a preventive section and was not meant to punish people. If so, I cannot really follow why Government is unwilling to accept my amendment. If this clause is not a penal clause and if by this clause they only want to prevent the actions of persons, I cannot understand the logic of the other side in opposing my amendment. They took an extreme case as illustration. They said that if some acts were done just before the 29th of December, when the present Ordinances would expire, they could not get hold of the persons concerned and punish them. Was that the idea underlying this clause? Is that not punishing? If the only object is prevention, as soon as this Bill is passed, there is the likelihood of those persons committing the same offence and giving cause to Government to bring them under the new Act. If they do not commit any offences after the Bill is passed so much the better. They will have ceased to commit their nefarious acts and Government would be saved the trouble of dealing with them. Supposing there is a short interval between the expiry of the Ordinance and the passing of this Act and if by chance there are one or two cases of that type, what does Government lose? Only they may not have the satisfaction of punishing the man for his acts during that short interval. I suggest that such extreme cases would not occur, and even if they do occur, Government will not lose much.

As regards the amendment of my honourable friend Mr. Gangoli, I have considered whether I should accept it in order to meet the extreme cases taken by Government, and I feel that I should stick to my own phraseology "after the passing of this Act"; that means as soon as the Act passes

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this House through its three readings. The amendment is "after this Act comes into force." I think the Act is likely to come into operation before the 29th of December or at least to be passed before that day. If anything happens after the passing of this Act and before the sections are applied—the application of the sections is different from the passing of the Act—if anything does happen, even then under clause 3 action can be taken. I do not see what difficulty Government have: really I have not been able to understand it.

Then, a side question was raised about punishing a man twice. When I moved this amendment, I had not in mind the instances which were cited by the honourable member Rao Bahadur Chitale and about which assurances were given. It may be that it is the intention of Government not to punish a man twice for the same offence. I would repeat what I have suggested in my opening speech. So many round-ups have taken place during the last two years that almost all people who have committed any offences have been either detained, let out on parole or sentenced for breaking the conditions imposed on them. I do not think after all the vigilance of Government and their staff, there is left any instance where persons coming under this clause have escaped. Now, Sir, imagine what would happen after the passing of this Act. The Police Department is considerably manned now. The recruits who have been temporarily or permanently engaged for ordinance would not like to lose their job. Whenever a certain department is retrenched, a howl is raised; even when they hear that the re-organisation committee is going to propose retrenchment in a certain department, we find agitation that that particular department is very useful and therefore should not be retrenched. After all, it is human nature. Now, the police department has been much enlarged on account of the emergency and a large staff has been added to that department. If they find they have no work, even when there is no fresh cause given, they may arrest persons on the ground that they had acted in a manner prejudicial to the public safety or peace two or three years ago. A man who has returned from jail and has been leading a peaceful life without giving any cause for complaint may be arrested if the clause merely says 'has acted'. If anybody arrests him he will be quite within the clause. The matter will come to the knowledge of Government only when it is reported to them. In order to safeguard against such misuse, why should not Government accept the amendment?

I do not see any difficulty. The Honourable the Home Member said that there are persons who have done certain acts a year back and have absconded and have never returned. As I have already answered that point that if what the Government wants is that there should be peace and order, when the men have absconded or run away, they cannot trouble or harass Government now because they are in hiding or they have run away, and they are not molesting Government any more. If that is the object and not to punish them, I submit, Sir, that Government should not have any difficulty in accepting this amendment for one or two stray cases which they imagine and I submit, Sir, that the wording

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which I have put in there "after passing this Act" will clearly cover all the cases, because it will not be long before we pass this Act. I think it will be before the 29th of December and any act which may be done before that date will come under the purview of ordinance. So, I submit this is an amendment which should be accepted by Government.

Mr. G. S. GANGOLI : Sir, I beg to withdraw my amendment to the amendment.

Amendment to the amendment, by leave, withdrawn.

The Honourable Mr. W. F. HUDSON : Sir, I have nothing further to say on the amendment of my honourable friend Mr. Jog except that I note with satisfaction that he anticipates that this Bill will be passed into law by the 29th of December. Judging by the pace at which we are proceeding at present, I should think it is highly improbable.

Question put. The House divided : Ayes, 28 ; Noes, 53.

Division No. 9.

Ayes.

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
DHALUMAL LILARAM, Mr.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GILDER, Dr. M. D.
GOKHALE, Mr. L. R.
GOVER RORA, Mr.
JOG, Mr. V. N.
KALE, Rao Bahadur R. R.
KAMAT, Mr. B. S.

KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.
MEHTA, Mr. M. H.
MORE, Mr. J. G.
NAIK, Rao Bahadur B. R.
PATEL, Mr. C. N.
PATIL, Mr. V. N.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SURVE, Mr. A. N.
SURVE, Mr. V. A.
TOLANI, Mr. S. S.
VAISHAMPAYAN, Dr. V. G.
VAKIL, Mr. PESTANSEAH N.

Tellers for the Ayes : Mr. J. G. MORE and Dr. V. G. VAISHAMPAYAN.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN,
Khan Bahadur
ADVANI, Mr. P. B.
ALLAHBAKSH, Khan Bahadur
ABBUTHNOT, Mr. C. W. E.
ASAVALE, Rao Bahadur R. S.
RANGI, Mr. A. K. J.
BHUTTO, Sir SHAH NAWAZ
BIJARANI, Khan Bahadur SHER MUHAM-
MAD KHAN
BIBADAR, Sardar MAHABOUBALI KHAN
BOLE, Rao Bahadur S. K.
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
CLAYTON, Mr. H. B.
COOPER, Khan Bahadur D. B.
DAVIS, Mr. G.
DHCRANDHAR, Mr. J. R.
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GHULAM NABI SHAH, Khan Bahadur
GREAVES, Mr. J. B.
HAMPTON, Mr. H. V.

HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur
JAN MAHOMED KHAN, Khan Bahadur
JONES, Major W. ELLIS
KAMBLI, the Honourable Dewan Bahadur
S. T.
KHUHHRO, Khan Bahadur M. A.
MASTER, Mr. A.
MAXWELL, Mr. R. M.
MEHERBAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
MODAK, Rev. R. S.
NAMDRORAO BUDHAJIRAO, Mr.
NAVLE, Mr. N. E.
NAWAB SHAH ROOKH SHAH YAR JUNG
BAHADUR
OWEN, Mr. A. C.
PATEL, Khan Bahadur A. E.
PATIL, Mr. N. N.
PRATER, Mr. S. H.
RAFIUDDIN AHMAD, Moulvi Sir
ROOSE, Mr. F. O. J.

Noes—*contd.*

SEVAL, Mr. A. E.	TALPUR, MIB BANDEH ALI KHAN
SHAIKH ABDUL AZIZ, Mr.	TARAPOREWALA, Mr. V. F.
SHANKARRAO JAYARAMBAO ZUNZARRAO, Mr.	THAKOR OF KERWADA, Sardar BHASANEH RAISINHJI
SINDHA, Mr. MADHAVSANG JORBHAI	TURNER, Mr. C. W. A.
SOLANKI, Dr. P. G.	VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
SPENCE, Sir REGINALD	

Tellers for the Noes : Mr. S. H. PRATER and Major W. ELLIS JONES.

Dr. M. K. DIXIT (Surat District) : Sir, I beg to move :

In line 5 of sub-clause (1) of clause 3, omit the following words "has acted" and "is about to act".

The Honourable the PRESIDENT : May I suggest one thing? The arguments cannot be any fresh ones, because honourable members must bear in mind that on the last amendment all possible views have been expressed. If honourable members would confine themselves to a few remarks, they would save the time of the House.

Dr. M. K. DIXIT : Sir, I do not want to say much in regard to the first part of my amendment, because I have already expressed my views on the matter, but regarding the second part, namely, to omit the words "about to act", I wish to say that this is a power which is likely to be misused very much. One can understand that a man is acting, and the authorities take hold of him. There is nothing wrong in it, and nobody has any ground to complain about it. But the words "about to act" are a very dangerous power in the hands of the small people. The usual procedure by which this information is collected is by very low paid constables, who go about the streets in plain clothes and collect information. They report this information to their superior officers, and on the strength of that information action is taken. If this information turns out to be correct, well and good; there is nothing wrong. But very often people commit little acts by which the dignity of these lower constables is hurt, by way of a refusal to accede to their request for propitiating them in one way or another, and then they are liable to draw more upon their imagination than upon reliable and accurate information, this information is likely to be wrong. Therefore the men who have the strength of mind not to propitiate these petty officers are likely to be harassed. Therefore, these words "about to act" are likely to do harm to a very great extent. After all, if a man is about to act, he is sure to act in a day or two, and if he does Act, he had better be hauled up. Just to save the possibility of that information being incorrect, I think it is best that from a legislative point of view these words should disappear altogether from the clause. With these few remarks, I move the amendment of which I have given notice.

Question proposed.

Rao Bahadur R. S. ASVALE : Mr. President, I have got an amendment, and I would move it as an amendment to the amendment. It will be :

In the amendment moved, omit the words "has acted."

The Honourable the PRESIDENT : The honourable member wishes to turn the amendment he has tabled into an amendment to the

[The President]

amendment. If the honourable member Dr. Dixit agrees, he may split up his amendment into two parts.

Dr. M. K. DIXIT: Yes, Sir. I have no objection to it.

The Honourable the PRESIDENT: I shall put the omission of the words "has acted" and "is about to act" separately.

Dr. M. K. DIXIT: I accept that suggestion. I have no objection to splitting up my amendment.

The Honourable the PRESIDENT: The honourable member Mr. Gokhale also has an amendment. That may be moved after the others are disposed of.

Mr. J. G. MORE (Sholapur District): Sir, I rise to support the amendment proposed by my honourable friend Dr. Dixit. In view of the fate of the amendment of my honourable friend Mr. Jog, I think this amendment becomes very important. At the same time, I express my thanks to the honourable the Leader of the House for giving an assurance that the object of the Government is not to convict twice any person for one offence. I hope Government will act up to their words, and there is no doubt as to that. But we are concerned here with a piece of legislation by which the courts are to be guided. From that point of view, the interpretation of the clauses of the Bill becomes very important. The fact that Government were pleased to give an assurance to this House will not be taken into consideration by the courts when the matter is referred to them. In view of that, I think we must take particular care as to the wording of the Act. Now, as I said, in view of the refusal of the House to pass the amendment of my honourable friend Mr. Jog, this amendment becomes very important. If these words are retained in the clause, then the persons who are likely to be released during the life of this Bill may be re-arrested and brought under the provisions of clause 3 for their past acts. So, we ought to take precaution to see that the wording of the clause is such as not to cover the cases of persons who are released during the life of the Bill.

Sir, the other day His Excellency was pleased to address us, and in his address he referred to a very sound doctrine, and that doctrine is that Government should be based upon argument and reason. Here is a perfectly reasonable amendment, and I am afraid unless it is accepted by the House the courts may interpret the clause, if it stands as it is, to include the cases of those who may be released from prison. So, I ask in all earnestness that this House will be pleased to accept the amendment proposed by my honourable friend Dr. Dixit.

Mr. G. DAVIS: Sir, I have often had these words, "has acted, is acting or is about to act" brought before me for interpretation. I do not suggest that my interpretation is the only correct and proper interpretation. But my honourable friend Rao Bahadur Chitale said that if he put his interpretation before any court, the court would accept it. I undertake to say that there is one court in which it would not be accepted, and that would be mine. I have always read these words "has acted, is acting or is about to act" together; they are intended to be

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read together, and I do not think any one reading these words would say "has acted" was intended to extend right into the remote past, and when one comes to interpret these words, one looks at these three phrases as three aspects of the same thing. The whole purpose under this Act is to take action against the man who has associated himself with a definite movement which is dangerous to the existence, even of society, so that he may not continue to associate himself with it. It may be Government has only evidence that he has acted in the near past. They may have confidential information, on which they rely, that he is about to act. They may have evidence that he has actually acted. Therefore, they take action on the material before them; and in each particular case there must be certain information. It may relate to the man's past acts, it may relate to his present acts, it may relate to his future acts, but action under all three circumstances may be necessary. So far as the arguments are concerned, namely, "Oh, how can you take action against a man who is about to act? Why not wait until he has acted?" When one man is about to commit murder, you do not wait until he has committed the murder; you try and prevent him from committing murder.

So far as the argument is concerned, that the man should not be punished twice for the same offence, clause 4 has been sent to me, and I have always said, and I believe what I have said has been accepted by Government, that where an order under clause 4 has been issued against a man for certain acts in the past, another order cannot be issued against him for the same acts, but Government must wait until they have got further material. That is the way it has always been interpreted, and that is the way it would be interpreted by any fair and honest man. Therefore, I say that action on all these three different aspects of the same thing may be necessary, and I oppose the amendment.

Mr. G. S. GANGOLI (Kanara District): Sir, I have something to add.

The Honourable the PRESIDENT: Something fresh to add after all this discussion?

Mr. G. S. GANGOLI: Yes, Sir. I do not think this Act is to have retrospective effect. There is nothing in this Bill to show that it will have retrospective effect, and I think the honourable member the Advocate General will bear me out that such an Act will never have any retrospective effect. Further, Sir, this Act is to be in force for not more than one year, unless it is extended, and nobody will say that it will be in force for more than three years. If any person has acted before this Bill is passed into law and if that is taken as an offence, then the period will automatically be increased; it will be more than three years, and that also is beyond the scope of this Act.

Now, Sir, the only reasonable argument advanced by the Honourable the Home Member is this, that there are some few cases, very very rare indeed, in which the persons have absconded and they could not be arrested. It is for that only that the words "has acted" are to be there. Well, Sir, I should think that if there are persons who have absconded

[Mr. G. S. Gangoli]

for years and years, with all the rigorous vigilance of the police officers, then they must be very very hard culprits. And is this clause 3 to be applied to them? For, what is it that clause 3 provides. There is no offence, there is no punishment. It provides for arrest and detention for two weeks or two months. Does the Honourable the Home Member seriously suggest that this clause is meant to cover the cases of such hard culprits, and that they should be punished only with detention for two months, without any further punishment or fine? I think in order to deal with such cases the inclusion of these words "has acted" giving the Act retrospective effect is quite uncalled for. In view of what I have said, I think that the Honourable the Home Member will see that such culprits are arrested and brought to book under any other law or under any other clause of this Bill, not under clause 3, under which such persons will be let off with very lenient treatment. So, Sir, I have to support this amendment.

Dr. M. K. DIXIT: I have nothing more to add by way of reply.

The Honourable Mr. W. F. HUDSON: I have nothing further to add. The honourable member the Remembrancer of Legal Affairs has dealt with the point better than I could have done.

Question, "That the words 'has acted' be omitted," put, and declared lost.

Rao Saheb P. D. KULKARNI: I claim a division.

The Honourable the PRESIDENT: Is the honourable member serious?

Rao Saheb P. D. KULKARNI: Always serious.

The Honourable the PRESIDENT: If honourable members do not save the time of the House—

Rao Saheb P. D. KULKARNI: The time of the House would have been saved if the Bill had been referred to select committee.

The Honourable the PRESIDENT: He is at liberty to call for a division, but a division should have a significance.

Rao Saheb P. D. KULKARNI: We want to record our opinion in order to show to our constituency what attitude Government take on our amendments.

The Honourable the PRESIDENT: I can take down the names of honourable members who vote for the amendment.

Dr. V. G. VAISHAMPAYAN: That method was not found to work satisfactorily.

Mr. J. G. MORE: A division is demanded to show that Government are not guided by reason and arguments.

Dewan Bahadur D. R. PATIL: I rise to a point of order. Sir, after you got up to say "I want to put this amendment to vote—to omit the words 'about to act'"—the honourable member Rao Saheb Kulkarni got up and claimed a division. Under these circumstances, can the Chair allow the matter to go to a division?

The Honourable the PRESIDENT : I simply suggested that I would put the two parts of the amendment separately so that some might like to vote for the first part and some for the second part. Time will be saved by putting both the amendments together : " In clause 3, sub-clause (1) in line 5, omit the words ' has acted ' and ' is about to act '." I shall put the whole amendment and save the time of the House by having one division on the whole amendment.

Dr. M. K. DIXIT : It is an injustice done to me.

The Honourable the PRESIDENT : The honourable member moved both the amendments as one.

SYED MIRAN MAHOMED SHAH : Are there two amendments ?

The Honourable the PRESIDENT : One amendment, to omit the words " has acted " and " is about to act ."

Question put. The House divided : Ayes, 23 ; Noes, 57.

Division No. 10.

Ayes.

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
DHALUMAL LILARAM, Mr.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GILDER, Dr. M. D.
GOKHALE, Mr. L. R.
GOVER ROBA, Mr.
JOG, Mr. V. N.

KALE, Rao Bahadur R. R.
KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.
MEHTA, Mr. M. H.
MORE, Mr. J. G.
PATEL, Mr. C. N.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SURVE, Mr. A. N.
SURVE, Mr. V. A.
VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes : Mr. J. G. MORE and Dr. V. G. VAISHAMPAYAN.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN,
Khan Bahadur
ADVANI, Mr. P. B.
ALLANBAKSH, Khan Bahadur
ARBUTHNOT, Mr. C. W. E.
BANCI, Mr. A. K. J.
BHUTTO, Sir SHAH NAWAZ
BIJARANI, Khan Bahadur SHER
MUHAMMAD KHAN
BIRADAR, Sardar MAHABOOBALI KHAN
BOLE, Rao Bahadur S. K.
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
CLAYTON, Mr. H. B.
COOPER, Khan Bahadur D. B.
DAVIS, Mr. G.
DESAI, Rao Saheb B. G.
DHURANDHAR, Mr. J. R.
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GHULAM NABI SHAH, Khan Bahadur
GREAVES, Mr. J. B.
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur
JONES, Major W. ELLIS

KADRI, Mr. J. S.
KALBHOR, Mr. G. M.
KAMBLI, the Honourable Dewan Bahadur
S. T.
KHUBRO, Khan Bahadur M. A.
MASTER, Mr. A.
MAXWELL, Mr. R. M.
MEHEERBAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
MODAK, Rev. R. S.
MODI, Sardar Davar T. K.
NAWAB SHAH ROOKH SHAH YAR JUNG
BAHADUR
OWEN, Mr. A. C.
PATIL, Dewan Bahadur D. R.
PATIL, Mr. N. N.
PATIL, Mr. V. N.
PRATER, Mr. S. H.
RAFIUDDIN AHMAD, Moulvi Sir
ROOSE, Mr. F. O. J.
SERVAI, Mr. A. E.
SHANKARRAO JAYARAMRAO ZUNZARRAO,
Mr.
SINDHA, Mr. MADHAVSANG JORBHAI
SOLANKI, Dr. P. G.
SPENCE, Sir REGINALD
SYED MIRAN MAHOMED SHAH

Names—contd.

TALPUR, MIB BANDER ALI KHAN
TARAPORWALA, Mr. V. F.
TRAKOR OF KERWADA, Sardar BHASABH
RAJINJIJI
TOLANI, Mr. S. S.

TURNER, Mr. C. W. A.
VAKIL, the Honourable Sirdar Sir
RUSTOM JEWANGI
VANDEKAR, Rao Bahadur R. V.
WINTERBOTHAM, Mr. G. L.

Tellers for the Noes : Mr. S. H. PRATHE and MAJOR ELLIS JONES.

Rao Bahadur R. S. ASAVALE (Bombay City, North) : Sir, I had moved my amendment, but you told me that it should be split up.

The Honourable the PRESIDENT : I have reviewed that position. The honourable member may move it as an amendment.

Rao Bahadur R. S. ASAVALE : Sir, I move an amendment to Clause 3 sub-clause (1) to the effect that—

“ Omit the words ‘ or is about to act ’ in line 5.”

My reasons are these. I admit that a man who has already done some offence should be arrested and kept in custody. I also admit that if a person is acting he should also be arrested. But the wording “ is about to act ” is very vague.

The Honourable Sir GHULAM HUSSAIN : I thought this amendment was included in the last amendment.

The Honourable the PRESIDENT : The position is this. If I had put the two amendments separately this difficulty would not have arisen. But the honourable members did not help me. We have had a division on the amendment which suggested that “ has acted ” as well as “ about to act ” should be omitted.

Rao Bahadur R. S. ASAVALE : I would take it that Government have certain information about certain persons. Suppose, if a person is going to attend and speak at a meeting that person surely comes under the words “ is about to act.” There is no doubt about it. The action is not proved, but if he is really going to act against the principle of safety and the protection of any community or anything else then he would come under this clause. But it is very difficult to say that a particular person is about to act. I think none except God would know that a person is going to do such and such thing before he does anything and therefore, nobody else but God alone would understand that a certain person is about to do any act. It is beyond the power of human beings to know that a particular person is really going to do any act either against or in favour of the civil disobedience movement. I therefore move my amendment.

Question proposed.

The Honourable Mr. W. F. HUDSON : I would like to explain to the honourable member what I would call a typical case in connection with this. It is quite true that we cannot claim the powers of God. But very often we get good information about the movements of a particular person. Suppose a letter is put in my hand saying that on such and such day so and so accompanied by a large band of his associates is going to make a salt raid. Now that is a very good information, and on the day in question it is perfectly obvious that the person is making preparations

[Mr. W. F. Hudson]

for the salt raid. He has started to do so, though he has not actually done so. Now, is it not in the interest of law and order that such a person should be prevented from carrying out his project? To that there can be only one answer. If my honourable friend sees a person, say, standing behind Rao Bahadur Naik with a hatchet in his hand, and that man holds up his hand with the hatchet, now my honourable friend will at once realise that he is going to strike the hatchet on the head of Rao Bahadur Naik. Will he not take some steps to prevent him from doing so? Of course, it is quite possible that the man will repent at the last moment. But the chances are few. When we receive information that plans are ready for doing some subversive acts surely it is in the interest of good administration and in the interest of the country that we should take preventive measures.

Rao Bahadur R. S. ASAVALE: Such a case would come under the wording "is acting."

Mr. L. R. GOKHALE (Poona City): Sir, I support the amendment, because the section is not only preventive but it is pre-preventive. That is what it appears to be. The phrase used is "is about to act." I really fail to understand what that means. I do not want to take much time of the House, but I want to understand the phrase clearly. Suppose a letter is written saying that a particular person is going to do some overt act; that will be "is acting" and it will not be "is about to act." Only the imagination of the officer will be "is about to act." Otherwise every tangible and overt act will be "is acting." Sending letters, distributing leaflets will be "is acting." It is difficult to know what is "is about to act." I think, by this phrase we shall be giving wider powers to the officers authorised under this Act. For that reason I support this amendment.

Dr. V. G. VAISHAMPAYAN (Sholapur City): In support of this amendment I will quote an example which took place at Sholapur. When His Excellency the Governor was to visit Sholapur a certain information was printed in a bulletin; I have not seen it myself but it was reported that certain persons were going to the station with black flags. Those persons were arrested by the Police without any warrant and sent to Bijapur Jail and they were let off after about 6 days. While they were in custody they were asked whether they were really going to take out a black flag procession, to which they said no. I have quoted this example to show how these powers are misused and it is for that purpose that I want to support this amendment.

The Honourable the PRESIDENT: I thought the honourable member was going to oppose the amendment.

Dr. V. G. VAISHAMPAYAN: No, Sir. I support the amendment.

Mr. H. B. CLAYTON: Sir, the honourable member Dr. Vaishampayan has referred to a case from Sholapur where certain persons were arrested under the ordinances and stated when they were questioned that they denied their association with the civil disobedience movement.

[Mr. H. B. Clayton]

But what if when they were questioned they had said "yes it is our intention to support the civil disobedience movement if we are not imprisoned." Such cases have occurred to my personal knowledge. I know of cases where the District Magistrate has sent for a gentleman and asked him "Are you in sympathy with this civil disobedience movement or not?" and the gentleman has said, "I am sorry to say that I have not hitherto proclaimed my allegiance to it because I had no opportunity to do so, but now that I am questioned I admit that I am in sympathy with the civil disobedience movement, and on such and such a day I am going to conduct a meeting in opposition to Government in this town." Therefore, he is about to act in pursuance of a matter which affects law and order, and so would come under this section; and I put it to my honourable friend Rao Bahadur Asavale whether in such a case he would not admit at once that the words "is about to act" ought to remain in the section so as to give the District Magistrates power to prevent him so acting either by arresting him or by taking an undertaking from him that he will not act in this manner. I think, therefore, that it will be seen that such powers are absolutely necessary.

Rao Bahadur R. S. ASAVALE (Bombay City, North): In view of all these explanations I have heard I am satisfied that my amendment should be withdrawn. I would, therefore, like to have permission of the House to withdraw my amendment.

Question put, and leave refused.

Amendment put, and negatived.

(After Recess)

Mr. V. N. JOG (Dharwar District): Sir, I wish to propose only the last part of the amendment that stands in my name. The first part—viz.:

"Drop the words 'to the public safety or peace' and insert in their place the words 'to the civil administration of any area'."

I wish to omit. I only move—

"Add the word 'greatly' before 'prejudicial' in line 6 of clause 3, sub-clause (1)."

The object of this amendment is very plain. In ordinary circumstances, this clause should not be brought into force. Only in emergency cases when there is a great danger to public safety and peace this clause should be had recourse to. I hope this amendment will be accepted by the honourable House.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, I do not think the House can seriously wish this amendment to be made. It is not usual to put superlatives into Acts. And in any case, Sir, the question of deciding what "greatly" is or is not will rest with the officer who also would decide whether it is or is not prejudicial. I think it only makes the wording cumbersome. And if it comes to that, may I ask what could have been

[Mr. W. F. Hudson]

more prejudicial to the public safety or peace than the civil disobedience movement ?

Mr. V. N. JOG : My only answer is that the words " civil disobedience movement " do not occur anywhere in the Bill. If that safeguard was there, I would not have moved this amendment.

The Honourable Mr. W. F. HUDSON : I do not wish to say anything more.

Question put, and negatived.

Mr. G. S. GANGOLI : Sir, in view of what the Honourable the Home Member has stated to-day in relation to the amendment that the honourable member Rao Bahadur Kale has moved to clause 3 (1), I do not wish to move the amendment to clause 3 (1) standing in my name.

Mr. J. B. PETIT (Bombay Millowners' Association) : Sir, I beg to move that :

In clause 3, sub-clause (1), for the words " himself arrest such person without warrant or may direct the arrest of such person without warrant " substitute the words " report to the District Magistrate, who shall arrest such person, etc. "

The Honourable the PRESIDENT : How does it fit in with the clause ? Would the honourable member read the clause as it would read after the amendment is made ?

Mr. J. B. PETIT : Yes, Sir. When amended, it will read, thus :

" Any officer of Government authorised in this behalf by general or special order of the Governor in Council may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, report to the District Magistrate, who shall arrest such person, and in making such arrest, any means that may be necessary may be used. "

I think it reads quite all right.

The Honourable the PRESIDENT : What does the " *et cetera* " mean ?

Mr. J. B. PETIT : It means that the words " and in making such arrest, any means that may be necessary may be used " should remain.

The Honourable the PRESIDENT : The honourable member had put in the word " etc. " as part of his amendment.

Mr. J. B. PETIT : What I meant was that the remaining words should come in.

My whole point is that instead of giving this extraordinary power to the ordinary officers of the lower grades of the police force, it should be vested in some officer of responsibility and status, so that it may *not* be exercised capriciously and irresponsibly. I do hope that the Honourable the Home Member will accept my amendment, because the purpose he has in view in enacting the section, will not thereby be defeated in the slightest degree, whereas public safety would be assured to a much larger extent than would be the case under his plan. So far as the main principles are concerned, he has got his point, the opposition notwithstanding. It is now for him to try and meet the requirements of this side of the House, as far as possible. I would accordingly request him to consider the advisability of reconciling public feeling by strengthening

[Mr. J. B. Petit]

the sense of safety and security in the public mind without sacrificing the principles he has in view. I therefore hope that he will accept it.

Question proposed : that—

In clause 3, sub-clause (1), for the words "himself arrest such person without warrant or may direct the arrest without warrant of such person" substitute the words "report to the District Magistrate who shall arrest such person."

The Honourable Mr. W. F. HUDSON: I think the answer to that is, it is obviously impracticable. It is quite impossible for the District Magistrates or the Police Commissioner to go about arresting people themselves. Is it conceivable that the Police Commissioner in Bombay should run all over the town arresting people? Still less is it conceivable that the District Magistrate in a district several thousand square miles in extent should himself go and arrest the people referred to in this clause. It does not matter who makes the arrests so long as the persons are produced before the District Magistrate or the Police Commissioner without undue delay. It is unreasonable to expect the District Magistrates or the Police Commissioner to perform the functions of the officer who carries out the arrest.

Mr. J. B. PETIT: That objection is met by the provisions of clause 16 (3). If he himself cannot make the arrest, he can certainly authorise some other officer to exercise his powers in his stead. The only point I wish to make is that this power should be exercised by some man of responsibility.

The Honourable Mr. W. F. HUDSON: The honourable member does not listen to what is going on. I have already stated that we are dropping sub-clause (3) of clause 16.

Mr. J. B. PETIT: When notice of this amendment was given, we had no knowledge of that. I do not know whether the House would accept it either.

The Honourable the PRESIDENT: Now the Honourable Member in Charge has given an assurance.

Mr. J. B. PETIT: I would like to see that done first. Meanwhile this may be held over.

Question put, and negatived.

Mr. V. N. JOG (Dharwar District): Sir, I wish to propose that the officer may direct in writing—

The Honourable the PRESIDENT: Which line?

Mr. V. N. JOG: Line seven. "Himself arrest such person without warrant, or may direct the arrest". I wish to say for "may direct" "order in writing".

The Honourable the PRESIDENT: The word "may" cannot go.

Mr. V. N. JOG: Yes. Then, "may direct" will remain. The words "in writing" may be added after those words.

The Honourable the PRESIDENT: The amendment given notice of is "substitute for the words 'may direct' the words 'order in writing.'" That is not the amendment now.

Mr. V. N. JOG : Yes. I beg to move—

“ Add the words ‘ in writing ’ after the words ‘ may direct ’ in line 7, sub-clause (1) of clause 3.”

When the subordinates have arrested a person without any direction, probably the superior officers may shelter them. Therefore, I want to provide that the subordinates should not arrest without an order in writing. It is better to provide for an order in writing.

Question proposed.

Mr. G. DAVIS : Sir, I do not think it is necessary to deal with an amendment of this nature at great length. I think it is extremely improbable that a superior officer will try to shelter a subordinate or that a subordinate will try to take shelter under a superior. If the amendment to add the words “ in writing ” is accepted, supposing a District Magistrate wants to arrest a man, his sub-inspector is there, he says to him “ Come along with me ; we must arrest that man ” and if he does not want to put his own hands on the man, he will have to sit down and solemnly write “ I order sub-inspector so and so to arrest him.” It is quite unnecessary and impracticable. Therefore, I oppose it.

Mr. G. S. GANGOLI : Sir, I cannot understand why the Legal Remembrancer should oppose this simple amendment. Yesterday, he said that there will be always some order in writing. What my honourable friend Mr. Jog wants is the same thing. Again, if we are to believe the Honourable the Home Member when he says that sub-clause (3) of clause 16 will be dropped—

The Honourable Mr. W. F. HUDSON : Sir, I object to that way of putting it—“ if we are to believe the Honourable the Home Member ”. Surely, Sir, until it is proved to the contrary, it is the business of the honourable member to believe my assurance. When I say I am going to do it, I am going to do it.

Mr. G. S. GANGOLI : I did not mean that. He has said that he is going to delete sub-clause (3) of clause 16 ; but if we retain the wording “ any officer may arrest ” without an order in writing, there will be no use at all in dropping sub-clause (3).

I think, Sir, that this is a reasonable request which should find acceptance with the Government.

The Honourable Mr. W. F. HUDSON : No, I do not accept the amendment.

Question put, and negatived.

Mr. L. R. GOKHALE (Poona City) : Sir, I beg to move :

Clause 3, sub-clause (1). In line 7, after the words “ without warrant ” omit the words “ or may ” to the end of the clause.

I particularly object to the words “ in making such arrest any means that may be necessary may be used ”. That is a very large order. I do not know what is meant by saying “ any means that may be necessary ”. There are provisions in the Criminal Procedure Code and other enactments laying down the procedure for effecting an arrest. The words “ any means that may be necessary ” give a very much wider power than is

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necessary. I hope the other side will make this point clear. I raise this point especially because it often happens that the person effecting the arrest has some peculiar notions about his powers which he can utilise in making the arrest. Sometimes he may kick a man down and then take him up. I do not know what the men who arrest will understand by the words "any means". I do not want to misjudge officers of Government but I am afraid the words used here give a very wide power to the officers deputed to arrest. Suppose a man is staying on the second or third floor. The arresting officer may think that he would be justified in removing the staircase to effect the arrest. Is it intended that they should go beyond the ordinary law in making these arrests and is it intended to give them a special power under this bill? Unless Government specify what powers they want, I do not think such a wide power is reasonable. With these words, I move my amendment.

I do not press the first part of my amendment because on the last amendment disposed of by this House a writing was asked for and refused. I would only press the latter part of my amendment, namely, "and in making such arrest any means that may be necessary may be used". I would like these words to be omitted entirely from the clause.

Question proposed.

Mr. G. DAVIS : Sir, I oppose this amendment because we must give an officer who is effecting an arrest under this particular Act, which after all is an Act that stands by itself, necessary powers to do so, and if I may say so, I think the words to be emphasised are not "any means" but the words "that may be necessary". Where it says that the man, in order to effect an arrest, may use any means that is necessary, it does not mean to say that he is going along with a gun in his hand to shoot the man. It means that in certain circumstances, if it is necessary for him to enter a house, he shall enter that house, and while the provisions of the Criminal Procedure Code are, under clause 29 of this Bill, made applicable to a trial, the provisions of that Code are not applied by this Bill to matters of arrest, and therefore we must have some specific provision, and the essential words there are "any means that *may be necessary* may be used", so that the officer effecting the arrest may not under the provisions of this measure, use excessive powers or excessive force. I therefore oppose the amendment.

Mr. J. G. MORE (Sholapur District) : Sir, I rise to support the amendment. Those who take part in the civil disobedience movement are willing to surrender themselves at the call of the officers. So far as those persons are concerned, they have no fear, but regarding those persons who are carrying on lawful activities, if they are to be brought or if they are to be arrested under this measure, I think it is quite justifiable that the ordinary provisions of arrest should be followed by Government and not what they wish to follow under the present wording of the clause.

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Sir, what I want to know from Government is exactly if the lathi charges are intended to be protected by these words. I am not speaking from my own

[Rao Bahadur G. K. Chitale]

imagination but I am speaking from practical experience, and it is this. Suppose a particular act is lawful, for instance, suppose there is a prohibitory order that a particular assembly should not go beyond a certain limit. The people who accompany such persons are perfectly within their lawful rights in coming up to that limit. The useful rule so far has been that some of the persons who want to disobey that order step out of the crowd and go into the prohibited limits and offer themselves for arrest. In the meanwhile, the police use their lathis when they were not necessary, because those people themselves offer for arrest, for peaceful arrest, and still under this section those lathi charges will be lawful if the words put in are intended to bear the meaning which they do bear, namely, "any means that may be necessary". They do not say "lawful means" but they use the words "any means". Now, Sir, police officers are not the same all over or of the same calibre as we have in Bombay itself. The police officer may say "All right. Let me also give some lathi blows before I effect the arrests". The ordinary way of arresting a person is the legal way in which a lawful arrest is made by putting your hand on the man and asking him to come with you, and if he is unruly, then only he is handcuffed and roped. The House will remember that there are cases in which in order to humiliate a man the arrested man is handcuffed, roped and marched off. If all such things are meant to be covered by this clause which does not contain the word "lawful", then of course Government have the majority and they may please themselves.

The Honourable Mr. W. F. HUDSON: Sir, there is no necessary connection between lathi charges and arrests. All that the police have to do when they determine to arrest a man is to get hold of him. If he offers no resistance, of course nothing further happens, but if he does resist, more especially when a number resist, the police must make use of such weapons as they have. In the Criminal Procedure Code, under the provisions for arrest, section 46 (2) says:

"If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest."

That seems to me to be very much on the same lines as this clause.

Rao Bahadur G. K. CHITALE: There is no protection here such as "if such person forcibly resists" or "if he attempts to evade the arrest".

The Honourable Mr. W. F. HUDSON: It follows, it is not necessary to say "if he attempts to evade the arrest", that is a question of fact in each case.

Rao Bahadur G. K. CHITALE: If he resists. Then only these words are to be used?

Mr. M. M. KARBHARI (Thana and Bombay Suburban Districts): Sir, I move an amendment to the amendment as follows:—

"Add the word 'lawful' between 'any' and 'means.'"

The Honourable the PRESIDENT: But the amendment is to omit the words.

Mr. M. M. KARBHARI: Then my amendment to the amendment is:

Retain those words and add the word "lawful" between "any" and "means".

The Honourable the PRESIDENT: The clause is there as it stands. What the honourable member is attempting to do is to put in the word "lawful" which he never thought of before.

Mr. M. M. KARBHARI: Yes.

Dr. M. K. DIXIT (Surat District): Sir, I have a similar amendment tabled in my name, and when I read this clause I was wondering what was meant by the words "any means that may be necessary". My honourable friend Rao Bahadur Chitale has just mentioned something about lathi charges and the Honourable the Home Member said that there was no necessary connection between the lathi charges and arrests. Later on, he pointed out section 46 (2) of the Criminal Procedure Code bearing on arrests, and he maintained that there was hardly any difference between the two. But, Sir, the difference that we see is this that in one case covered by the Criminal Procedure Code there is actually a condition that when a man forcibly resists or attempts to evade the arrest, but here there is no mention made about either the resisting of the arrest or of the forcible resisting of the arrest or of the attempts to evade the arrest. When I first read this, the first thing that came to my mind was that if a man evades an arrest or resists an arrest—and the Honourable the Home Member quoted the instance of an extreme case of an absconder having left a particular place and gone away and not being found even after a year—in that case is it intended for effecting the arrest of that man that his wife and children should be turned out of their house and the house locked up and these people reporting to the absconder "because you are evading arrest, we are driven out of our house and we are starving"? Is that what is meant by using the words "any means that may be necessary may be used"? Do Government wish that these people should be held as hostages till that man returns and submits himself to the police? That was the point in my mind when I read this particular clause and with that apprehension I tabled my amendment that these two lines should disappear. I hope I have made myself clear that no action of that sort or some other indirect coercive method was contemplated by Government when they introduced these two lines in sub-clause (1) of clause 3 of this bill. I hope Government will explain their position before we make up our minds.

Rao Bahadur R. R. KALE (Bombay University): Sir, in view of the explanation offered by the Honourable the Home Member as to the contingency in which this clause will come into operation and having regard to clause 29 of this Bill which says that the provisions of the Code (meaning the Criminal Procedure Code) shall apply for the purposes of this Act to all matters connected with, arising from or consequent upon, etc., etc., my point is, is it necessary really to keep that because section 46 (2) is quite clear and because the Honourable the Home Member said that the wording is taken from that section.

[Rao Bahadur R. R. Kale]

In that it is stated :

“ If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.”

The first sub-section says :

“ In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.”

The Honourable the PRESIDENT: Consequent upon clause 29 ?

Rao Bahadur R. R. KALE: Yes, Sir. Consequent upon a trial of any offence under this Act. Clause 29 says that the provisions of the Code shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act.

The Honourable Mr. W. F. HUDSON: Under the clause there is no trial and there is no offence. I think the honourable member agrees about that.

Rao Bahadur R. R. KALE: Yes. But you may add the word “ correct ” in clause 29.

Dewan Bahadur D. R. PATIL (East Khandesh District): Sir, I should like to move an amendment to the amendment of the honourable member Mr. Gokhale: The amendment is :

Omit all the words in his amendment and substitute the following words :

“ in accordance with sub-section (2) of section 46 of the Criminal Procedure Code.

The Honourable the PRESIDENT: That would be a fresh amendment.

Dewan Bahadur D. R. PATIL: I want the addition of the words “ in accordance with sub-section (2) of section 46 of the Criminal Procedure Code ”.

The Honourable Mr. W. F. HUDSON: That is surely something new.

Dewan Bahadur D. R. PATIL: When the amendment is put in proper form it will be as follows :

For the words “ necessary may be used ” in the last line of sub-clause (1) of clause 3, substitute the words “ in accordance with sub-section (2) of section 46 of the Criminal Procedure Code ”.

I move this amendment in order to meet the objection raised by the Honourable the Home Member. He is perfectly right when he says that the police officer will use the necessary means which are contemplated by sub-section (2) of section 46 of the Criminal Procedure Code. To meet that object I have moved this amendment. I hope the objection is met and that Government will be pleased to accept my amendment to the amendment.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, the main reason why I cannot accept the amendment of my honourable friend Dewan Bahadur Patil is that it would not cover the case of a police officer entering a house without warrant. He would then doubtless lay himself open to all sorts of penalties, and it is essential, in acting under these preventive sections the police should have the power to enter a house, although they have not got a warrant to do so.

Mr. L. R. GOKHALE (Poona City): Sir, what those who move the amendments want is that there should be no chance for any over-use of the power given under this clause. If it is possible for the Government to suggest any other language whereby a police officer without warrant could go and arrest the person using the lawful means, the means provided in section 46 (2) of the Criminal Procedure Code, that may be acceptable to this House or to the Opposition who are moving these amendments. I can quite see what is suggested by Government, that section 46 (2) is applicable only in the case of police officers who act upon a warrant. We say that may also be extended to cases covered by the present clause 3, that the means used in making the arrest should be limited to the provisions laid down in section 46 (2) of the Criminal Procedure Code. That is the object of it. We are not particular about the wording which may be used in the amendment. All that is wanted is that section 46 (2) of the Code should apply. Sub-section (1) of the section says :

"In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action."

Sub-section (2) of section 46 says :

"If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest."

Sub-section (3) of the section says :

"Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life."

Under the section, the means to be used are to be used only when there is a resistance to the forcible arrest. Nothing of the kind is provided in this clause.

The Honourable the PRESIDENT: Does it include the right to enter a house?

Mr. L. R. GOKHALE: Yes it does. I am dealing with sub-clause (1). Is it necessary for the police to be invested with powers of this character? I quite see the force of emphasising certain points. Whether we have to emphasise the words "any means" or whether we have to emphasise the word "necessary" makes little difference. The whole of "any means that may be necessary" should be emphasised. "Any means" has a special significance in relation to clause 29. The wording of that clause is "The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act." Not only the provisions of the Criminal Procedure Code, but if there are any other provisions in the Police Act or any other Act, they may be utilised under clause 29. The clause empowers that to be done. The fact is that even for resistance with reason, even without any particular provocation, it is likely that the officer making the arrest may try to use means which may not be justifiable. I can at once state that there are two angles of vision with regard to the Bill. There is a popular angle, which it appears to the Government benches

[Mr. L. R. Gokhale]

it is not at all necessary to take into consideration. It is a regrettable position. No doubt Government want to have all these efforts made for peace and order. But it is also equally true that what the Opposition, which is co-operating with Government to secure peace and order, is afraid of is that, in securing that peace and order we may give rise to further dissatisfaction and further chaos and disorder. In order that that may not occur, we are suggesting means whereby the rigour of the law would, if possible, be minimised. With that object in view, what we want is that, if possible, these means may be utilised if there is resistance. If Government aims at securing peace, then it is quite necessary to say that these powers are to be utilised if there is resistance, and I believe the Opposition will have nothing against it. If that is not possible, then I think we shall have to exercise our discretion in passing these clauses. I am sorry it was mentioned that we are asking for divisions. We should not be misunderstood. Our insistence upon these amendments or our demand for divisions should not be misunderstood.

The Honourable Mr. W. F. HUDSON: I quite understand the attitude of honourable members opposite, and I do not think I have said anything about divisions.

Mr. L. R. GOKHALE: As the Honourable the Home Member does it, all the other official members who are here should be good enough to see that they do not misunderstand our actions. What we want is to minimise the possibilities of the misuse of these powers and to safeguard the interests of the public.

Sir, there is one thing which I notice, and that is that the learned Advocate General appears to be a Bombay gentleman and quite out of touch with the circumstances in the mofussil. He knows only the Bombay public, the Bombay police and the Bombay lawyers. I think I must inform him that the Bombay public and the Bombay police differ from the mofussil police and the mofussil public as much as the Advocate General differs from the mofussil vakils, and the lawyers on the original side differ from the lawyers in the mofussil.

However, coming to the main point, it will be further seen that there is provision made for entry into houses under section 47 of the Criminal Procedure Code. It says:

"If any person acting under a warrant of arrest or any police officer having authority to arrest has reason to believe that the person to be arrested has entered into, or is within any place, the person residing in, or being in charge of such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto and afford all reasonable facilities for a search therein."

The Honourable Mr. W. F. HUDSON: That is when he is acting under a warrant.

Mr. L. R. GOKHALE: I do agree. I am coming to that. Then section 48 says:

"If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any

[Mr. L. R. Gokhale]

house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made he cannot otherwise obtain admittance."

In fact, Sir, in anticipation of the possible objections that may be taken, the Criminal Procedure Code provides for all the contingencies. I quite see that these sections apply to cases where there is a warrant. All that I want is that all this procedure should be extended to cases under this clause, even though there is no warrant. We do not suggest that because there is no warrant these provisions should not apply to cases under this clause. We do want that the provisions of sections 46 to 48 of the Criminal Procedure Code should be extended even to the cases governed by clauses 3 and 4 of this Bill. Of course, I do appreciate that there is no warrant in the cases coming under these clauses, but that does not mean that we cannot adopt the same provisions for them. After all, these powers are to be exercised by subordinate police officers, and even with the best of motives, they may be wrongly used. I know of a case in Poona City, where in the Reay Market an attempt was once made to drive some people into a particular corner, and then they wanted to arrest them. I know that case myself. Of course, when we leave these matters to be dealt with by subordinate police officers, we are not certain what means will not be used. They will say "Because the Act says that any necessary means may be used, we have adopted them." Is it not necessary, then, for the Government members to consider over the question and if possible to limit the action of the police? From that point of view this amendment has been moved, and I hope Government will see their way to introduce such amendments as may confer only such powers as are provided in the Criminal Procedure Code, although there is no warrant mentioned in the Bill.

Moulvi Sir RAFI UDDIN AHMAD (Central Division): Sir, I would like to address a few words in connection with this amendment. I would like, for instance, to ask the learned Advocate-General whether the contention raised by the honourable members on the opposite side with regard to the sufficiency of the provision made in the Criminal Procedure Code is not sound, and whether he can point out any cases where it would be necessary for the police officer even when no violence is used by any person to arrest him by using all possible means. It must be pointed out that the provision in the Criminal Procedure Code exists for even more heinous cases than those contemplated in this Bill; such as murder, arson, etc. And after all, I think, if the object of Government is gained, perhaps it would be wise on their part to accept the amendment, unless they have very good reasons for its rejection. We are all here to see that the provisions of this Bill are made as reasonable as possible. I would therefore appeal to my honourable friend the Home Member and the Government benches whether it is not a case in which they could meet the wishes of the other side. Besides, after all, Sir, this is a very important issue. We have agreed to the principle of the Bill, and indeed to all amendments of principle.

[Moulvi Sir Rafiuddin Ahmad]

I would therefore again request that Government should accept this amendment.

Rao Bahadur R. R. KALE : May I know if the introduction of a single word "arrest" in clause 29 will remove all these difficulties? To all matters connected with arrest will be the wording.

Mr. G. DAVIS : Under the Criminal Procedure Code, the power is exercised not by "any officer" but by a Police officer. Under clause 3 of the Bill "any officer" need not be a Police officer at all. If you merely put in the word "arrest" all the provisions of the Criminal Procedure Code relating to arrest will apply. Any court will say "if you are going to apply the provisions of the Criminal Procedure Code relating to arrest, you will have to allocate to particular persons particular powers." Therefore the suggestion of the honourable member Rao Bahadur Kale cannot achieve the object.

Rao Bahadur R. R. KALE : So far as they are inconsistent with the provisions of the Act, the provisions of the Criminal Procedure Code shall apply.

The Honourable the PRESIDENT : The object would be defeated, because it has been pointed out just now if the arrest is made by any person who is not a Police officer, the Criminal Procedure Code will not apply, because it would be inconsistent with the Code.

Rao Bahadur R. R. KALE : The procedure for the arrest is laid down in the Criminal Procedure Code but the procedure relating to the manner of arrest can be adopted.

The Honourable Mr. W. F. HUDSON : All these difficulties have arisen because of the phrase "arrest without warrant". This phrase is inserted in order to cover any legal difficulty in connection with the circumstance which I mentioned, entry into a house, about which there is contention when there is no warrant. I think that phrase is necessary and covers all the cases. What my honourable friend anticipates is that the Police officer in effecting the arrest may use force in an excessive measure. If the officer uses excessive force, he will get into trouble. But what is necessary must be left to the man on the spot; and he alone will be capable of judging what is necessary and what is not necessary in effecting the arrest. Later on, if it is shown to the satisfaction of the superior officers that he has unjustly used force, he will get into trouble. I cannot see how we can make the clause clearer than it is at present. If we make any changes as proposed by the honourable members opposite, we shall be tied up in inextricable difficulties. The main question is "warrant" and "no warrant". In most cases, there will be no warrant.

Mr. L. R. GOKHALE (Poona City) : If we insert the words "the methods contemplated in sections 46, 47 and 48 of the Criminal Procedure Code" will Government accept that?

Mr. G. S. GANGOLI (Kanara District) : Sir, five honourable members of this House have given notice of this amendment and that indicates the depth of feeling of the House. The Honourable the Home Member

[Mr. G. S. Gangoli]

pointed out the difficulty of ingress to a house. If that is so there is provision made in section 12 of the Bill, which reads :

“ Any authority on which any power is conferred by or under the Chapter may, by general or special order, authorise any person to enter and search any place the search of which the authority has reason to believe ”

In view of the section 12 under the very chapter, he can enter any building to make the arrest. What we are concerned about is the expression “ any means ”. If an officer enters a place to make an arrest and if he exceeds the limit in effecting the arrest he is protected under section 30. He can never be brought into trouble. In view of the depth of feeling of the House, I hope the Honourable the Home Member will accept it.

The Honourable the PRESIDENT : If there can be no compromise, I will put the amendment. I will first put the amendment of the honourable member Dewan Bahadur Patil to the amendment of the honourable member Mr. Gokhale.

Amendment to the amendment put, and declared lost.

Dewan Bahadur D. R. PATIL : I claim a division.

The Honourable the PRESIDENT : We will try another method.

Dewan Bahadur D. R. PATIL : Why should another method be tried in my case ?

The Honourable the PRESIDENT : I shall try to see if I can save the time of the House. It is left to me to determine the method. I shall ask honourable members to stand in their places and have their names recorded. Before that, I shall have the bell rung, so that honourable members who may support the honourable member's amendment may come to the House from the lobby. (*Bell rung.*)

SYED MIRAN MAHOMED SHAH : There is confusion on this side of the House. We do not know the motion before the House.

The Honourable the PRESIDENT : Originally the honourable member, Mr. Gokhale, moved an amendment that :

“ In the 7th line, after the words ‘ without warrant ’ omit the words ‘ or may ’ to the end of the Clause.”

To that there was an amendment by the honourable member Dewan Bahadur Patil that the words “ and in making such arrest, any means that may be in accordance with sub-section (2) of section 46 of the Criminal Procedure Code, may be used ” be added. This amendment to the amendment I am putting to the House. Those in favour will stand in their places.

[*The following members stood in their places.*]

Ayes.

ACHREKAR, Mr. A. B.

BAKHALE, Mr. R. R.

BALUCH, Mr. HAJI MIR MAHOMED

CHITALE, Rao Bahadur G. K.

DHALUMAL LILARAM, Mr.

DIXIT, Dr. M. K.

GANGOLI, Mr. G. S.

GILDER, Dr. M. D.

GOKHALE, Mr. L. R.

JOG, Mr. V. N.

KALE, Rao Bahadur R. R.

KARBHARI, Mr. M. M.

Ayes—*count*.

KULKARNI, Rao Sahab P. D.
 MORE, Mr. J. G.
 PARULEKAR, Rao Bahadur L. V.
 PATIL, Dewan Bahadur D. R.
 PATEL, Mr. C. N.
 PATIL, Mr. V. N.

PATIL, Rao Sahab V. S.
 PETIT, Mr. J. B.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAN N.

Noes.

The Honourable the PRESIDENT: Those who are against will stand in their places. (*After a count*). Noes 40.

An Honourable MEMBER: A great many members did not vote at all and their number should be recorded.

The Honourable the PRESIDENT: Those honourable members who did not take part in the voting will stand in their places.

The Honourable Mr. W. F. HUDSON: They have exercised their right not to vote.

Sir SHAH NAWAZ BHUTTO: We are fed up with these divisions every five minutes.

The Honourable the PRESIDENT: (*On a count*). There are 15 members who have not voted. The amendment to the amendment is lost.

Dewan Bahadur D. R. PATIL: The names of those honourable members who have voted against the amendment should be recorded.

The Honourable the PRESIDENT: Under the Standing Orders a division can be demanded and the Chair has to give it. The manner in which the division should be allowed is left to the Chair. Then, I have got to see whether I can save the time of the House. I have found that this method does not save time. It has taken 11 minutes. Therefore, a division when asked will be allowed in the usual manner.

Now, I will put the amendment of the honourable member Mr. Gokhale. Amendment declared lost.

Mr. V. A. SURVE: I claim a division.

The Honourable the PRESIDENT: Does the honourable member Mr. Gokhale want it?

Mr. L. R. GOKHALE: I do not join him but I will not be sorry if it is given.

The Honourable the PRESIDENT: I do not understand what the idea of the honourable member is in exhausting the time of the House.

The Honourable Mr. W. F. HUDSON: May I suggest to my honourable friends that we should establish in the course of next week a convention that a division should be called for only by the honourable member who moves the amendment? I cannot help observing that in several cases a member who has moved the amendment is quite willing to recognise that a division is unnecessary. But then someone else calls for a division. I suggest that hereafter only the mover of the amendment should be entitled to call for a division and no one else.

[Mr. W. F. Hudson]

If that convention had been introduced two days back certainly a good many divisions would not have been called for. It is only a suggestion.

The House divided : Ayes, 27 ; Noes, 47.

Division No. 11.

Ayes.

ACHHEKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHITALE, Rao Bahadur G. K.
DHALUMAL LILARAM, Mr.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GILDER, Dr. M. D.
GOKHALE, Mr. L. R.
GOVER RORA, Mr.
JOG, Mr. V. N.
KALE, Rao Bahadur R. R.
KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.

MEHTA, Mr. M. H.
MORE, Mr. J. G.
PARULEKAR, Rao Bahadur L. V.
PATIL, Dewan Bahadur D. R.
PATIL, Mr. V. N.
PATIL, Rao Saheb V. S.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SINDHA, Mr. MADHANSANG JOBBHAI
SURVE, Mr. A. N.
SURVE, Mr. V. A.
TOLANI, Mr. S. S.
VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes : Mr. J. G. MORE and Dr. V. G. VAISHAMPAYAN.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur.
ADVANI, Mr. P. B.
ALLAHBAKSH, Khan Bahadur
AMINUDDIN, Mr. SAYYID
ARUTHNOT, Mr. C. W. E.
ASVALE, Rao Bahadur R. S.
BANGI, Mr. A. K. J.
BRADAR, Sardar MAHABOOBALI KHAN
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
COOPER, Khan Bahadur D. B.
DAVIS, Mr. G.
DESAI, Rao Saheb B. G.
DHYRANDHAR, Mr. J. R.
D'NOUZA, Dr. J. ALBAN
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GREAVES, Mr. J. B.
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur.
JAN MAHOMED KHAN, Khan Bahadur
JONES, Major W. ELLIS
KALBHOR, Mr. G. M.

KAMBLI, the Honourable Dewan Bahadur S. T.
MASTER, Mr. A.
MAXWELL, Mr. R. M.
MEHERBAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
MODAK, Rev. R. S.
MODI, Sardar Davar T. K.
NAMDEORAO BUDHAJIRAO, Mr.
NAVLE, Mr. N. E.
NAWAB SHAH ROOKH SHAH YAB JUNG BAHADUR
OWEN, Mr. A. C.
PATIL, Mr. N. N.
PRATER, Mr. S. H.
ROOSE, Mr. F. O. J.
SERVAI, Mr. A. E.
SHANKARRAO JAYARAMRAO ZUNZABRAO, Mr.
SOLANKI, Dr. P. G.
SPENCE, Sir REGINALD
TARAPOREWALA, Mr. V. F.
TURNER, Mr. C. W. A.
VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
VANDEKAR, Rao Bahadur R. V.

Tellers for the Noes : Mr. S. H. PRATER and Major W. ELLIS JONES.

Rao Bahadur R. R. KALE : Sir, with regard to the amendment that stood in my name, namely :

" In clause 3, sub-clause (1) (line 3), after the words 'if satisfied' add 'after giving the person reasonable opportunity of being heard' "

in view of the statement made by the Honourable the Home Member that he agrees to insert in sub-clause (2) words which will serve the purpose of my amendment, I beg leave of the House to withdraw it.

The Honourable the PRESIDENT: There was an amendment to this amendment by Dewan Bahadur Patil, that the word 'reasonable' should be omitted. Now, the honourable member who moved the original amendment asks the leave of the House to withdraw his amendment.

Amendment, by leave, withdrawn.

The Honourable the PRESIDENT: The amendment to the amendment falls.

Mr. J. B. PETIT: Sir, the next two amendments that stand in my name are that :

In clause 3 (2), for the words ' by the officer ' substitute the words ' the District Magistrate.'

and

In clause 3 (2), for the words ' such officer may ' substitute the words ' the District Magistrate may.'

These were meant to be consequential to the amendment I moved to clause 3 (1). As the principal amendment has however been thrown out, there is no point in my moving these amendments now. I am accordingly not moving them.

Mr. G. S. GANGOLI: Sir, the amendment that stands in my name reads as follows :—

In clause 3 (2), omit all the words commencing with the last three words in the sixth line, including the word ' behalf ' up to the proviso. Substitute the portion omitted by the following :—

' the nearest goal or the sub-goal as the case may be.'

Before proceeding to move that amendment, I would like to know what the intention of Government is in having these words. If I am satisfied that those words are necessary in the working of this Act, I shall not move my amendment at all.

The Honourable the PRESIDENT: Which are the words he wishes to omit ?

Mr. G. S. GANGOLI: "Such custody as the Governor in Council may, by general or special order, specify in this behalf." For those words, I want to substitute "the nearest gaol or the sub-gaol as the case may be."

The Honourable the PRESIDENT: The honourable member wishes to know why these words 'such custody as the Governor in Council may, by general or special order, specify in this behalf' are introduced.

The Honourable Mr. W. F. HUDSON: Well, Sir, I think it is in order to cover all possible cases. We might not think it necessary to send him to jail; we might think it necessary to detain him in his own house or to send him to a detention camp or police custody. We have not jails and sub-jails everywhere. It is quite possible that instead of sending a man to jail, we may think it is enough to order him not to leave his own house. I do not think the honourable member would suggest that people should always be sent to jails and sub-jails.

Mr. G. S. GANGOLI: May I know whether it includes jails and sub-jails ?

Honourable MEMBERS : Yes.

The Honourable the PRESIDENT : We have finished with the sub-clause. The next is the proviso. Will the Honourable the Home Member move his amendment now ?

The Honourable Mr. W. F. HUDSON : Sir, I beg to move—

In sub-clause (2) of clause 3, after the words ' as the case may be ' insert the following words, namely :—

' who shall forward with his report a written record of the statement, if any, made by the person so arrested.'

Question put, and agreed to.

Dr. M. K. DIXIT : Sir, I beg to move the amendment which stands in my name, namely :—

In the first proviso to sub-clause (2) of clause 3, omit the words ' unless the Governor in Council by special order otherwise directs.'

Sir, the object of moving this is to support my next amendment namely, the second proviso to be dropped altogether. The point is clear, Sir, that under this bill a man is to be arrested without a warrant and kept in imprisonment for in the first instance fifteen days and later on with the special order from the Governor in Council for two months. My idea in moving this amendment is that when a man has been arrested without a warrant and kept in jail without a trial, I wish that that period should be as short as possible and therefore I have moved my amendment. It should not be a day longer than fifteen days. If he is to be detained longer, then the direction of the Governor in Council is needed. That is how I understand the matter.

The Honourable Mr. W. F. HUDSON : Yes, the two provisos go together.

Dr. M. K. DIXIT : I hope I am correct in the interpretation I have put upon it. So, my object in moving this amendment is to curtail the period of imprisonment to as short a limit as possible, namely, not more than fifteen days which are already there. I hope the House will see that a man should not be detained a day longer if possible without a trial and therefore I hope the amendment will be accepted by the House.

Question proposed.

The Honourable Sir GHULAM HUSSAIN : Sir, I rise to oppose this amendment. I think the proviso, " Provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days " is a very healthy provision in the interests of the accused. What will happen if we remove these words ? The officer who is arresting a man can in that event keep the man for fifteen days. As the clause stands, the officer can arrest the man, and unless there is a special order of the Governor in Council, he cannot keep him for more than fifteen days. But that is not the amendment. That is what he says but that was not his amendment.

Dr. M. K. DIXIT : I hope, Sir, I am correct and not the Honourable the Leader of the House.

The Honourable the PRESIDENT : The honourable member Dr. Dixit is correct.

Mr. V. N. JOG (Dharwar District): Sir, I support this amendment because this is a clause which deprives the subject of his liberty and therefore I think the period of custody should not be more than fifteen days. Fifteen days are quite sufficient for Government to go through the case and see whether the order passed by the officer is correct or not, and so the period should not at any rate exceed fifteen days on any account. If this amendment is carried, I think the second proviso is not necessary. I support this amendment.

The Honourable Mr. W. F. HUDSON: Sir, the two provisos I think must be read together. I appreciate the honourable member's difficulty in getting his amendment in without taking account of the second proviso. Well, Sir, glad as I should be to accept it if I could, it is not practical politics. We have found by experience that in many cases it is necessary to detain people for longer than fifteen days while enquiries are being made. We are dealing with very clever men whose ramifications are all over the Presidency and are such that it is impossible within a short time to trace all their movements. It by no means follows that everybody is detained for two months, but we must maintain these two provisos. We are not only dealing with Bombay City but with all parts of the Presidency. I quite agree that possibly in Bombay city the police may be able to find out all about a man within a short period of fifteen days, but it is not so in the mofussil, and although I confess I seriously considered when this Bill was before us whether we could curtail these periods our advice is that those practical men who have had the misfortune to work the ordinances are of opinion that these are the minimum periods. The House will understand that all orders for two months come before the Governor in Council, that no one can be kept in custody for more than fifteen days without the papers coming up to Government and that the reports will now be before us along with the man's own statement which we have not necessarily had before us up till now but which we are now going to have together with the report of the officer who recommends the man's detention, and so, I can promise the House that every case will be most carefully scrutinised, and we shall by no means sanction two months as a matter of course. I regret that I cannot go further than that.

Rao Bahadur R. R. KALE (Bombay University): Sir, I find some difficulty in my view of this amendment because the other amendments which curtail the period of fifteen days are put down in this paper later. I was rather thinking whether you would agree that those amendments should be put first to the House and then in the light of the decision of the House on them this amendment could be taken up. I should think the proviso No. 1 relates to the Governor in Council's power to increase the period of detention, and so the present amendment can be taken up later. I am only suggesting—

The Honourable the PRESIDENT: The position is this. The honourable mover wishes to omit those words. He leaves the fifteen days there. Now the other amendments come in quite logically to reduce those fifteen days to three, seven and so on.

Rao Bahadur R. R. KALE : If the period of fifteen days is reduced, then perhaps we may take a different view and allow the Governor in Council to have some latitude.

The Honourable Mr. W. F. HUDSON : I am sorry I cannot accept any of them, but I do not want the House to get the wrong impression, I cannot agree to reduce the period of fifteen days.

Rao Bahadur R. R. KALE : I am not saying that the Honourable the Home Member accepts it, but there are amendments.

The Honourable Mr. W. F. HUDSON : Yes, quite. I have no objection to the other amendments being put first if that will suit the honourable member's convenience. I see that the fifteen days come before the two months in any case. It is merely a question of procedure and therefore perhaps we should go on with the other amendments first.

The Honourable the PRESIDENT : The point is that if there is any the least chance of Government accepting a shorter period than fifteen days and the power of the Governor in Council in the second proviso remains, then I may postpone this and take up the other amendments.

The Honourable Mr. W. F. HUDSON : No, Sir. I am afraid there is a practical difficulty. If it were that we were concerned only with Bombay City, I probably should be prepared to accept it, but there are in the mofussil, after all, difficulties about the post and all sorts of things, and so it is quite impossible for us to accept less than fifteen days which I may state is the period laid down in every other province in India which is including this clause in its Bill.

Mr. L. R. GOKHALE (Poona City) : Sir, I want to oppose the amendment of my honourable friend Dr. Dixit, and my reason is this. The amendments subsequently coming will show that an attempt is being made to curtail the period of two months to one month and of a fortnight to seven days or eight days or three days. The policy as it appears to me and as is suggested by the opposition, is that instead of two months the person should be in jail at the most for one month and instead of being put for fifteen days, at the most for seven days, or eight days or three days, and the proviso—

Dr. M. K. DIXIT : The honourable member has misunderstood me. I want that the maximum period should be fifteen days and no more.

Mr. L. R. GOKHALE : After having seen the position which the Government have taken up, I believe it is not likely that the period of two months will be reduced to fifteen days. I quite understand what the purpose of the amendment is, as moved by my honourable friend Dr. Dixit. But what we want, if possible, is that the two months should be reduced to one month and the fifteen days to a week. If that is done, the first proviso will read :

“ Provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding 7 days.”

If the amendment is passed, the proviso will read :

“ Provided that no person shall be so detained in custody for a period exceeding fifteen days.”

[Mr. L. R. Gokhale]

That means that the power of the Governor in Council will not be there. If we take away that portion —

The Honourable the PRESIDENT : There is the honourable member's next amendment also.

Mr. L. R. GOKHALE : Yes, Sir. But I quite see that there is no chance of his amendment for omitting the second proviso being accepted, though I quite appreciate my honourable friend's position. Looking to the position which Government have taken I do not think there is any chance of anything being accepted by them. But in order that we should give a chance to the other side to give a sympathetic hearing to our reasonable suggestions, as regards reducing the period of two months to one month, I think we may consider that it is necessary to retain the words and continue them. Of course, it will be for Government to see what they can do. It is only for that reason that I oppose the amendment.

Rao Bahadur R. R. KALE (Bombay University) : The difficulty, Sir, is this. Supposing this amendment fails, then the proviso, that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days, will be carried. If the amendment is lost, the result will be that this proviso will remain part of the Bill. Then, I mean to say, it will be certainly impossible for the other amendments, which want to reduce the period from 15 days to 7 days or a lesser period, to be moved ; they will be out of order.

The Honourable the PRESIDENT : How ? The amendment under discussion is to omit certain words.

Rao Bahadur R. R. KALE : If those words are not omitted, the proviso stands.

The Honourable the PRESIDENT : The amendment is to omit the words from " unless " to " directs. " If the amendment is lost, it does not mean that the other amendments cannot be dealt with.

Rao Bahadur R. R. KALE : I am rather sorry that the Honourable the Home Member should have given, I mean to say, a definite indication that Government are not prepared to accept any reduction of the period, because there might be arguments for lessening the period, and it may be possible for honourable members on the Treasury benches to consider them. I am only pointing out that we have had no occasion yet to give our reasons for or against a reduction of the period.

The Honourable the PRESIDENT : That will come afterwards.

Rao Bahadur R. R. KALE : I was only pointing out the difficulties.

Dr. M. K. DIXIT (Surat District) : Sir, my honourable friend Rao Bahadur Kale seems to have misunderstood my amendment altogether. If the words that I wish to be omitted are omitted by the House accepting my amendment, then of course the period of fifteen days will remain, as he imagines, but if my amendment is thrown out, there is every chance to move amendments to reduce the period from fifteen days

[Dr. M. K. Dixit]

to eight days, or five days, or three days. All that I want is that the words "unless the Governor in Council by special order otherwise directs" should be omitted. I have nothing further to say.

The Honourable Mr. W. F. HUDSON : I have nothing further to say. Question put, and negatived.

Mr. J. G. MORE (Sholapur District) : Mr. President, the amendment of which I have given notice and which I move is as follows :—

In clause 3 sub-clause (2) in the first proviso, for the words "fifteen days" substitute the words "seven days."

I need hardly make any speech on this amendment.

Question proposed.

Rao Bahadur R. R. KALE (Bombay University) : Sir, in supporting this amendment to reduce the period from fifteen days to seven days, I wish briefly to give my reasons. The procedure contained in clause 3 has also relation to the further procedure that follows under clause 4. I take it that when a man is arrested on suspicion, it will be on reasonable grounds, that is to say, the material which constitutes reasonable grounds for suspecting him is already before the authorities. Then, Sir, under sub-clause (2) that material, or a report of it is to be forthwith submitted. The man is arrested, and immediately the report has to be submitted. It may take not more than a couple of days for the post to reach the Governor in Council.

The Honourable Mr. W. F. HUDSON : It may easily take five days.

Rao Bahadur R. R. KALE : Very well, let us take it that it will take five days. In any case, this is a sort of *kacha kaid*, as we call it. The remedy which is ultimately to follow is to curtail his movements. The main order that is to follow is to be given under clause 4. The object is not to keep any man in custody, but to give him directions for the purpose of controlling his movements. That is the ultimate object. If the man agrees to certain conditions which are calculated, in the opinion of the Government, to curtail his movements, then there should be no custody. This custody, or rather imprisonment, or putting him under custody is a sort of under-trial *kaid*, as we call it. Under-trials are put in jail, and they are undergoing under-trial imprisonment, as it were. My point is that the materials on which the man is suspected and arrested are before the authorities. Then there is the statement of the man also before them. Therefore there should be no difficulty in once for all deciding on that material. He is not to be tried for any offence. There need be no collection of evidence of any kind. All the material is already there, and no time, I submit, is necessary to be taken for the purpose of making any further investigation or anything of the sort. That material being there, my submission is that the Governor in Council may decide at once as to what further steps are to be taken, because the wording in clause 4 is, "The Governor in Council, if satisfied that there are reasonable grounds for believing", etc. When the man was arrested in the first instance under the orders of the District Magistrate or any other officer, there must have been some grounds. Those grounds were there.

[Rao Bahadur R. R. Kale]

Further, if the Governor in Council, if satisfied that there are reasonable grounds for believing that any person has acted, is acting or is about to act in a particular manner, then he merely gives one or more of the directions as provided in clause 4, which is the punishment, as you may call it. It is not punishment, because we are told this is a preventive measure. But whatever directions have to be given must be given under clause 4. My point therefore is that we should minimise the period during which a certain individual would be detained in custody. If the man is prepared to go to jail, of course he will be sent to jail, but if there is a man who says "I do not want to go to jail. I would certainly abide by any conditions you may lay down, and live like a law-abiding citizen." why detain him for 15 days, or, according to the second proviso, for two months? He is to be detained for a period, not for any further investigation. Of course, under the Criminal Procedure Code a remand has to be asked, and so on. All that procedure will not have to be observed in these cases, because it is a summary proceeding. I would therefore repeat that the period should be curtailed as much as possible.

Rao Saheb P. D. KULKARNI (Poona District): On a point of information. Under the clause here the Governor in Council may direct, but if we take into consideration the provision in the Bill in clause 16, the power has been delegated to the District Magistrate. It is stated on this side that two days will be required to reach the information to His Excellency the Governor before he can direct in the case whereas the Honourable the Home Member says that five days will be required for that thing i.e. for the post to reach His Excellency the Governor in Council. If that is so, I think the Governor in Council can delegate his powers to the District Magistrate, as he can do under clause 16 and then in that case the period in question can conveniently be shortened.

The Honourable the PRESIDENT: What is the point of information?

Rao Saheb P. D. KULKARNI: Is not the provision to delegate the power by His Excellency the Governor to the District Magistrate applicable here? If the Governor in Council can delegate his power to District Magistrate, then it will not be necessary to have 2 days or 5 days for the post to reach the authority concerned as contemplated in the provisions made in the Bill.

The Honourable Mr. W. F. HUDSON: I could not follow the honourable member.

The Honourable the PRESIDENT: Is the Honourable the Home Member dealing with the amendment?

The Honourable Mr. W. F. HUDSON: Yes, Sir. Sir, I have said before that if we are dealing only with the city of Bombay, it is perfectly simple to curtail the period. But it is quite impossible if we are to deal with the whole presidency extending from Jacobabad to Karwar. It requires something between 4 or 5 days for a letter to reach from Jacobabad to

[Mr. W. F. Hudson]

Poona and 4 or 5 days for orders of Government from Poona to reach Jacobabad. Although this is an extreme case, there are several districts which require more than two or three days for letters from headquarters to reach them. Honourable members I am sure will agree with me that when we receive these applications from District Magistrates for further custody which will be up to two months, they should be scrutinised by some one above the rank of an under secretary and they should receive careful consideration from the higher officers of Government. We cannot guarantee to do that in a few minutes. It is not an excessive period from the time the District Magistrate makes the application. We should have fifteen days within which Government may make up its mind whether it is necessary or not to extend the period of custody.

Apart from that, the honourable member Rao Bahadur Kale said that it was not necessary to ascertain anything more about the individual concerned, because we have already information about the matter on which he was arrested. It is not quite the case. A further full enquiry should be made in order to ascertain whether he is a person who should be kept in custody or can be safely released.

Question put, and negatived.

Mr. V. N. JOG (Dharwar District): Sir, I move the following amendment:

"In the proviso to sub-clause (2) of clause 3, substitute for the words 'fifteen days' the words 'eight days'."

This is not a question of Government keeping a man in custody but it is the question of the officer who arrests the man keeping him in custody. The words are: "unless the Governor in Council by special order otherwise directs." Such custody may be in a private house and if that custody is to be prolonged, there is also provision:

"Provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days."

I want that it should be eight days instead of fifteen days. After the papers are received, if Government thinks that the period of custody should be extended, there is no sort of prevention why it should not be increased. I submit, Sir, that eight days are quite sufficient for the person who makes the arrest. The Honourable the Home Member gave the illustration that it is very difficult for him unless he is given sufficient time and that a letter to reach the Government from Jacobabad will take five days, which is in the northernmost part of the presidency and in order that the order of the Government may reach Jacobabad it will take again another five days. But I submit we have got now air mail from Karachi to Bombay. I am told that it is thrice a week.

The Honourable Mr. W. F. HUDSON: Only once a week.

Mr. V. N. JOG: By air mail they can inform whether a man is to be detained longer. What we wish on this side of the House is that some responsible officer should hold him in custody. It should not be left to the sweet will of the person who has detained him. Fifteen days will be too long a period. Government have already got power under the proviso,

[Mr. V. N. Jog]

I hope my amendment will be accepted by Government. The period I have provided will be sufficient for communication in regard to such matters.

Question proposed.

Rao Bahadur R. R. KALE (Bombay University): Under section 16, the powers of controlling suspected persons are to be delegated to the District Magistrate under sub-clause (1). My point is that the District Magistrate to whom the material collected about a person will be sent will issue directions at once, which will be necessary to control the movement. Why should there be any unnecessary custody? That is the whole point. If the District Magistrate has to issue further orders controlling the movement, it will not be necessary for Governor in Council to have two months at all.

The Honourable Mr. W. F. HUDSON: We are discussing the amendment to the first proviso giving 15 days' time.

Rao Bahadur R. R. KALE: My point is whether 8 days are not sufficient. The argument was advanced as to the time it takes for the orders of the Government to reach a particular place. If the powers are to be delegated to the District Magistrate, there is no need of a long interval.

The Honourable Mr. W. F. HUDSON: Sir, it is quite true that it is impossible in a number of cases. In some cases which are perfectly clear, where the subject matter is not serious, the District Magistrate issues a mild order under section 4. Probably in a good many cases detention is necessary. We are dealing with all kinds of cases. There are some which are more difficult where it will be necessary that a further enquiry should be made, in order to see what degree of restraint is necessary. The difference between the worst cases and the best cases is enormous. There are a great many cases which are dealt with immediately. The District Magistrate is not required to report in such cases. When he cannot deal with the matter immediately because he receives information that there is a great deal more to be said about the person, he has to apply to Government for detention for two months. In that case 15 days will be quite necessary.

Amendment put, and negatived.

Rao Bahadur R. S. ASAVALE (Bombay City, North): Sir, I move my amendment and it runs thus:

"In the further proviso for the words 'two months' substitute the words 'one month'."

I need not take much time of the House. It has been clearly stated by the Honourable the Home Member that in the City of Bombay it will not take much time for the Governor in Council to decide how long the accused person should be detained in custody. In the same way if a person is to be detained in custody in the mofussil I think the time of one month would be quite sufficient, instead of keeping the person who is under trial for more than one month. The difficulty which the Honourable the Home Member has stated is that the District Magistrate

[Rao Bahadur R. S. Asavale]

or any other officer after inquiry has to report to the Governor in Council, but I am quite sure that within the first fifteen days the officer can inquire into the case and inform the Governor in Council what the state of the person is and how long he should be detained. To detain a person for two months without trial is really a hardship in my opinion, and one month is quite sufficient for Government within which to hold a trial of the accused person. During that period if he wants pardon from Government he is sure to ask for it. The person who is headstrong or does not wish to apologise must be tried within one month. I therefore hope that as many of my honourable friends have given amendments to the same effect Government will accept this amendment and obtain good wishes from this side.

Question proposed.

Mr. V. N. JOG (Dharwar District) : There is an amendment to the same effect by me with regard to the curtailing of the period of 2 months to 1 month. All the arguments of the previous speaker, I think, can be met by curtailing the period to one month. 15 days is the first custody when Government have ample time to consider his case. Then there is a further period of a fortnight, and I do not understand why more than one month is required to go into the case of any individual. If the officers do not act on the spur of the moment as the Government themselves have been saying, the responsible officers who arrest such persons and keep them in custody have first to be satisfied on reasonable grounds. So, the grounds are already there. Otherwise, the position is reduced to this. That without any reasonable grounds the man has been arrested merely on suspicion and then they begin to find out the reasons justifying the arrest. It comes to that. But if there are reasonable grounds to arrest him, then I think the material is ready there. The Honourable the Home Member has said that when all the counts and charges are made against them the accused persons give an explanation as to the various charges which have been made against them. So, all that material is ready. I, therefore, cannot understand why Government should require more than 15 days in addition to the first 15 days during which the accused person has been in custody. I submit, Sir, that Government should not feel any difficulty in accepting this amendment which is quite reasonable. With these words I support the amendment.

The Honourable the PRESIDENT : The House is now adjourned to 2 o'clock to-morrow, Wednesday, the 30th November 1932.

Wednesday, the 30th November, 1932.

The Council re-assembled at the Council Hall, Bombay, on Wednesday, the 30th November 1932, at 2 p.m. the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ACHREKAR, Mr. A. B.
 ADVANI, Mr. P. B.
 AMINUDDIN, Mr. SAIYID
 ARBUTHNOT, Mr. C. W. E.
 ASAVALE, Rao Bahadur R. S.
 BAKHALE, Mr. R. R.
 BALOCH, Mr. HAJI MIR MAHOMED
 BANGI, Mr. A. K. J.
 BHUTTO, Sir SHAH NAWAZ
 BIJARANI, Khan Bahadur SHER MUHAMMAD KHAN
 BRADAR, Sardar MAHABOOBALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CHIKODI, Mr. P. R.
 CHITALE, Rao Bahadur G. K.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Saheb B. G.
 DESAI, Mr. H. R.
 DEHALUMAL LILARAM, Mr.
 DHURANDHAR, Mr. J. R.
 DIXIT, Dr. M. K.
 D'SOUZA, Dr. J. ALBAN
 GANGOLI, Mr. G. S.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GHULAM HYDER SHAH, Mr.
 GHULAM NABI SHAH, Khan Bahadur
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.
 HUMPHREY, Mr. JOHN
 JAM JAN MAHOMED KHAN, Khan Bahadur
 JAN MAHOMED KHAN, Khan Bahadur

JITEKAR, Mr. HAJI IBRAHIM
 JOG, Mr. V. N.
 JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHRO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MATCHESWALLA, Mr. G. E.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETTIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Da. P. G.
 SPENCE, Sir REGINALD
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SYED MIRAN MAHOMED SHAH
 SYED MUNAWAR, Mr.

TALPUR, MIR BANDEH ALI KHAN
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.
 VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
 WINTERBOTHAM, Mr. G. L.

STARRED QUESTIONS AND ANSWERS.

DILATORINESS OF MINISTERS : DR. PARANJPYE'S CRITICISM.

* Rao Bahadur R. S. ASAVALE (Bombay City, North): Will the Honourable Minister for Education be pleased to state—

(a) whether the attention of Government has been drawn to the criticism by Dr. Paranjpye in the *Bombay Chronicle* of the 16th July 1932, with regard to the dilatoriness of Ministers in not bringing into operation the rules within one year of the passing of the Bombay Primary Education Act of 1923 ;

(b) when the Bombay Primary Education Act received the assent of His Excellency the Governor ;

(c) who was the Education Minister in the year 1923 ;

(d) whom Dr. Paranjpye accuses of unpardonable dilatoriness in not bringing into operation the rules under the Bombay Primary Education Act within one year of the passing of the Act of 1923 ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) Yes.

(b) On January 17, 1923.

(c) Dr. R. P. Paranjpye up to 14th December 1923 and Mr. B. V. Jadhav from the afternoon of 20th December 1923. During the intervening period the transferred subjects were administered by His Excellency the Governor.

(d) It is none other than himself (i.e., the ex-Minister Dr. Paranjpye) that Dr. Paranjpye, the ex-Minister of Education, strangely yet unconsciously accuses of unpardonable dilatoriness in not bringing into operation the rules under the Primary Education Act within one year after the passing of the Act.

Mr. M. M. KARBHARI : Do Government admit that Dr. Paranjpye, between the passing of the Primary Education Act and the time he gave up charge as Minister of Education, failed to do his duty as the Minister of Education ?

The Honourable Dewan Bahadur S. T. KAMBLI : This question does not arise.

Mr. M. M. KARBHARI : What is the educative and moral value of this question and answer on the mind of Government and the public ?

The Honourable the PRESIDENT : Next.

Mr. M. M. KARBHARI: Is it not tantamount to a surrender, strangely yet unconsciously, by the Honourable the Minister for Education to an outside propaganda?

The Honourable Dewan Bahadur S. T. KAMBLI: I cannot understand the mentality of the questioner.

Mr. G. S. GANGOLI: Will a copy of this question and answer be sent to Dr. Paranjpye?

The Honourable Dewan Bahadur S. T. KAMBLI: There is no necessity for doing so when the facts are very clear. There was an article and there was a question put relating thereto; the answer has been based and framed on materials that were quite clear.

Mr. J. S. KADRI: When were the rules ready under the Primary Education Act for publication?

The Honourable Dewan Bahadur S. T. KAMBLI: I require notice of that question.

GARDENERS AND GRAZING FEES IN KANARA.

*Mr. G. S. GANGOLI (Kanara District): Will the Honourable the Revenue and Finance Member be pleased to state—

- (a) the total area of gardens in Kanara;
- (b) the total area of betta lands given to gardeners in Kanara;
- (c) whether the gardeners are allowed free grazing in their bettas for their cattle;
- (d) the total number of cattle owned by gardeners in Kanara;
- (e) the total amount of grazing fees recovered from them in the year 1931?

The Honourable Sir GHULAM HUSSAIN: (a) 31,795 acres, 15 gunthas, 6 annas.

(b) 119,503 acres, 6 gunthas, 11 annas.

(c) Yes.

(d) 47,730.

(e) Rs. 5,746-4-0.

Mr. G. S. GANGOLI: With regard to (b) and (c), it is stated that 1,19,000 and odd acres of betta lands are given to gardeners and that free grazing is allowed to their cattle. From the answer to (d) it appears that every cattle was charged. How can I reconcile these two?

The Honourable Sir GHULAM HUSSAIN: There seems to be some confusion in the honourable member's mind. The question is very clear. He asked for the total area of gardens in Kanara. That has been given. In (b) he asked for the total area of betta lands given to the gardeners. That has been given. In (c) he asked whether the gardeners are allowed free grazing in their bettas for their cattle. That has been answered in the affirmative. He also asked for the total number of cattle owned by gardeners, and the total amount of grazing fees recovered from them in the year 1931. All that information has been given. Now, Sir, when the cattle graze in their own bettas, no fee is charged; but if and when they go into the forest areas, they are charged.

Mr. G. S. GANGOLI: My point is that if there was no free grazing, the amount to be recovered from all these heads of cattle would have been the same. Now when there is free grazing on 1,19,000 acres, how is it that that much amount is collected?

The Honourable Sir GHULAM HUSSAIN: It is a fact.

ADMISSION TO URDU TRAINING SCHOOLS, AHMEDABAD AND POONA.

*Mr. J. S. KADRI (Northern Division): Will the Honourable Minister for Education be pleased to state—

(a) the number of Mahomedan teachers admitted to the 1st and 2nd year classes of the Urdu Training Schools at Ahmedabad and Poona respectively from each district, local board and municipal local authority in the Northern Division last year as well as this year;

(b) how many of these teachers admitted to the Urdu First Year class have passed the Urdu Vernacular Final Examination and how many the Gujarati Vernacular Final Examination;

(c) the percentage of Urdu trained teachers to the total number of teachers in the Urdu schools for boys and girls under each local authority in the Northern Division;

(d) whether it is a fact that the order of admission to the First Year class issued to one Habibmian Alam Mian, an assistant master in the local board Urdu School at Barvala, District Ahmedabad, who has passed the Urdu Vernacular Final Examination, was cancelled in favour of another man who has passed the Gujarati Vernacular Final Examination; if so, what are the grounds for the cancellation of that order?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) The following table gives the information required in respect of only those local authorities and local boards from which the teachers were admitted to the schools in question.

Name of the Local Authority.	Number of admissions made during the year	
	1931-32	1932-33
<i>Urdu Training School, Ahmedabad (I year class).</i>		
District Local Board, Ahmedabad	1	2
Do, Brouch	3	....
Surat Municipality	1	3
Ahmedabad	5	9
Viramgaon .. .. .	....	1
Brouch .. .. .	....	3
Dohad .. .. .	....	1
<i>Urdu Training School, Poona (II year class).</i>		
District Local Board, Ahmedabad .. .. .	....	1
Ahmedabad Municipality .. .. .	....	1
Brouch .. .. .	....	1

(b) All the teachers admitted have passed the Urdu Vernacular Final Examination.

(c) The accompanying statement gives the information required.

(d) The teacher in whose favour the order was cancelled was senior to Habibmian and he would not have had another chance of admission had he not been deputed this year as he would be overage next year. He has passed the Urdu Vernacular Final Examination and not the Gujarati Vernacular Final Examination as stated by the Honourable Member.

Statement showing percentage of Urdu trained teachers to the total number of teachers in the Urdu Schools for Boys and Girls under each Local Authority in the Northern Division.

Name of the Local Authority.	Percentage of Urdu trained teachers to the total number of teachers in the Urdu Schools for boys and girls.	
	Men.	Women.
<i>District Local Boards.</i>		
Ahmedabad	30.6	....
Kaira	66.6	....
<i>Local Authority District Local Boards.</i>		
Panch Mahals	61.6	....
Broach	55.7	....
Surat	65.0	100
<i>Local Authority Municipalities.</i>		
Ahmedabad	27.5	....
Viramgam	15.4	....
Nadiad	100	....
Godhra	52.0	....
Dohad	43.7	....
Broach	26.4	....
Surat	32.0	16
Bulsar	33.0	33
Rander	50.0	....

Mr. J. S. KADRI : With regard to table 1, the number of admissions in the year 1931-32 was 10 while the same in the year 1932-33 was 22. May I know why so few admissions were made in 1931-32 ?

The Honourable Dewan Babadur S. T. KAMBLI : I cannot say off-hand. I will enquire into that matter.

Mr. J. S. KADRI : May I draw the Honourable the Minister's attention to the figures at the end of statement 1 and enquire why the District Local Board of Ahmedabad had only one teacher admitted in the year 1931-32 and 2 in the year 1932-33, though the percentage of trained teachers to the total number of teachers in the district is as low as 27.5, i.e., about 50 per cent. less than the prescribed minimum under the Act ?

The Honourable Dewan Bahadur S. T. KAMBLI: I shall have to enquire about that from the district local board before I can give an answer. However, I will enquire into the matter.

Mr. J. S. KADRI: With regard to statement 2, the Honourable Minister's attention is invited to the percentages from which it will appear that several boards have got less than 50 per cent. trained teachers. The district local board of Ahmedabad has a percentage of 30·6 trained teachers, which is very much below the minimum, while as regards the municipalities, as many as six have a percentage far below the prescribed minimum. What steps do Government propose to take to remedy this serious defect?

The Honourable Dewan Bahadur S. T. KAMBLI: The only answer I can give is that I shall enquire into the matter.

Mr. J. S. KADRI: As regards women, there are practically no trained women teachers for Urdu schools throughout the division, barring Surat and Bulsar. Do Government intend to take any steps to have more Mahomedan trained mistresses for Urdu girls' schools?

The Honourable Dewan Bahadur S. T. KAMBLI: That again is a matter for enquiry.

Mr. J. S. KADRI: My point is whether Government would take any practical steps to remedy this defect.

The Honourable Dewan Bahadur S. T. KAMBLI: I will first enquire into the matter and then see if anything is possible to be done in this connection.

Mr. J. S. KADRI: Thank you.

PERFORMANCE OF THE ANNUAL FESTIVAL OF THE GODDESS DURGA DEVI AT MURUD.

*Rao Bahadur R. R. KALE (Bombay University): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether any grant or grants were made from Government treasury for the performance of a certain festival of the goddess Shri Durga Devi at Murud, taluka Dapoli, district Ratnagiri;

(b) if so, whether the amount of such grant or grants was commuted by the payment of a lump sum and to whom the lump sum was paid;

(c) whether Government are aware that the amount in question is not being spent annually on the said festival;

(d) whether Government have taken any steps for recovering the amount thus remaining unspent for the last thirty years;

(e) whether Government intend to take over the management of the temple and to have the festival performed by means of the grant intended for it?

The Honourable Sir GHULAM HUSSAIN: (a) Three cash allowances of Rs. 33, Rs. 4 and Rs. 3 have been granted in respect of Shri Durga Devi of Murud. The purpose for which they were granted is not mentioned in the sanad or the Cash Alienation Register.

(b) No.

(c) and (d) Do not arise as the purpose for which the grants were made is not known.

(e) No.

Rao Bahadur R. R. KALE: With regard to (b), it is stated that the grants were not commuted. Do I understand that the grants are being paid annually year after year?

The Honourable Sir GHULAM HUSSAIN: If the honourable member will kindly read the reply to (a), he will see that three cash allowances have been paid.

Rao Bahadur R. R. KALE: To whom? The deity is a personal entity. May I know to whom these amounts are paid?

The Honourable Sir GHULAM HUSSAIN: To the trustees, naturally.

ASSISTANT SURGEON (MR. A. B. SARDESHPANDE) AT MALEGAON.

* Mr. SHAIKH ABDUL AZIZ ABDUL LATIF (West Khandesh District): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether it is a fact that Mr. A. B. Sardeshpande has been working as an assistant surgeon at Malegaon over three years;

(b) whether Government are aware that the public of that place is dissatisfied with him and is against his remaining there any longer;

(c) whether they are aware that the Municipality of Malegaon passed a resolution about 4 or 5 months back and sent it by wire to the Surgeon-General with the Government, requesting him to transfer Mr. Sardeshpande on account of public grievances against him;

(d) if so, what action has been taken by the Surgeon-General in the matter?

The Honourable Sirdar Sir RUSTOM J. VAKIL: (a) Yes;

(b) and (c) The Malegaon Municipality passed a resolution in April 1932, requesting the Surgeon-General to transfer Mr. Sardeshpande alleging that public opinion was against him;

(d) The Surgeon-General who caused an enquiry into the complaint to be made by the Civil Surgeon was satisfied that no sufficient reason for transfer existed and that the allegations made by certain members of the Municipality against Mr. Sardeshpande were indefinite and did not justify any action against him.

The Municipality has however been informed by the Surgeon-General that as there is a feeling among a section of the public against Mr. Sardeshpande, an early opportunity will be taken to appoint another officer in his place.

Mr. SHAIKH ABDUL AZIZ: Is there any special reason to keep that medical officer there for such a long time?

The Honourable Sirdar Sir RUSTOM J. VAKIL: I cannot understand what is meant by "long time".

Mr. SHAIKH ABDUL AZIZ: Nearly five years.

The Honourable Sirdar Sir RUSTOM J. VAKIL: At many places medical men are kept for more than five years.

Mr. SHAIKH ABDUL AZIZ: To the dissatisfaction of the municipality of those towns?

The Honourable Sirdar Sir RUSTOM J. VAKIL: The allegations made by the municipality were very indefinite and on inquiry it was ascertained that there was no truth in the allegations. The president of the municipality, who forwarded the resolution of the municipality, recommending the transfer of the Doctor there states:—

“ He is in my opinion doing his work with great diligence and devotion. The attendance of both outdoor and indoor patients has increased since he took charge of this dispensary. He is a good surgeon and has done good eye-work and successfully performed many operations ”.

A further inquiry also showed that the grievances complained of were more imaginary than real, but in spite of this the Surgeon General has already assured the municipality that in view of the fact that a certain section of the public is not well inclined towards the medical man, the earliest possible opportunity will be taken to transfer him.

Mr. SHAIKH ABDUL AZIZ: Is the opinion of the president of the municipality more valuable than the resolution of the general body? Is the opinion of one man more valuable than the opinion of the whole general body?

The Honourable Sirdar Sir RUSTOM J. VAKIL: It is a matter of opinion, Sir.

PROPOSED ABOLITION OF THE GOVERNMENT HIGH SCHOOL AT SATARA.

*Mr. R. B. SHINDE (Satara District): Will the Honourable Minister for Education be pleased to state—

(a) whether it is a fact that Government are contemplating to abolish the Satara Government High School either on account of retrenchment or for any other reason;

(b) if so, in what way Government propose to arrange for the education of the students attending the High School;

(c) whether it is the intention of Government to arrange for the education of these students in the private educational institution at Satara; if so, which is that institution;

(d) whether Government are aware that the non-Brahmin students of the Satara High School and their guardians apprehend that their interest will not be safeguarded and that they will not meet an impartial treatment in those institutions which are managed by Brahmins only?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) No such proposal is at present under the consideration of Government.

(b), (c) and (d) Do not arise.

Mr. B. S. KAMAT : Do Government contemplate abolishing any other high schools or institutions for higher education on the ground of retrenchment ?

The Honourable the PRESIDENT : How does that arise ?

Mr. B. S. KAMAT : There is a question about the abolition of one high school. I am just asking whether it is the intention of Government to abolish other schools or educational institutions as well.

The Honourable Dewan Bahadur S. T. KAMBLI : Sir, I have already made a statement on the last occasion when the question was under discussion on the floor of this House. I have already stated on that occasion that if any private association makes any reasonable offer or proposal to take over the management of such institutions, then such a proposal will be considered by Government.

BOMBAY CITY : LICENCES FOR ARMS AND AMMUNITION.

*Mr. B. P. WADKE (Bombay City, South) : Will the Honourable the Home and General Member be pleased to state—

(a) the total number of licences issued for the use of arms and ammunition in the City of Bombay and in the suburbs ;

(b) how many of the licence-holders are Europeans, Indian Christians, Mahomedans, Sikhs, Hindus, Parsis, Jews and others ?

The Honourable Mr. W. F. HUDSON : (a) 6,219 in Bombay City and 1,289 in Bombay Suburban District.

(b) Europeans	..	..	..	..	1,849
Indian Christians	..	..	..	..	998
Muhammadans	..	..	..	..	868
Sikhs	..	..	..	..	61
Hindus	..	..	..	..	2,213
Parsis	..	..	..	..	1,453
Jews	..	..	..	..	31
Others	..	..	..	..	35

Mr. J. B. PETIT : May I know whether any person or class of persons is exempted from taking out licenses ?

The Honourable Mr. W. F. HUDSON : Yes, I am exempted.

Mr. J. B. PETIT : Is any class of persons exempted ?

The Honourable Mr. W. F. HUDSON : I do not carry all that in my head, but if the honourable member will put down a question, we will give him the exact rules about that.

Mr. J. B. PETIT : Is the Honourable the Home Member alone exempted ? Or all the other Honourable Members of the Government are also exempted ?

The Honourable Mr. W. F. HUDSON : The other members of Government too, certainly.

VILLAGE PANCHAYATS BILL.*(Select Committee's Report.)*

The Honourable Sirdar Sir RUSTOM J. VAKIL: Mr. President, I want to make a request to this honourable House. At the last sessions of the Legislative Council the date for the presentation of the report of the Select Committee on the Village Panchayats Bill was fixed for December 10th. On account of circumstances which were not then foreseen, it is now found very difficult, if not impossible, to complete the labours of the select committee within the period specified, namely, two months, and I beg to request this House to extend the period by one month more. By doing so, I do not think there will be any difficulty experienced, because, in any case, the report cannot be submitted to this House before the middle of February when the next session of the Legislative Council will be sitting.

The Honourable the PRESIDENT: This is the only opportunity the Honourable Minister has, in this special session, to ask for the extension of the period that was given at the last session. I do not think the House will have any objection to granting the extension of the period asked for.

SARDAR BHASHAHEB RAISINHJI (THAKOR OF KERWADA) (Gujarat Sardars and Inamdars): Sir, the Honourable Minister has asked for an extension of the time by one month. Looking to the programme for next month, with all sorts of engagements, probably we will not be able to meet before the 20th of the month. I do not think that the extension asked for will be sufficient. It would be better if the committee is called upon to submit its report in the middle of January.

The Honourable Sirdar Sir RUSTOM J. VAKIL: I am afraid that one month is about the utmost that we can ask for, because three weeks before the Council sits the report must be in the hands of honourable members. I think it will not be very difficult to complete the labours of the committee by about the 10th of January next.

The Honourable the PRESIDENT: I think the Honourable Minister is correct in saying that there must be sufficient time for the report to be presented. One month is the utmost that can be given as an extension.

The House has no objection to grant the extension asked for.

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER.)

Question again proposed: "That clause 3 do stand part of the Bill".

The Honourable Mr. W. F. HUDSON: Sir, I am going to ask, with your permission, that we should take a rather unusual course, and to some slight extent retrace our steps. I do not know whether you will allow us to do that. In our anxiety to meet the House in every possible way, provided that it does not involve destroying the effectiveness of

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the Bill, we have been considering whether it would be possible to modify the last two lines of clause 3, sub-clause (1) in the direction that the House desires. It is not very easy for our legal advisers to draft while the discussion is going on, but after giving the matter full consideration, we are prepared to accept the following amendment if the House desires it, although, personally, I must say I do not think that there was anything very objectionable in the wording of the Bill as drafted :

For the words " and in making such arrest any means that may be necessary may be used " substitute the following words :

" and in making such arrest any powers and means which may be exercised or used in making an arrest with or without warrant under the Code may be exercised and used."

The House will see that it means that exactly the same powers will be used as are used at present under the Criminal Procedure Code, and I trust that that will meet the wishes of the Opposition.

Question put, and agreed to.

The Honourable the PRESIDENT : The House will now proceed with the further consideration of the amendment of the honourable member Rao Bahadur Asavale, as follows :—

In clause 3, sub-clause (2), second proviso, for the words " two months " substitute the words " one month".

Mr. G. S. GANGOLI : Sir, this is the third day on which we are concerned with this clause 3, and it is reasonable, because only clauses 3 and 4 of this Bill are the most important ones. From what I have observed in this House, I can say that the Honourable the Home Member is amenable to any slight variations that may be necessary from the popular point of view, but he usually thinks that his legal advisers must come to help him. My point in pointing this out is that this is an emergency measure. Under clause 3 the person is to be arrested and detained for fifteen days at first and then for two months. Before he is let off after the period of detention, some order is passed on him under clause 4. Now, Sir, there is a difference between orders and orders. There are two sorts of orders. I think the order of parole is closely connected with clause 3. If a man is arrested on suspicion and even if there is no evidence, he is let off on his undertaking to do certain acts, or on a parole order. My suggestion to the Honourable the Home Member is this. There are two sorts of orders resorted to during the last one or two years by some of the subordinate officers. One is directing the person arrested not to take part in any unlawful activities. I know of several instances in which an order of this sort has been served and renewed from period to period ; the person has never broken the order, and he has been a law-abiding citizen. Another sort of order is this, that he must attend at some police chowki or give parole to some police officer twice or thrice a day. This sort of order is usually broken. By inflicting the second sort of order you only create disaffection and create more law-breakers. If the Government want only peace and order, then if the first sort of order is resorted to, there will be very few law-breakers and peace and also the dignity of the law will be maintained.

[Mr. G. S. Gangoli]

Another point is this. Yesterday we came to know that so far as Bombay is concerned, the period in the second proviso can be curtailed. Anyway, I am not in possession of facts and figures in how many cases persons were arrested and let off after two weeks or two months. But I do know of one case in Bombay, that of Mr. Bhulabhai Desai. He was arrested on suspicion and detained for two months. I do not think that all the two months were necessary to collect the evidence against him, and I do not know whether he was arrested on any evidence at all. After two months, what was the case against him? He was not hauled up before any court. No formal trial was held. He was served with a parole order at Nasik, that he must report himself to the Police, and as a self-respecting man, as a matter of course, he broke the order, and he was therefore sentenced to one year's rigorous imprisonment and Rs. 10,000 fine. Instead of resorting to such methods, if he had been brought to book under some of the sections of the Criminal Procedure Code, he would have been sentenced for six months or so, or if there was no evidence at all, he would have been let off. My submission is that even where Bombay City is concerned and even with a person of that type when two months are necessary to collect all the evidence and to place the materials before any court of law, then I do not see how in Bombay at least the period could be curtailed.

The Honourable the PRESIDENT: Is the honourable member opposing the amendment?

Mr. G. S. GANGOLI: No, Sir. I have got two amendments of mine. I only say that there are two sorts of orders; one is that he should not break the law and the other is that he should give parole. If instead of resorting to the second sort of order, only the first sort of order were resorted to, then the dignity of the law would be maintained. This is my appeal and practical suggestion to the Honourable the Home Member.

The Honourable the PRESIDENT: In connection with the amendment?

Mr. G. S. GANGOLI: Yes, Sir. I say that two months were unnecessary in the case of Mr. Bhulabhai Desai in the City of Bombay. So, I support the amendment by saying that two months are not necessary. When once it is in the statute, all the 60 days will be utilised by the Police.

The Honourable Mr. W. F. HUDSON: Sir, I found it a little difficult to understand exactly what we were discussing. I think I am right in saying that it is the amendment of the honourable member Rao Bahadur Asavale to substitute the words "one month" for the words "two months", and to that I propose to address myself.

Now, Sir, this is one of the most important provisions of the Bill. Honourable members appear to think that this is some device invented by the Government of India when the Ordinance was first introduced. I should like to tell the House that preventive detention is well known to all European countries and is in constant use. I should probably

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not be far wrong in saying that it is in use in every country in Europe, except perhaps England, and it was in use in England during the War. There was no war in England, but we are constantly being told that there is a war in India, and in order to minimise that war, to curtail its scope, we are obliged to enforce this provision. Now, the suggestion of my honourable friend opposite is not that we should, as far as I can understand it, abolish the provision altogether, but that we should just curtail the period. But if this Bill is to be effective, it must provide all necessary powers for dealing with sudden mass movements of a revolutionary description. It is quite true that at the moment there is no mass movement. But there was one last January, and who can say that there will not be one again next March? This was one of the most effective weapons that we had to use, and, I would add, it was one which inflicted the least possible hardship on the persons concerned. I shall elaborate that point a little later. At the beginning of a movement of this sort, it is essential that we should, if possible, prevent it from gaining momentum and under this section we are able to get hold of what I would call the tall poppies, the leaders of the movement, and give them a period of reflection in a place where they can do no further mischief. That is exactly what we did in the Bombay City and in many parts of the Presidency last year. It is not effective to release them immediately afterwards, because orders under section 4 necessarily follow from those who are not prepared to give an assurance that they will take no further part in the movement. A careful observance whether the orders under section 4 are properly complied with and the trials for breach of such orders can only be carried on when the Police and the courts are not too fully occupied. The only practical method is the one we follow. We release such persons and gradually call upon them to give an undertaking under section 4. Two months is certainly not a long period for such a procedure. In brief, the policy of section 3 is to prevent the person from doing harm rather than to wait until it is done. The detenues are not convicts and there is no suggestion that they are convicts. There is no stigma of conviction placed upon them. They are merely put in a place where for the time being they can do no further mischief and where they can reflect upon their actions in the past. In other words, honourable members would give them *locus poenitentiae*, but I propose to give them *tempus poenitentiae*, time to think it over. I think honourable members know that a good many of these people are young men led astray, partly from lack of education and partly because they have nothing to do, for as the saying goes "Satan finds some mischief still for idle hands to do". It is clearly shown throughout this movement that it has been a very good thing for these young men that they should be kept in a place where they are not ill-treated and where they are given time to think over their past actions. The result of this method has been found very satisfactory. In a large number of cases, within a period of two months they come to the conclusion that the game is not worth the candle. When they definitely say so, they are released. We hope that the brief experience of the inside of one of His Majesty's jails will deter them from any further

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action in the same direction. It does not follow in the least that, because we make the maximum period two months, two months is invariably the period. On the contrary, there are quite a number of cases in which people are released before two months have elapsed. Figures will be a better proof than anything else. In Bombay City alone, in the month of August, in 14 cases, before two months were up, the people in question came to realise their position and said "we have been rather foolish and we will not do it again". If they give that undertaking, they are let off automatically, unless we think that there are sufficient grounds for believing that they would not keep the undertaking. The leading persons in the Civil Disobedience Movement are not prepared to do this. But a number of young men, when they come to face stern facts, realise that they have committed a mistake and give the undertaking that they will not take part in the Civil Disobedience Movement. From January to October, of the 1,324 persons arrested, the period of detention was extended in the case of only 432, that is to say, about one-third. We are not using these provisions as a matter of fact for every-one. In more recent figures for the presidency outside the Bombay City, in September and October 1932, only 39 people were arrested and in the case of only 20, which is 50 per cent., was the period extended. So, I think I must call upon the House to support us in this matter. I am quite sure that in the long run it will be a sound method by which a person is given time to reflect on his actions in the past and is prevented from doing something which may inevitably land him in jail, not as a detenué but as a convict. This provision during the last 11 months has saved a large number of people from going to jail.

Rao Bahadur R. S. ASAVALE (Bombay City, North): Sir, after hearing the Honourable the Home Member (Honourable Members: hear, hear)—I am not going to withdraw my amendment—it is quite clear that if the persons were detained for two months they get sufficient time to think over, in order to get pardon after giving an apology for their own doings. If they are given time for one month only, it would be both in the interest of Government as well as in the interest of persons who were arrested. The Government will have not to detain many people in prison unnecessarily. More so, if such people happen to be the leaders carrying on the Civil Disobedience Movement, and when they are detained for a longer period in jail, their followers also would think of following them and going to jail. If less time is given and the leader comes out of jail soon with apology, I am quite sure the followers would think twice before they follow them and go to jail. A better situation would arise and Government will have to detain very few people in jails.

The Honourable Sir GHULAM HUSSAIN: If he apologises, he is let off.

Rao Bahadur R. S. ASAVALE: When Government really want only an apology from such people, it would be in the interest of Government that people are kept under supervision for a shorter period in order that many people might not follow their leaders. This would save time,

[Rao Bahadur R. S. Asavale]

money and trouble to Government. That is why I am convinced that a shorter period will be in the interest of the Government, the persons kept in prison and the persons who are to follow their leaders.

Amendment put, and negatived.

The Honourable the PRESIDENT : Question is :

"That Clause 3 as amended do stand part of the Bill."

Question put. The House divided : Ayes, 53 ; Noes, 19.

Division No. 12.

Ayes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	MASTER, Mr. A.
ADVANI, Mr. P. B.	MAXWELL, Mr. R. M.
AMINUDDIN, Mr. SAYID	MITHA, Mr. MAHOMED SULEMAN CASSUM
ARBUTHNOT, Mr. C. W. E.	MODAK, Rev. R. S.
ASAVALE, Rao Bahadur R. S.	NAMDEORAO BUDHAJIRAO, Mr.
BANGI, Mr. A. K. J.	NATLE, Mr. N. E.
BHUTTO, Sir SHAH NAWAZ	NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
BOLE, Rao Bahadur S. K.	OWEN, Mr. A. C.
BRANDER, Mr. J. P.	PATIL, Mr. N. N.
BULLOCKE, Mr. A. GREVILLE	PRATER, Mr. S. H.
CLAYTON, Mr. H. B.	RAFIUDDIN AHMAD, Moulvi Sir
COLLACO, Dr. J. A.	ROOSE, Mr. F. O. J.
COOPER, Khan Bahadur D. B.	SERVAI, Mr. A. E.
DAVIS, Mr. G.	SHAIKH ABDUL AZIZ, Mr.
DESAI, Rao Saheb B. G.	SHANKARRAO JAYARAMBAO ZUNZARRAO, Mr.
DEURANDHAR, Mr. J. R.	SINDHA, Mr. MADHAVSANG JORBHAI
GENNINGS, Mr. J. F.	SOLANKI, Dr. P. G.
GHULAM HUSSAIN, the Honourable Sir	SYED MIRAN MAHOMED SHAH
GHULAM NABI SHAH, Khan Bahadur	SYED MUNAWAR, Mr.
GREAVES, Mr. J. B.	TARAPOREWALA, Mr. V. F.
HAMPTON, Mr. H. V.	THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
HUDSON, the Honourable Mr. W. F.	TURNER, Mr. C. W. A.
JAM JAN MAHOMED KHAN, Khan Bahadur	VAHL, the Honourable Sirdar Sir RUSTOM JEHANGIR
JAN MAHOMED KHAN, Khan Bahadur	VANDEKAR, Rao Bahadur R. V.
JONES, Major W. ELLIS	WINTERBOTHAM, Mr. G. L.
KADRI, Mr. J. S.	
KALBHOR, Mr. G. M.	
KAMBLI, the Honourable Dewan Bahadur S. T.	

Tellers for the Ayes : Mr. MAHOMED SULEMAN CASSUM MITHA and Rev. R. S. MODAK.

Noes

ACHBEKAR, Mr. A. B.	KARBHARI, Mr. M. M.
BAKHALE, Mr. R. R.	KULKAJNI, Rao Saheb P. D.
BALUCH, Mr. HAJI MIR MAHOMED	MORE, Mr. J. G.
CHITALE, Rao Bahadur G. K.	PETTIT, Mr. J. B.
DHALUMAL LILARAM, Mr.	PRADHAN, Rao Bahadur G. V.
DIXIT, Dr. M. K.	SHINDE, Mr. R. B.
GANGOLI, Mr. G. S.	SURVE, Mr. A. N.
GOKHALE, Mr. L. R.	SURVE, Mr. V. A.
GOVER RORA, Mr.	VATSHAMPAYAN, Dr. V. G.
KALE, Rao Bahadur R. R.	

Tellers for the Noes : Dr. V. G. VAISHAMPAYAN and Mr. M. M. KARBHARI.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4 (Power to control suspected persons).

"(1) The Governor in Council, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public

safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person—

- (a) shall not enter, reside or remain in any area specified in the order ;
- (b) shall reside or remain in any area specified in the order ;
- (c) shall remove himself from, and shall not return to, any area specified in the order ;
- (d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Governor in Council by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons."

The Honourable Mr. W. F. HUDSON : Sir, before we proceed to the other amendments, I wish to submit this one to the House :

In sub-clause (1) of clause 4, after the word ' peace ' where it occurs for the second time, insert the following words :—

' and after having taken into consideration the record in writing made or caused to be made by the District Magistrate of the statement, if any, made by such person.'

Perhaps I may read the clause from the beginning to make sense.

"(1) The Governor in Council, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace"—

these are my words—

"and after having taken into consideration the record in writing made or caused to be made by the District Magistrate of the statement, if any, made by such person."

That, the House will see, is in the nature of a corollary to the amendment which we made yesterday that a person will be given an opportunity of giving a written statement of his connection or want of connection with the movement.

Question proposed.

Mr. G. S. GANGOLI : On a point of information, Sir. What will be the effect of this amendment in the light of sub-clauses (1) and (2) of clause 16 ? The powers of the Governor in Council may be delegated even to the District Deputy Collector. "The Governor in Council after having taken into consideration the record in writing"—that is the wording as amended of clause 4 (1). Who is to take into consideration ; the District Magistrate or the Sub-divisional Magistrate, when they are invested with all the powers of the Governor in Council ?

The Honourable Mr. W. F. HUDSON : I do not understand, Sir.

The Honourable the PRESIDENT : What is the question,?

Mr. G. S. GANGOLI : Let us take it for granted that this amendment is carried. Then, when powers are delegated to the District Magistrate or the Sub-divisional Magistrate, it will not be the Governor in Council who will consider the written record.

The Honourable Mr. W. F. HUDSON : It is the District Magistrate.

Mr. G. S. GANGOLI : Or the Sub-divisional Magistrate also under sub-clause (2) of clause 16.

The Honourable the PRESIDENT: Whoever it is to whom the powers are delegated.

Mr. G. DAVIS: Sir, may I explain? As I understand the real position, it is this: Clause 16 (1) reads—

“The Governor in Council may invest the District Magistrate with the powers of the Governor in Council under sub-section (1) of section 4.”

There is distinct provision under that sub-clause for the delegation by the Governor in Council to the District Magistrate of the power to make an order under sub-section (1) of section 4. But by reason of the proviso in Section 4 (2) the District Magistrate can only make an order for one month, and if it is to continue for a longer period than one month, it must be extended by the Governor in Council. When we drafted this particular amendment, we did not ignore the effect of clause 16 (1) or clause 16 (2) and therefore we put in the words ‘made or caused to be made’. So that, when this power is delegated to the District Magistrate, the District Magistrate will record the statement or cause the statement to be recorded. So far as clause 16 (2) is concerned, we find it reads—

“The Governor in Council may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this chapter.”

And I have already explained to the honourable member that the words ‘the powers of a District Magistrate’ does not mean the powers under clause 4 (1) delegated to a District Magistrate under clause 16 (1), but the powers given to a District Magistrate under clause 5 and the following clauses. Therefore, I think the arguments that the learned member has brought forward are not really of great weight.

Mr. V. N. JOG: On a point of information, Sir. No doubt this amendment would improve the clause a little. The point on which I wish to ask for information is this. When District Magistrates have been invested, under clause 16 (1), with the powers, then there will be nothing before Government to see whether the orders passed by the District Magistrates are reasonable or not. As clause 4 stands, it is the Governor in Council who has to make such orders and to take into consideration the record in writing of the statement made of the person concerned. When the District Magistrate is invested with the powers under clause 4 (1), the District Magistrate will make the order. I find there is no amendment tabled to clause 16 corresponding to that we made in clause 3 and propose to make in clause 4, so that Government may review the orders passed by the District Magistrates. I am going to suggest that if the District Magistrate is invested with powers under clause 4, he should make a report to Government of all arrests made by him. Would it be accepted by Government?

The Honourable Mr. W. F. HUDSON: I will consider that when we come to clause 16.

Question put, and agreed to.

Mr. V. N. JOG (Dharwar District): Sir, I beg to move my amendment to sub-clause (1) of Clause 4 which runs thus:

“Add after the words ‘that any person’ the words ‘after the passing of this Act’ in lines 2 and 3.”

[Mr. V. N. Jog]

I do not want to make a long speech and take the time of this House. In connection with this amendment also I maintain the same arguments and reasons which I advanced yesterday in connection with my amendment to clause 3; but I would only add one point. With regard to clause 3 there is the question of public safety and peace, and if the person is not detained in custody, it is likely that great mischief would follow. Then another difficulty was pointed out that there may be serious consequences if before the passing of this Act and before the sections come into force a man commits an offence and no action be taken against him under this Act. This difficulty was pointed out in an illustration given by the Honourable the Home Member.

But with regard to clause 4 I do not think that any such difficulty would arise if the words "after the passing of this Act" are added to it. Because we have already got clause 3 by which the man could be detained, and if he does any act after the passing of this Act then an action can be taken against him under clause 4 of this Act. With these words I commend my amendment to this House.

Question proposed.

The Honourable Mr. W. F. HUDSON: I would follow the excellent example of my honourable friend and would formally oppose this amendment. But with all respect to him I cannot see the distinction which he has made out between clause 3 and clause 4, and I am afraid the reasons which I gave in connection with clause 3 are equally applicable to clause 4 also.

Question put, and negatived.

Dr. M. K. DIXIT (Surat District): Sir, I would formally move my amendment to sub-clause (1) of Clause 4 to the effect that—

"Omit the words 'has acted' and 'or is about to act'."

I am moving this amendment because I am not satisfied with the arguments that were advanced against my amendment to the same effect to clause 3. An argument was advanced by the learned Legal Remembrancer, that supposing a murder is likely to be committed you would not like to wait till the murder is actually committed. No such sort of offence is contemplated in sections 3 and 4 of this Bill.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, again I will follow the excellent example of my honourable friend and I will merely formally oppose the amendment. I understand his difficulty about the analogy between a murder and an attack on salt pans. It is not said that an attack on salt pans is as serious as murder, though it is an attempt to subvert the government. But I will point out to my honourable friend that there is such a thing, for instance, as a terrorist outrage. Would he suggest that we should wait till the outrage is committed?

Dr. M. K. DIXIT: In Bombay Presidency there are no terrorist activities.

The Honourable Mr. W. F. HUDSON: No, I do not say there are, but neither I nor my honourable friend can boast that our Presidency is going to be free from terrorist outrages always.

Question put, and negatived.

Mr. J. G. MORE (Sholapur District): I beg to move an amendment to sub-clause (1) of Clause 4, in line 6 to the effect that—

“In line 6th after the words ‘by order in writing’ and before the word ‘give’ add ‘stating in detail the reasons thereof.’”

Sir, the House understands that there is a close connection between Clauses, 3, 4 and 14. In short, a man is to be arrested, he is to be kept in custody for 2 months, then he is to be brought under section 4 and parole conditions are to be imposed upon him. At the same time we know that the reasons for which the arrest is to be made are not to be made known to the public and not even to the members of this House. The reasons are to be a confidential record of Government. Now in fairness, I ask that when Government want to take action under clause 4 then at least for the sake of justice, Government ought to see that the reasons for which they wish to impose conditions under section 4, ought to be in writing so that the person on whom these conditions will be imposed will know the reasons thereof. So in fairness and for the sake of justice, I would ask that Government may be pleased to accept this amendment. If the Government are willing to accept it, I may omit the words “in detail” and retain only the words “stating the reasons thereof,” so that something on which Government are going to act will see the light of day and the people will come to know that whatever steps the Government propose to take under section 4 are meant to check the civil disobedience movement and no other movement.

With these remarks, I propose the amendment for the acceptance of this House.

Question proposed.

Mr. V. N. JOG (Dharwar District): Sir, I think this amendment is quite reasonable and especially so in view of the fact that Government themselves have made an amendment to Clause 4 that they want a statement from the person against whom an order is to be made. He must know what is against him and if no reasons are given it would be difficult for him to explain, and so this amendment naturally follows the amendment which Government themselves were pleased to move and carry. Otherwise, if you simply say that you are ordered to go to a certain place, how is the person to know what is the charge against him? The mover of the amendment was pleased to omit even the words “in detail”. So, at least some substance of the charges that are made against a person may be made known to him so that he can offer an explanation and if that explanation satisfies the Government they will be in a position not to take any action against him.

Rao Bahadur R. R. KALE (Bombay University): I fully endorse the reasons given by the speaker who just sat down, and I should think that having regard to the fact that powers are to be delegated under section 4 to the district magistrates—in fact all along, we will find, they have been

[Rao Bahadur R. B. Kale]

so delegated if we look to the history of the promulgation of the Ordinance from the 5th of January last, the first Ordinance as well as the Consolidated Ordinance—you will find that immediately after the promulgation of the Ordinance there is a notification of delegation. Delegation follows almost immediately on the promulgation of the Ordinance. Now, Sir, we are told that under section 3 of this Act the officer of Government would be the District Magistrate or the District Superintendent of Police. Now before arresting a person the District Magistrate has to satisfy himself that there are reasonable grounds for believing that any person has acted or is acting or is about to act. My point, therefore, Sir, is that if once there has been a reasonable ground for making the arrest the same ground is to be the ground for the further steps which are contemplated to be taken under section 4. Hence it is clear that if there were any authorities like the Governor in Council then it would be said that he is a different superior authority who would bring a fresh and an open mind to bear upon the facts which give these reasonable grounds, but when the same person is to be the authority to come to the same conclusion it appears to me necessary that the Governor in Council as the ultimate reviving authority should have something before him. We are told, Sir, that Government is contemplating revision of the various orders that have been passed up till now in order to see whether any of those orders could be modified or rescinded. Now, reports will be called for. So far as the ordinance law went, the orders were in writing. The District Magistrate of such and such a place orders or gives the following directions, (no reasons). Now when a report is to be called for at this distance of time, perhaps I do not know whether the District Magistrate of the place has got to make a report from his notes or confidential information which he carries in his head. I do not understand exactly how the Government is to review. I know there will be some material for them to review which will be sent up by the District Magistrates, but now I expect there will be something as an outline, and I am glad that the words "in detail" are omitted by the honourable mover of the amendment. We would not expect District Magistrates to go into detail, but it is reasonable that the District Magistrates should give an inkling, there may be several reasons, but when he is to give in writing an order, I see the necessity of his alluding to certain points which make him pass that particular order so that as was stated by the last speaker even the person against whom that order is to be passed may be in a position to explain, but when he has nothing before him except only the order "you should do this or you should not do that", how can he know what is alleged or suspected against him? There will be several conditions which he may have to observe and he has quietly to obey that order. If he has some reasons for the magistrate to give him one or more directions, then it will be giving him an opportunity to explain that the condition is not necessary. Suppose he is told to go to a strange place because he has to remove himself and he has to go to an inconvenient place or whatever other directions are given, he may point that out, in fact the opportunity will enable the District Magistrate to know exactly which conditions may be working perhaps unnecessarily harshly or the District Magistrate may

[Rao Bahadur R. R. Kale]

be in a position to consider the explanation and to modify the condition. In several ways I mean a useful purpose will be served by giving short reasons for the order which the District Magistrate may be obliged to pass in order to control the movements of that person. I therefore think so, especially as the Honourable the Home Member has been able to add the statement which the person against whom the order is to be made has to make. At the time when he has to make the first statement, perhaps he is not in a position to know what the facts are against him. Disobedience of the order is made punishable with rigorous imprisonment and with enormous fines. So, it is an offence, I mean the second part. The first part is merely a question of a preliminary step, the arrest, but the second portion is a portion a breach of which will constitute a substantive offence which will be punishable like any other offence. Therefore, it seems to me that it will be highly desirable and in fact necessary—

The Honourable Mr. W. F. HUDSON : Disobedience to the order, that is the offence.

Rao Bahadur R. R. KALE : If there are reasons for the order, then the man against whom the order is passed will be in a position to explain by way of replies as it were or whatever he has got to say by way of explanation. The District Magistrate asks the man to show cause. It is like this, whenever a person is brought forward in security proceedings, even in summary proceedings, he is asked to show cause why he should not be bound over. So, here also the reasons should be in writing. Of course, the District Magistrate will have the reasons in his mind and issuing directions will no doubt make him give some of those reasons. At present the reasons are in his mind and are not known to anyone except to himself. He is only passing an order "you should do such and such a thing" or "you should not do such and such a thing". My point is if these reasons are communicated to the person against whom the order is to operate, I do submit that there will be that second *locus pœnitentiæ* as it were, because the other thing is absolute obedience to the directions, there is no *locus pœnitentiæ*, the District Magistrate proceeds to pass the order and the man has no alternative except to obey or disobey and if he disobeys, he commits an offence of disobedience. My point therefore is that it is reasonable to expect that as this amendment does not ask much but something which in the face of the amendment already offered and incorporated by Government themselves in the section, it is an amendment which should also meet with the approval of Government.

Rao Bahadur G. V. PRADHAN (Nasik District) : Sir, as I understand the situation as explained by the honourable members on the Government side, it is that the Honourable the Home Member does not for a moment wish to overburden the officers who are already overburdened to a very great extent. It is possible that in defence of this, the same excuse may be put forth, and that excuse can be put forth with great force. But there is another side which must be taken into consideration and that side that has to be taken into consideration is that already

[Rao Bahadur G. V. Pradhan]

there is a good deal of misunderstanding as to the working of these ordinances. That misunderstanding is not likely to be removed unless and until some reasons are mentioned in every order passed. A day or two ago we actually read in the papers that some eminent gentleman even in England suggested that there should be an independent press which will explain the motives of Government in taking certain actions. If a certain order is passed under clauses 3 and 4, a law-abiding man may not be able to understand why such an order is passed but is likely to misunderstand even innocently the action of Government and the misunderstanding may result in alienating his feelings of allegiance to Government. The result on the mind of a law-abiding man is likely to be entirely different from the intentions of Government which are now propounded. So, at least for the sake of showing to the people that the orders of Government are but proper and that the orders are being passed and being enforced for a particular reason, at least for that purpose, my submission is that Government will be pleased to accept this suggestion that the reasons may be recorded in writing. If once reasons are recorded in writing, there will be much less chance for the vernacular papers to misunderstand and to misrepresent the circumstances to the people and to mislead or misdirect them as has been mentioned of those papers.

Dewan Bahadur D. R. PATIL (East Khandesh District): Sir, I do not know whether there is any law which allows a judicial officer not to give any reasons for the order he passes against a particular man. I think the amendment is quite simple. It simply requires that the District Magistrate should give his reasons before he passes any order against a man under clause 4 (1). Is it not fair that a man against whom an action is to be taken under clause 4 (1) should know the reasons which incline the District Magistrate to pass an order against him? Perhaps Mr. More thinks that no District Magistrate should be allowed to act the part of the Czar of Russia. That is to say, he must not act according to his whims but he must give some reasons. If we look to the ordinary sense of justice, it is but fair for the honourable members of this House to insist upon Government that the District Magistrate should be asked to give reasons for the order he passes against any man against whom he wants to proceed under clause 4 (1). With these few remarks, I support the amendment.

Mr. J. G. MORE: How is the honourable member entitled to say that the honourable member Mr. More has no faith in the District Magistrates?

The Honourable the PRESIDENT: The honourable member Mr. More has?

Mr. J. G. MORE: Yes, I have.

Dewan Bahadur D. R. PATIL: I am glad to hear that.

The Honourable Mr. W. F. HUDSON: Sir, I am sorry I must oppose this amendment because if it is to be effective it will be destructive of a great many of our means of security and I will explain what I mean by that. I do not deprecate for a moment the idea that District Magistrates should

[Mr. W. F. Hudson]

have the trouble of recording their reasons. It would of course involve a certain amount of delay—I do not say that that is a fatal objection except perhaps at the very beginning of a serious movement,—but it will be perfectly useless for the District Magistrate to write an order that “So and So should do so and so because he is connected with the civil disobedience movement” or in the alternative “because he has ordered and encouraged other people to cut toddy trees”. That will be very little information to the accused person. It will take him no further than he got under clause 3, because it is perfectly obvious that when he appears and makes his statement under clause 3 every District Magistrate will say to him “I am doing this because you have been making a nuisance of yourself and encouraging civil disobedience in this form or in that form”. No one need be under any illusion about that. No one who is arrested is under any illusion as to what is in the mind of the District Magistrate. What of course might be of use to the accused is if the District Magistrate sat down and wrote detailed reasons showing that So and So and So and So had given him the information. That, Sir, is what we cannot possibly allow. This is an executive action. I repeat again, not a judicial action, and it is out of the question that we should give to the individual concerned the confidential information on which we act. To do so would be cutting the ground from under our feet, and I will repeat again that a war is on and we must bear that in mind. We must also bear in mind that the most foolish thing a man can do when a war is on is to give information to the enemy.

A very good point was made I think by my honourable friend the Leader of the Opposition (Rao Bahadur Kale) about that review which I propose to embody later on in this section. Government undoubtedly will, in a considerable number of cases, if not in every case, require to know the grounds on which the District Magistrate has passed his order. That is a perfectly sound suggestion. Government will have that information before them. The District Magistrates will send to Government the confidential information on which they acted and therefore even if the District Magistrate has to write out the large number of reasons which he gives to the accused, that will contribute nothing more to Government's knowledge, because Government will have the confidential information before them and will be able to judge of the correctness or the incorrectness of his action upon that record. But that record cannot be divulged, and I must therefore oppose the amendment.

Rao Bahadur R. R. KALE : Am I to understand that the Honourable the Home Member proposes to embody in the Act a specific provision for the sending up of a report ?

The Honourable Mr. W. F. HUDSON : Yes, we are going to have it in the next section. I have got an amendment written out already.

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Sir, accepting the arguments of the honourable member the Advocate General and the Honourable the Home Member that these powers are intended to be preventive—and they are mainly preventive, I admit—may I point out to them that in part IV, Chapter VIII, Criminal Procedure Code, there

[Rao Bahadur G. K. Chitale]

is also prevention which is the main burden of that chapter. Now, the procedure, I entirely agree with the Honourable the Home Member, cannot be the same in both these cases. But what it does lay down is that the person who is to be bound over either under section 109 or under section 110 is entitled to know the substance of the information against him, and the rulings are that if you do not disclose to him the information on which he is being arraigned and security is being called for, then the proceeding is vitiated, and perhaps the conviction also may not be sustained. I do really want to know, where is the harm in telling a person the substance of the information which the Government or the District Magistrate may have in their possession? I will just illustrate by one example, in regard to which even men like us were puzzled. A professor from Nasik College—he was perhaps on leave—had come to me only about two weeks ago. He was arrested in Poona and sent over to Yeravda jail for two months. As far as I know, the substance of the information that was against him was not given to him. I do not think, Sir, it is a case in which that professor went wrong. He was an M.A. He was Professor of Economics, and all that the general public were led to believe—at least I was led to believe—was that it might have been on account of certain articles in a highly educative magazine which he was contributing as his experiences and from the literature that he had read about Communism in Russia. I am quite sure that if a professor of that kind, who was doing very loyal and educative work in an institution, happened to make certain remarks which were considered objectionable, then perhaps if he was told the substance of the information that was against him was mainly that, certainly he would have been in a position perhaps to satisfy the District Magistrate then and there, and he would not have been arrested at all. All that I am pleading is that even though there may be cases in which those reasons cannot be divulged, there must also be cases in which they can be divulged. The District Magistrates think themselves in such matters to be above law, and naturally, as the Honourable the Home Member is putting it, they are above law, because they are taking executive action. But they were executive actions perhaps under the regime of the Ordinance, but when you are enacting a statute, I believe that you yourself will recognise that these powers with which the District Magistrates will be seized should, as far as possible, be administered in a judicial manner. I should therefore think that in that way nothing would be lost, if the person is given the substance of the information—what is required to be done under sections 109 and 110 of the Criminal Procedure Code. I therefore submit that this is a matter in which the other side can meet the Opposition at least half way. I know that the District Magistrates, even in criminal cases, are in the habit of writing very short judgments. Their judgments are never like those of the subordinate judges. What harm is there if he writes a couple of lines saying “This is the information that we have against you. What explanation have you to offer?” Then the person would have an opportunity of giving an explanation. Whether that explanation would be satisfactory or not is another matter.

[Rao Bahadur G. K. Chitale]

But surely the man against whom action is to be taken is entitled to know the reasons for which he is being put into prison.

Mr. J. G. MORE (Sholapur District): Sir, in reply, I have to put one very pertinent question to the Government in this connection. I shall be quite prepared to withdraw my amendment, provided an assurance is given on behalf of Government, and the assurance must be to this effect. Are the Government prepared to take at least the honourable members of this House into their confidence; and whenever the record of a case is asked for by any honourable member of this honourable House, are the Government willing to disclose that record to him, so that honourable members, the representatives of the people, may bring certain cases to the notice of Government in which injustice has been done? If that assurance is given, then I shall withdraw my amendment.

The Honourable Mr. W. F. HUDSON: Sir, I am afraid I can hardly accept the honourable member's appeal. I can hardly imagine a file, let us say about Mr. A. B., circulating among a hundred honourable members of this House for them to judge, some saying that the grounds were sufficient, others saying that they were entirely insufficient. I do not think any Government in the world would be prepared to submit its confidential information about individuals to its legislature. I do not think I have anything further to say on this amendment, as I have already given my reasons against it.

Question put. The House divided: Ayes, 23; Noes, 49.

Division No. 13

Ayes

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHITALE, Rao Bahadur G. K.
DESAL, Rao Saheb B. G.
DESAL, Mr. H. R.
DHALUMAL LILARAM, Mr.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GOKHALE, Mr. L. R.
JOG, Mr. V. N.
KALE, Rao Bahadur R. R.

KAMAT, Mr. B. S.
KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.
MERTA, Mr. M. H.
MORE, Mr. J. G.
PATIL, Dewash Bahadur D. R.
PATIL, Mr. V. N.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SURVE, Mr. V. A.
VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes: Mr. M. M. KARBHARI and Mr. G. S. GANGOLI.

Noes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur.
ADVANI, Mr. P. B.
AMINUDDIN, Mr. SAIVID
ARBUTHNOT, Mr. C. W. E.
ASAVALE, Rao Bahadur R. S.
BANGI, Mr. A. K. J.
BHUTTO, Sir SHAH NAWAZ
BIJARANI, Khan Bahadur SHEH MUHAMMAD KHAN.
BIRADAR, Sardar MAHABOOBALI KHAN
BOLE, Rao Bahadur S. K.
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE

CLAYTON, Mr. H. B.
DAVIS, Mr. G.
DHURANDHAR, Mr. J. R.
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GHULAM NABI SHAH, Khan Bahadur
GEEVES, Mr. J. B.
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur
JAN MAHOMED KHAN, Khan Bahadur
KADRI, Mr. J. S.
KALBHOR, Mr. G. M.

Noes—*contd.*

KAMBLI, the Honourable Dewan Bahadur S. T.	ROOSE, Mr. F. O. J.
KHUBRO, Khan Bahadur M. A.	SERVAL, Mr. A. E.
MASTER, Mr. A.	SHANKARRAO JAYARAMRAO ZUNZAR- RAO, Mr.
MAXWELL, Mr. R. M.	SPENCE, Sir REGINALD
MITHA, Mr. MAHOMED SULEMAN CASSUM	SYED MUNAWAR, Mr.
MODAK, Rev. R. S.	TALPUR, MIB BANDEH ALI KHAN
NANDEORAO BUDHAJIRAO, Mr.	TARAPOREWALA, Mr. V. F.
NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR	THAKOR OF KERWADA, Sardar BHASABH RAISENJI
OWEN, Mr. A. C.	TURNER, Mr. C. W. A.
PATIL, Mr. N. N.	VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR.
PRATER, Mr. S. H.	VANDEKAR, Rao Bahadur R. V.
RAFIUDDIN AHMAD, Moulvi Sir	

Tellers for the Noes : Rao Saheb B. G. DESAI and the THAKOR OF KERWADA.

The Honourable Mr. W. F. HUDSON : Sir, I want to make a personal explanation. I am told that quite unintentionally, I misunderstood my honourable friend Mr. More. It is just possible that I did not quite follow what he said. I thought that he was suggesting an alternative that Government should be prepared to circulate the papers in possession of Government to honourable members. I thought he suggested that this House should be constituted into a jury. Therefore, I gave the answer which I gave. I believe other honourable members also understood him in the same way. If he meant that any individual member personally interested might come to Government and ask "Can you tell me the grounds on which such and such a detenu is interned?" we shall be glad to give the honourable member such information as we can. That is I think what the honourable member meant. My answer is in the affirmative. If a member has a particular case in mind, I will give such information as I can.

Mr. J. G. MORE : I am very much thankful to the Honourable Member. I am satisfied.

The Honourable the PRESIDENT : Does the honourable member Mr. Gangoli move his amendment ?

Mr. G. S. GANGOLI (Kanara District) : I am formally moving the amendment, Sir :

"In sub-clause (1) (a) of clause 4, insert the word 'reasonable' between the words 'any' and 'area'."

The Honourable Mr. W. F. HUDSON : Will the honourable member read the clause as amended ?

Mr. G. S. GANGOLI : It will read thus :

"shall not enter, reside or remain in any reasonable area specified in the order ;"

The Honourable Mr. W. F. HUDSON : The honourable member does not see it. For the first time he is making a joke unconsciously.

Mr. G. S. GANGOLI : That is why I said that I am formally moving it.

The Honourable the PRESIDENT : He cannot do like that.

Mr. G. S. GANGOLI : I am not moving it, Sir.

Mr. L. R. GOKHALE (Poona City): Sir, I believe that I should move this amendment.

"Omit sub-clause (1) (b) of clause 4."

This sub-clause (b) says:

"shall reside or remain in any area specified in the order ;"

This is the clause under which orders are given. The sub-clause says that he shall remain in a particular place. That means he must have some arrangements for staying there. We have known in many cases that persons have found it very difficult. I believe if this clause is omitted it will cover other cases where his movement will have to be controlled.

Question proposed.

Rao Bahadur G. V. PRADHAN: I move an amendment to this amendment. My amendment is that sub-clause (b) may remain as it is with the words added "in any reasonable area".

The Honourable the PRESIDENT: That is a different amendment.

Rao Bahadur G. V. PRADHAN: When the amendment is to sub-clause (b), the whole sub-clause is open for amendment and discussion.

The Honourable the PRESIDENT: The honourable member has not given notice of it.

Dr. M. K. DIXIT: Is not this amendment to the amendment a negative?

The Honourable the PRESIDENT: It is not an amendment to the amendment.

Mr. G. S. GANGOLI (Kanara District): Sir, I rise to support the amendment of the honourable member Mr. Gokhale. I have tabled an amendment to add the following proviso:

"Provided that if he is ordered to reside outside his place of residence, the Government shall provide for the maintenance of the person and his dependents during the period."

I have known of some instances where poor persons after finishing their terms of imprisonment were asked to reside outside their homes and their dependents are made to starve. But for my amendment I have not obtained the sanction of His Excellency. In fact I applied for sanction on 7th November and it was refused.

The Honourable the PRESIDENT: The question is to omit clause (b). The honourable member's motion is quite different.

Mr. G. S. GANGOLI: If sub-clause (b) is omitted Government will have to support the person deported. As I have not received the sanction of His Excellency, the only alternative left to me is to support this amendment. For that reason I am supporting the honourable member Mr. Gokhale's amendment, so that persons deported outside their places of residence may not starve.

Mr. V. N. JOG (Kanara District): Sir, I support the amendment moved by my honourable friend Mr. Gokhale. The other day I have

[Mr. V. N. Jog]

pointed out a case from our district where persons have been made to reside in places which are small villages and unhealthy too. They are responsible persons carrying on a profession. For instance, they are pleaders and doctors. They have been asked to reside in small and unhealthy villages where there is no business of a pleader or doctor even. As I pointed out they have been detained there for months. To this I would even prefer clause 3. At least in clause 3, the person is taken into custody for two months and he is fed at the cost of Government. In the case of this clause, there is not that responsibility on Government to find out a place for him or to give him any maintenance. What I say with respect to this clause is that, if a person whose source of livelihood is in a certain place is removed to another place and if he has no other source of maintenance except his properties, I do not understand how he is to maintain himself and his family. There is no saving which he has made and the family is to starve and he himself is to starve. He will have nothing else but that he will have to die ultimately, if the period is further prolonged. If the period is prolonged, I submit the hardship will be very great. What will be the result if Government want to keep him away by this process when he thinks that very much hardship is caused to his family. He will have no other alternative but to court punishment under clause 14. He disobeys because his position is intolerable. The section says :

"Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both."

There is no question there with regard to the reasonableness why he disobeyed. The section simply says "if he disobeys". If he steps outside a few paces beyond his limit, to which he has been confined, I think he has committed that offence. Then, we know of instances where a man is ordered to go to a different place. What happens in such cases is this. He is unable to find a place to live in, because the villagers are afraid that if they give shelter or food to the man, their names will be reported and they will be hauled up for having assisted civil resisters. For many days he is unable to find a place to live in or take food. I have known instances where persons had to stay at the railway station because nobody would give them food or shelter in the village. In some instances, in summer days, they had to live under trees for one or two days before a gentleman who was sympathetic met them and gave them shelter. Such are the hardships when persons are asked to live in a strange place. The House should remember that the villagers are getting nervous on account of the ordinance rule. What I submit is, that, so far as may be possible, the person must be confined in a place where he can pursue some avocation and earn his livelihood. Government should be content with part (a) of this sub-clause, which says "shall not enter, reside or remain in any area specified in the order". If he is made to reside or remain in an area where he has no means of making a livelihood, it will be very hard on him. Therefore, this part (b) should be deleted. I oppose the amendment moved by my honourable friend Rao Bahadur Pradhan—

The Honourable the PRESIDENT: No amendment has been moved yet.

Mr. V. N. JOG: For these reasons, I support the amendment moved by my honourable friend Mr. Gokhale.

Rao Saheb P. D. KULKARNI (Poona District): Sir, I rise to support the amendment moved by the honourable member Mr. Gokhale. This part (b) is rather unreasonable and oppressive in two ways. If, after release, a man is ordered to reside in a particular place, he is confined thereby there and he has no freedom to go anywhere else. That is no release at all. It is oppressive in this way. If power is delegated to the District Magistrate, under clause 16 (1), the District Magistrate should not have power to send a person to any other district. The District Magistrate may take care of his own district; why should he send a person whom he regards as a nuisance in his district to another district? The District Magistrate of Sholapur may say that a man should live in Nasik or in Sind. I do not know why he should send this nuisance to another district and infect it. He may take care of his own district: he may say that the person should not reside in his own district. He should not be given power to determine the place where the person should live. Why should he not leave it to the District Magistrate of the district where the person may choose to live to see whether it is advisable for him to allow the person to continue to live in his district? Therefore, not only it is oppressive on the persons concerned, but also unjust to the other District Magistrates whose jurisdiction is encroached upon. For these two reasons, I think the deletion of this part is very reasonable. I support the amendment for these reasons.

Mr. M. M. KARBHARI (Thana and Bombay Suburban Districts) *rose.*

The Honourable the PRESIDENT: The honourable member should not speak unless he has anything new to say, because this is a very small matter and the arguments are the same.

Mr. M. M. KARBHARI: Yes, Sir. There is one point which has not been placed before the House. The wording of part (b) is—"shall reside or remain in any area specified in the order." It is not stated whether it will be limited to the Bombay Presidency or to the district concerned: I do not know to what extent Government may go against a man whom they have reasonable grounds to suspect. It has been suggested by Government that these are preventive measures. But reading between the lines, I find that if Government or the officers concerned take it into their heads to make the life of a man intolerable, they can easily do so. "Has acted, is acting or is about to act"—these are the three conditions which create a reasonable suspicion. That being so, if a man is only to be prevented from committing an offence, he should not be forced to desperation. Instead of preventing him, Government by such an order may force him either to disobey the order or to commit such act as will land him in jail. It is therefore necessary that Government should, in their own interests, and to inspire confidence in the minds of honourable members of the House, amend the wording of

[Mr. M. M. Karbhari]

this clause so as to convey the implication that the scope of this Act is preventive and not penal. This is the point that I wish to bring to the notice of the House, and I hope honourable members will take it into their consideration.

The Honourable Mr. W. F. HUDSON: Sir, I take note of the fact that my honourable friend Mr. Jog will prefer to be dealt with under clause 3 rather than under clause 4. When the time comes I will endeavour to bear that in mind.

As regards this particular portion of sub-clause (1) of clause 4, I am afraid I cannot accept the amendment. This has been a very very useful provision: it has enabled us to deal with the real leaders. The honourable member Mr. Jog said that it made life very difficult for them. But that is exactly what we desire—to make it so difficult that not only will it deter them from the error of their ways but will make others think twice before they follow their example. And the reason why I am obliged to say so is because the House is sometimes losing sight of the fact that we have been up against a very very serious situation which we do not want to recur. And if it is highly inconvenient for these gentlemen to live in places which we select for them, all they have to do is to give an assurance in writing that they will not take part in the movement and there is not the slightest doubt that the orders will be withdrawn. But I am perfectly certain that all the persons against whom this order is passed are unwilling to give any assurance of that kind. And the reason we have to fix their places of residence is this, that these are the real leaders, the people who make it their business, and have made it their business for some time, to act—have certainly acted and doubtless are about to act, if they get a chance—in a manner prejudicial to the public safety and peace, and the best way of preventing their doing so is to take them away from their ordinary scene of activities and put them somewhere where we can lay our hands on them when necessary. In a great many cases, we have only ordered “You must not live in Bombay” or ordered “You must not live in Nasik”. There is one class which is undoubtedly a nuisance in its own immediate surroundings, but cuts no ice anywhere else. To those who belong to this class we say: “You must not stay here; you must go away”. But there is a certain class, which runs into several hundreds, which undoubtedly has the power to cause trouble everywhere. To those people the only thing we can say is: “You must live in a definite area, where we know where you are and we can, if necessary, lay our hands on you”. They are slippery customers, and if we say to them “You can range all over the presidency” we shall probably not be able to lay our hands on them, and in the meantime they will do considerable damage.

I regret this as much as anybody else: I do realise it is a very serious thing, even to a rich man, to be told “You must live in Nasik”, if he does not want to live in Nasik. But, Sir, as I said before, we are up against a body of determined men whose one aim in life is to subvert this Government, and it is the business of this Government to see that it is not subverted.

Mr. L. R. GOKHALE : I have nothing to say in reply.

Question put, and negatived.

The Honourable the PRESIDENT : I would allow the honourable member if he still wishes to move the amendment to insert the word 'reasonable'.

Rao Bahadur G. V. PRADHAN : The honourable member Mr. Gangoli has got another amendment, which he may wish to move. When he moves that, I shall move my amendment to his amendment.

Mr. G. S. GANGOLI : Sir at the time of tabling my amendment I could see that this sub-clause (1) (b) of clause 4 was really useful to Government. At the same time, I would request the Honourable the Home Member to see that an order passed under this part is not vindictive—I would even say, satanic. The honourable member Mr. Jog has pointed out some instances where persons were asked to go to places where they could not get any food or shelter or any room to live in. I have quoted another instance of the headmaster of a high school who, for no fault of his, so far as I know, is asked to stay in Supa, a most malarious place in Kanara, perhaps in the whole presidency. Therefore, I move—

In clause 4 (1) (b), between the words 'any' and 'area' insert the word 'healthy.'

In this connection, I have to point out another thing. We heard the Honourable the Home Member to say distinctly that he wanted to confine the leaders to a certain place, but that if they gave some undertaking they would be released. May we know what sort of undertaking should be forthcoming?

The Honourable Mr. W. F. HUDSON : How does it arise out of this amendment which relates to 'healthy areas'?

Mr. G. S. GANGOLI : After this amendment, I have got this amendment :

"Provided that if he is ordered to reside outside his place of residence, the Government shall provide for the maintenance of the person and his dependents during the period."

To this, I have received an order from His Excellency, dated the 24th November, that permission cannot be granted to move it, because it affects the revenues.

The Honourable Mr. W. F. HUDSON : I do not know how that comes in.

Mr. G. S. GANGOLI : It does not come in. We do not know how to agitate against this order of His Excellency. Every time I have approached His Excellency in this connection, I have received an order to say that permission is not granted. And my honourable friend has got an order from the Viceroy.

The Honourable Mr. W. F. HUDSON : Did His Excellency the Governor object to the amendment before us?

Mr. G. S. GANGOLI : It relates to clause 4 (1) (b).

The Honourable the PRESIDENT: That is quite irrelevant. The honourable member wanted to throw some burden on the revenues; he applied to the authority concerned for sanction; and he has got his reply. But that has nothing to do with this amendment.

Mr. G. S. GANGOLI: Then, I shall place the negative form of it. What I say is that he may be placed in a place where the climate is healthy and where he can have all the facilities required for necessities of life provided he pays for them. If he is placed in a place like Supa, which is the most malarious place, possibly, in the whole presidency, where he cannot purchase anything and where the climate is extremely malarious, how is he to live?

Question proposed.

Rao Bahadur G. V. PRADHAN (Nasik District): Sir, I beg to move an amendment to the amendment of my honourable friend Mr. Gangoli, namely:

"Instead of the word 'healthy' the word 'reasonable' may be put in."

Sir, I will try and explain the position as to why I have substituted the word "reasonable" for the word "healthy". The first reason of mine is that, if as the Honourable the Home Member says that those persons who are of a secondary grade and who are troublesome only at a particular place and not elsewhere they are only asked to go outside Bombay, and those greater persons who are troublesome everywhere are sent to Nasik, then certainly the trouble is nearer my home. I do not want that. The difficulty clearly is that in order that he may subsequently be punished under this section, this section will have to be applied to a healthy place like Nasik, not because there is any civil disobedience movement going on there but because Government want certain persons to be transported and interned there and hence this section ought to apply to that place.

The second reason why I object to the word "healthy" is this. Supposing an action is being taken against me and I am asked to go and stay on Mount Abu, I will not accept it, not because it is unhealthy but because it is not suitable or reasonable for me to go there.

The Honourable the PRESIDENT: But what is a reasonable place?

Rao Bahadur G. V. PRADHAN: A place which is suitable to the person to be interned.

Dr. V. G. VAISHAMPAYAN: I suggest that the word should be "convenient".

Rao Bahadur G. V. PRADHAN: I admit that certain drastic measures may be necessary. The man may have to be removed to another place. At the same time his actions may have to be watched. But for watching his actions he need not be removed far way as is being done now. It would be sufficient if a man is removed some 10 or 12 miles away from Bombay, where his actions also could be watched easily. It is not necessary that he should be sent to distant places, say from Bombay to Dharwar and Nasik. I do not see why such action is necessary. The place to which a person has to be restricted need not be extremely

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suitable or convenient to him, but it should be such where at least shelter is obtainable, and if the place is such that he cannot obtain shelter even, the position becomes precarious, and we are actually driving persons to jail by imposing such conditions. We make them disobey the order by imposing such drastic conditions. If you want a person to be restricted to a particular place, let him be restricted to that particular place. But if you send him to a place where he cannot possibly stay even for a day, and then he has necessarily broken the order, you say you want to punish him. It is simply making a show of the whole thing and showing further that the man has under any circumstances to be punished. My submission is that the place should be suitable to the person to be interned.

Question proposed.

The Honourable Mr. W. F. HUDSON: I do not think my honourable friend takes this amendment to the amendment seriously. I agree with him when he says that a district which is not already within the scope of the Bill might be brought within the scope of it by the importation into it of certain people against whom it is necessary to pass orders, and we will note that for future guidance, and will see that no such unnecessary stigma is thrown on an otherwise innocent district. But it is not necessary to put the word "suitable" in the statute. I do not see that anything can be gained by that.

As regards the amendment of my honourable friend Mr. Gangoli, I assure him that so far as Government are concerned, they have no intention to be vindictive. We have not chosen any unhealthy places for the deportation of these people. My impression is that in a majority of cases they have been sent to Bijapur and Nasik, two of the most healthy places in this presidency. Then, how are we to interpret what is healthy, a matter on which we will all differ? Some honourable members of this House consider Poona to be unhealthy in the rains. Personally I consider it to be most healthy in the rains. I have received complaints from the honourable members of this House objecting to their being brought to Poona during the monsoon. Is Bombay a healthy place? I think it is a very healthy place. Lots of other people think that it is extremely unhealthy. As regards the place Supa, I have only passed through it, but I consulted Mr. Maxwell who was the Collector of Kanara for some years. He told me that it was a place where he often went and where he often stayed as long as he could. I do not think it is possible to define what is healthy and what is not a healthy place. But I assure the honourable members that we are not intentionally sending persons against whom unfortunately these orders have to be passed, to unhealthy places, and if any honourable member of this House has got his friend deported to any unhealthy place it will be better for him to represent the case to Government. But I cannot accept this amendment.

Mr. G. S. GANGOLI (Kanara District): I did not see the Honourable the Home Member consulting the Home Secretary. But I may say that he was there as a Collector long, long ago. After that time the climate

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has changed. I may tell him that it is that very Supa where the population has now decreased by 60 per cent. and it is also the place where the District Forest Officer, being afraid of malaria, does not like to stay. All this has come to pass after Mr. Maxwell has left the place and, therefore, that argument cannot hold good.

The amendment to the amendment put, and negatived.

The original amendment (Mr. Gangoli's) put, and negatived.

Mr. G. S. GANGOLI (Kanara District): Sir, I beg to move an amendment to sub-clause (1) (c) of clause 4, namely,—

“ Add the following at the end :

‘ Provided that reasonable time and facility are given to the person to obey such order ’.”

We have very little left to say after the first reading as regards the Act if it is passed. But all along we have been complaining of the treatment that is being given by the lower subordinate officers. I submit that the working of the Act should be liberal. We know of hundreds of cases and we read daily in the papers that as soon as a man is out of jail he is asked to report to the police say, within 10 minutes or half an hour. To avoid such a thing, if we give him reasonable opportunity to know exactly how the situation in the country at present is, he may himself change his view. He may become a law-abiding citizen. We send a man to jail so that he might correct himself. In the jail he is not—

The Honourable Sir GHULAM HUSSAIN: The honourable member is simply repeating himself.

The Honourable the PRESIDENT: The honourable member is repeating what he has said before. The only course to get over this is to propose the amendment formally, and if necessary a few remarks should be made in support of it. It is no use repeating the same arguments.

Mr. G. S. GANGOLI: With all respect to the Chair, I submit I am not repeating. I want to appeal to the Honourable the Home Member by facts and figures and arguments that our request is a moderate and a reasonable one. Now, Sir, in the jail the man is not given any nationalist papers to read. He does not know what the situation in the country is. Then as soon as he comes out he is not given any breathing space to know what the situation is. So, in order that some reasonable opportunity may be given to him to consider the order so that he can think for himself whether he should apologise or disobey the order, I have moved this amendment.

Question proposed.

(After recess)

Mr. J. G. MORE (Sholapur District): Sir, I rise to support the amendment with this further suggestion that the amendment proposed, instead of being placed at the end of (c), should be placed at the end of the clause. If we refer to clause (d) we see that under it some persons may be asked to remove their moveable property to other places, others may be

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asked not to allow any person any access to their immoveable property. In all such cases Government will necessarily have to give reasonable time and opportunity to observe the conditions. But in other cases, it will be advisable that reasonable opportunity should be given. I do not think that Government will oppose this reasonable amendment. Sir, we are concerned here with a piece of legislation and if the amendment is accepted then I think we shall be taking sufficient care to see that the person on whom the conditions are imposed under clause 4 may get reasonable time to observe those conditions. With these words, I support the amendment.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I know of certain judicial decisions in which the higher authorities have also stated that reasonable time and facility to obey the order has not been given to the person. I believe, Sir, those decisions must be known to the law officers of the Crown. I can believe that as the wording stands at present it is possible to cause a lot of inconvenience and also mischief. I know that sometimes these orders are passed unconsciously without any implications thereof, and I am prepared to admit that such inconvenience as may have been caused as the result of the order may be due to that, but apart from it no doubt that the order will be made that a person shall remove himself from and shall not return to any area, specified in the order. It does not say "after giving him proper facilities for making arrangements to go". But one thing that strikes me is this, that supposing a person's ordinary residence is in a particular place, as in the case of Dr. Sumant. He was asked to go to a certain place where he had no residence and where he could not have gone and obeyed the order. I do not think that the Government contemplate this even though admitting for the sake of an argument what the Honourable the Home Member has stated to be the effect of the orders and the preventive manner in which they ought to be executed. I think that so far as the Act is concerned, the natural interpretation which any lawyer or any judge or even a magistrate may be good enough to construe this to mean that reasonable facilities are to be given, but it is also just possible that there may be magistrates who may ask the man to make such conditions impossible. I do not think that the law officers of the Crown and the Honourable the Home Member mean to say that it would be some punishment also, even as a sort of deterrent also that the man shall not be able to make arrangements for his own family, let alone arrangements for himself, in a particular place where he is asked to go and reside. If the Government wants to say that that is their intention, then I have nothing to say and we might better accept the idea underlying the proposal of one of the presidents of the European Association when he stated that all these persons are such a great nuisance that they should be transported and kept on a ship somewhere in the Arabian sea so that they will be rid of the whole nuisance. I do not think that the Honourable Member in charge of the bill, who wants to accommodate this side and who wants to square off all the angles of the opposition, will not want to put in such words as will give reasonable facilities which are

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intended to be given—I believe they are intended to be given under this particular clause of the particular section.

Mr. G. DAVIS: Sir, I think the amendment is a useless one. I have had certain experience of dealing with orders under section 4 and of interpreting them, and I suppose I interpreted them in the same way as any ordinary reasonable person would interpret them, that is to say, when a person is ordered to do a thing, it is assumed that he has reasonable time to do it and he can only be punished under section 14 if he disobeys or neglects to comply and a person does not disobey or neglect to comply with an order when it is not in his power physically to obey it nor does he neglect to comply with the order when it is not in his power physically to comply with it. As the amendment now stands, it says "Provided that reasonable time . . ." Now, Sir, reasonable time is a matter which every magistrate must be left to judge according to the circumstances, and if it is found when a case comes up to court that a reasonable time has not been given, presumably no conviction will be allowed to stand.

So far as the other part of the amendment is concerned, namely, "and facility are given to the person to obey such order", I do not know what is meant by that. Is it meant that he should be provided with a special train, or is it meant that his fare should be paid, or is it meant that his family affairs should be arranged so as to leave him free to go? We ought to remember that these orders are only passed in extreme cases; they are not passed against harmless, innocent persons who may have been deceived or who may have been deluded. They are passed against persons who have been given an opportunity to behave themselves in a reasonable manner. When they refuse to do so these orders are passed against them. To add this proviso, in so far as it relates to "reasonable time", mere verbiage and useless and, in so far as it seeks to afford facilities, is quite impracticable.

Rao Bahadur R. R. KALE (Bombay University): Sir, I had no intention to say anything but for the fact that such kind of unreasonableness is exhibited by magistrates. I hold in my hand a copy of the judgment in the case against one Krishnaji Vishnu Pathak of Masur who was sentenced to one year's imprisonment by the magistrate of Karad because Pathak was told to go and reside at a particular place within 48 hours after the order was served. The order was served on him at 1 a.m. He immediately applied to the District Magistrate saying that he may be allowed to go to any of the four places like Wai, Satara, Karad or Chaphe and he was waiting for the reply. Of course as the reply did not arrive within 48 hours, he was hauled up for disobedience and he was sentenced to one year's rigorous imprisonment. The magistrate said the time given to the accused was short and disobedience might not be his intention but surely there was his neglect and therefore he must pay the penalty. The matter went in appeal to the Sessions

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Judge who reduced the sentence to six months' imprisonment but the conviction was maintained as he said that disobedience comes within the purview of the section. I say these are instances which I mean to say necessitate this side to see that provisions are inserted which may be perhaps not necessary, but still the way in which the law is administered makes it incumbent upon us to suggest such kind of precaution.

Dr. M. K. DIXIT (Surat District): Sir, I rise to support the amendment before the House for introducing this necessary proviso. My honourable friend Rao Bahadur Chitale referred to the case of Dr. Sumant. I gave details of that case in the last February session. He was released in the evening and had to report the next morning at nine o'clock to the police in a place called Jalalpore. It was possible for him to reach there but he was asked to go and reside in that place. Now, Sir, Jalalpore is a very small place, there are no facilities of a hotel or an inn where one could go and put up and to obey the order he must fit up a house there. You do not expect a man who has been released from jail after 15 days' internment to go and fit up a house in that small village within a few hours. In the first place he will not be able to get a house because the people in a village, particularly the villagers, will be very chary to rent out their houses to a man who has been ordered on parole. I appreciate the remarks of the Honourable the Home Member that they want to make the place hot for such people. After all, however, Sir, it must be made humanly possible for people who really want to obey the orders to have certain conveniences. I understand that such orders are defied in two ways. There are some Congressmen who want to defy the order, and they then disobey it. There is an absolute defiance of the order of the District Magistrate. But there are others who are compelled to disobey the order actually driven to do it purely out of desperation. Therefore, under these circumstances, if a proviso like that existed, the District Magistrates will think twice before passing an order of that nature. We are told by the Remembrancer of Legal Affairs that reasonable time is always given for abiding by such orders. But I remember to have read times out of number that people released from jail in Bombay have been ordered to report themselves to the police within 10 minutes or 15 minutes of their release. I do not know if that is considered reasonable time. To all reasonable men like us it appears that to give a person 10 minutes or 15 minutes after his release from jail, within which to report himself to the police is certainly a very short time, and he is actually driven to disobey that order. Under these circumstances, Sir, it is best that such a proviso should exist, to provide reasonable time and facility to the person who really does not want to defy the order of the District Magistrate, who is inclined to obey the order but he should not be driven to disobey it simply because there are no reasonable time and facility given to him. With these words I support the amendment.

Mr. G. S. GANGOLI (Kanara District): Sir, I have only to add this much. I have had my attention drawn to what the honourable member the Legal Remembrancer said. I would be only too glad if every

[Mr. G. S. Gangoli]

magistrate could have the same legal acumen as the honourable member possesses. Anyway, I have the judgment of the High Court to show that reasonable facilities are not given. It is in the Gulabchand case. Another case was quoted by my honourable friend Rao Bahadur Kale. So I would say that this reasonable request should be granted.

The Honourable Mr. W. F. HUDSON: Sir, I agree with the honourable member Rao Bahadur Kale that magistrates are occasionally unreasonable, and if we could possibly make them reasonable by statute, no one would be better pleased than I. But I would point out to my honourable friend that the introduction of this proviso would make no difference whatever to the mentality of the magistrate. He would be the judge of what is reasonable time, as he is at present, and therefore I think the honourable member will agree with me that it is quite unnecessary to cumber the Bill as it is at present with provisos of this sort. The remedy lies with the appellate courts, as is the case with every form of judicial or magisterial action. This proviso, if we accepted it, will merely add three lines to the Bill, and will not make the slightest difference in practice. We are doing our best, the High Court is doing its best, to see that no unreasonable action is allowed, and if an exception occurs, as it does occur—no one denies it—then on appeal we trust and believe that it will be set right.

Question put. The House divided: Ayes, 27. Noes, 46.

Division No. 14.

Ayes

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
DESAI, Mr. H. R.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GILDER, Dr. M. D.
GOKHALE, Mr. L. R.
GOVER RORA, Mr.
JOG, Mr. V. N.
KALE, Rao Bahadur R. R.
KAMAT, Mr. B. S.

KARBHARI, Mr. M. M.
KULKAONI, Rao Sahab P. D.
MEHTA, Mr. M. H.
MORE, Mr. J. G.
PARULEKAR, Rao Bahadur L. V.
PATIL, Dewan Bahadur D. R.
PETT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SURVE, Mr. A. N.
SURVE, Mr. V. A.
TALPUE, MIR BANDEH ALI KHAN
TOLANI, Mr. S. S.
VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes: Mr. M. M. KARBHARI and Mr. G. S. GANGOLI.

Noes

ABDUL LATIF HAJI HAJRAT KHAN, Khar Bahadur	CLAYTON, Mr. H. B.
ADVANI, Mr. P. B.	DAVIS, Mr. G.
AMINUDDIN, Mr. SAHYID	DHURANDHAR, Mr. J. R.
ARBUTNOT, Mr. C. W. E.	D'SOUZA, Dr. J. ALBAN
ASAVALE, Rao Bahadur R. S.	GENNINGS, Mr. J. F.
BANGI, Mr. A. K. J.	GHULAM HUSSAIN, the Honourable Sir
BHUTTO, Sir SHAH NAWAZ	GHULAM HYDER SHAH, Mr.
BIJARANI, Khan Bahadur SHEER MCHAM-MAD KHAN	GHULAM NABI SHAH, Khan Bahadur
BIKADAR, Sardar MAHABOOBALI KHAN	HAMPTON, Mr. H. V.
BOLE, Rao Bahadur S. K.	HUDSON, the Honourable Mr. W. F.
BRANDER, Mr. J. P.	HUMPHREY, Mr. JOHN
BULLOCKE, Mr. A. GREVILLE	JAM JAN MAHOMED KHAN, Khan Bahadur
	JAM MAHOMED KHAN, Khan Bahadur
	JITEKAR, Mr. HAJI IBRAHIM

Nees—contd.

JONES, Major W. ELLIS	PATIL, Mr. N. N.
KALBHOR, Mr. G. M.	ROOSE, Mr. F. O. J.
KAMBH, the Honourable Dewan Bahadur S. T.	SERVAJ, Mr. A. E.
KHUBHO, Khan Bahadur M. A.	SINDHA, Mr. MADHAVSANG JORBHAI
MASTER, Mr. A.	SPENCE, Sir REGINALD
MAXWELL, Mr. R. M.	TARAPOREWALA, Mr. V. F.
MITHA, Mr. MAHOMED SULEMAN CASSIM	TURNER, Mr. C. W. A.
NAVLE, Mr. N. E.	VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR	VANDEKAR, Rao Bahadur R. V.
OWEN, Mr. A. C.	WINTERBOTHAM, Mr. G. L.

Tellers for the Nees : Mr. P. B. ADVANI and Mr. J. HUMPHREY.

Mr. J. G. MORE (Sholapur District) : Sir, I beg to move :

In clause 4, sub-clause (1), delete "(d)".

I need hardly add anything in support of this amendment. If we analyse sub-clause (1) of clause 4, we find therein that certain conditions are to be imposed upon the person, and among those conditions one of the most horrible will be that of parole. We know, Sir, that when citizens who have not the least intention of breaking laws are served with orders imposing parole conditions, then they are likely to break the orders, and in a way those who are law-abiding will be driven to join the civil disobedience movement. So, it is not wise that we should have such conditions imposed upon persons who may be law-abiding.

Secondly persons are asked to abstain from certain acts but what those acts are is not defined or stated in the Bill. So, we are not in a position to know what acts are contemplated by Government. Thirdly he has to observe certain orders relating to the property in his possession. Here too, we are not in the know of what orders are likely to be issued by Government. So, it is very undesirable that we should impose conditions which are likely to be broken and persons who are perfectly law-abiding may be driven to break laws. If the sub-clauses (a), (b) and (c) are retained, the purpose of Government will be served. Clause 3 is wide enough to cover all acts contemplated in sub-clause (d). He may be arrested and detained in custody for a period of two months. So, there is no need to have sub-clause (d) in the present Bill. With these words I move the amendment.

Question proposed.

Rao Bahadur R. R. KALE (Bombay University) : Sir, there are three amendments to sub-clause (1) (d) of clause 4. If all these amendments are moved at one time honourable members who wish to speak may speak on all of them and the amendments can be put to the vote separately one after another.

The Honourable the PRESIDENT : The honourable member Mr. Jog's amendment is the same ?

Mr. V. N. JOG : Yes.

The Honourable the PRESIDENT : The honourable member Dr. Dixit.

Dr. M. K. DIXIT : I am not moving it.

The Honourable the PRESIDENT: The honourable member Rao Bahadur Kale.

Rao Bahadur R. R. KALE: I am moving it, Sir.

The Honourable the PRESIDENT: I accept the suggestion of the honourable member. He will not get a chance to speak again.

Rao Bahadur R. R. KALE: Sir, my first amendment is:

"In sub-clause (1) (d) of clause 4 delete the words: 'conduct himself in such manner'."

The second amendment is:

"In sub-clause (1) (d) of clause 4, omit the words 'or take such order with any property in his possession or under his control'."

The first amendment relates to the person conducting himself in a manner as imposed by the conditions mentioned in the order. My submission is that the conditions laid down in sub-clauses (a), (b) and (c) are sufficiently wide to secure the object which Government have in view. I may point out that the conditions imposed under sub-clause (d) are narrated in a case, *Emperor vs. Balkrishna Phansalkar*, reported in XXXIV, The Bombay Law Reporter, on page 1527. It is typical of the conditions imposed under sub-clause (d) I may be allowed to read them:

1. Shall not attend, promote, address or take part in any public meeting or any procession or demonstration.

2. Shall not promote, encourage, or take part in any picketing, hartal, prabhat-feri, or similar activity, either directly or indirectly.

3. Shall not promote, assist, encourage, or take part in directly or indirectly any movement such as civil disobedience, boycott, etc., in furtherance of the objects of any prohibited association.

4. Shall not wear or exhibit any dress, badge, emblem or flag indicating or appearing to indicate any connection with any prohibited association.

5. Shall within 24 hours from leaving custody report himself to the police sub-inspector, Pandharpur town, and thereafter shall not without the permission of the Police sub-inspector, Pandharpur town, leave the area comprised in the municipal limits of Pandharpur town.

6. Shall not without the permission of the District Magistrate enter the area comprised in the Karmala Taluka of the Sholapur District.

7. Shall report himself to the officer in charge of Pandharpur town police station at the Pandharpur town police station, daily at the hours of 6 a.m., midday, and 8 p.m.

Breach of any of these conditions will be punishable under section 21 of the above Ordinance."

The expression "shall conduct himself in such a manner" is so wide as to enable the authorities to lay down any conditions and they have, as I just pointed out, laid down these 7 or 8 conditions. The other conditions are of abstaining from certain acts. My point is with regard to only one condition which has caused the greatest bitterness and irritation. That is the condition of reporting at the police station. By some means Government should be able to do away with that condition. Then the bitterness that has been caused will disappear. I know the object is to control the movement or the activities of those who belong to the movement. My point is that if any reasonable steps are to be taken in that direction there will be nothing wrong in the authorities laying down such conditions.

[Rao Bahadur R. R. Kale]

But the condition to report at the police station is regarded as humiliating and wounding the self-respect of persons. If this condition is omitted, other conditions are quite enough. Therefore I want to drop this expression and I hope Government will see its way to meet me with regard to the point I mentioned.

With regard to the other amendment to omit the words "or take such order with any property in his possession or under his control", I submit this also very vague. If a man is asked to take his moveable property, I do not know whether property will not include his other property, immovable property also. The expression is as vague as it can be. If we want to control the suspected person, how is it necessary to impose any condition relating to his property? That is a question which must be considered, especially when the question about the forfeiture of property and other things are not dealt with in this Bill. The local legislature is confined to the chapters that are contained in this Bill—personal liberty and payment of tax. So, I submit that with regard to property, it may be left to the Imperial legislature. Therefore, I submit that it is not a necessary provision which should find a place in this clause. Therefore I move the amendment standing in my name.

Dr. M. K. DIXIT : Sir, I just want to explain my position. You asked me whether I was going to move my amendment. Under an erroneous idea—

The Honourable the PRESIDENT : Which was that ?

Dr. M. K. DIXIT : Amendment to clause 4, sub-clause (1).

"Omit all and substitute the following :—

'shall abstain from such acts as may be specified in the order'."

When you asked me whether I was going to move my amendment, I thought you meant the last amendment on the page, namely,—

"Provided that an allowance shall be given to him for his maintenance and that of his dependant, if while obeying such orders he is obliged to stay away from his place of residence."

The Honourable the PRESIDENT : That has not been allowed.

Dr. M. K. DIXIT : When I said I was not going to move, I did so under the impression that you meant this amendment. I want to move the other amendment. If it is the same as Rao Bahadur Kale's, I will not move it.

The Honourable Mr. W. F. HUDSON : It is the exact opposite of the honourable member Rao Bahadur Kale's. The honourable member (Rao Bahadur Kale) wants to omit one half, and the honourable member Dr. Dixit wants to omit the other half.

Rao Bahadur R. R. KALE : It has practically the same effect. I have separated my amendment into two portions, one relating to persons and the other to property.

The Honourable the PRESIDENT : It is exactly the same.

The Honourable Mr. W. F. HUDSON : Yes, I see it.

Dr. M. K. DIXIT : Then, I do not want to move.

Rao Bahadur R. S. ASAVALE (Bombay City, North) : Sir, the first amendment that has been moved is to delete the whole of clause (d), and the second amendment moved by the honourable member Rao Bahadur Kale is to omit all words in the clause, except the words "to abstain from such acts as may be specified in the order". I want to move an amendment to this amendment : I want to keep the words "shall conduct himself in such manner, abstain from such acts, as may be specified in the order". That will be my amendment.

The Honourable the PRESIDENT : What is the amendment ?

Rao Bahadur R. S. ASAVALE : My amendment would be "shall conduct himself in such manner or abstain from such acts, as may be specified in the order".

The Honourable the PRESIDENT : There are two amendments moved by the honourable member Rao Bahadur Kale. In order to save time I have allowed all the amendments to that portion of the clause to be moved and discussed. The honourable member does not support the first amendment of the honourable member Rao Bahadur Kale. Then, he supports the second ?

Rao Bahadur R. S. ASAVALE : I am supporting the second. As for the first I do oppose it. I therefore desire to propose my amendment as a separate amendment.

The Honourable the PRESIDENT : The honourable member may oppose that.

Dewan Bahadur D. R. PATIL (East Khandesh District) : Mr. President, I oppose all the amendments except one, namely, the one that proposes the deletion of the words "shall conduct himself in such manner". My honourable friend Rao Bahadur Kale has read to us the conditions prescribed by the District Magistrate of Sholapur in a particular case. These conditions are seven in number.

The Honourable the PRESIDENT : The honourable member has already read them.

Dewan Bahadur D. R. PATIL : Out of them only two are of a positive character ; the others are of a negative character. Conditions of a negative character are covered by the words "shall abstain from such acts" etc. The two conditions of a positive character are covered by the first amendment moved by my honourable friend Rao Bahadur Kale. These conditions of a positive character, such as asking a person to go to a police officer and to report himself once or twice a day, are really most humiliating. The other day, the honourable member the Advocate General said that there was no question of humiliation.

The Honourable the PRESIDENT : All that has been discussed.

Dewan Bahadur D. R. PATIL : But I disagree with that view. We know as a matter of fact that only bad characters are required to report themselves to the police officers, because they are bad characters. Now, unfortunately, some of the respectable persons have taken it into their

[Dewan Bahadur D. R. Patil]

heads to follow the civil disobedience movement. They might be wrong, but to require them to report themselves to the police officer is really most humiliating to all the members of this House. Nobody would like this idea. The object of this Bill is to see that the civil disobedience movement is checked or controlled. If we have the other clauses, clauses (a), (b) and (c), and (d), excepting the words "conduct himself in such manner", I think the object of Government will be fully carried out. What is required is that a man should not take part in the civil disobedience movement. You may ask him not to attend a particular meeting, not to take part in the civil disobedience movement, not to do this or that. All this you can do without these words, and when you have taken action on those lines, I think the civil disobedience movement will be checked. But it is most objectionable to have these words "conduct himself in such manner". The object of checking the civil disobedience movement can be achieved by the various other provisions in the Bill. Under these circumstances, I strongly support the first amendment and oppose the rest.

Mr. V. N. JOG (Dharwar District): Sir, I support the amendment to delete clause (d), and oppose all the amendments that have been moved by the honourable member Rao Bahadur Kale, because they will not have the effect which the honourable member Rao Bahadur Kale desires. As has been already pointed out, even if the words "conduct himself in such manner" are removed and positive orders are shut out, still there are the words "abstain from such acts" which relate to negative orders, and by a skilful wording of the orders "abstain from such acts" can be made to serve the purpose of a positive act. So, Sir, nothing would be gained by these amendments. The best thing would be to delete the whole clause. This is one of the clauses under which all sorts of conditions have been imposed upon persons. To say the least, it is the negation of all phases of personal liberty. Under this clause we can deprive a person of his personal safety, right to liberty, right to property, right to association, and every right that a human being might possess. I will quote only a few instances which have really occurred within my knowledge. The other day I quoted a case in which a person was put on parole. It would be quite sufficient to say "Attend at the police station twice or thrice a day". But suppose a man is asked to go to the police station every day and also an order is made that he should not use any conveyance. It can be brought under the wording "abstain from such acts", by putting in "do not use a tonga, a gharry, a motor car, or any conveyance of that sort". Under this clause such conditions have been actually inserted—"You shall not use any conveyance". What is the idea underlying it? Is it to punish the man? It is rather vindictive. If it was to keep him out of the movement, the object could have been gained by letting him out on parole and keeping a watch on him. Similarly, I will give another instance—

The Honourable Mr. W. F. HUDSON: Would the honourable member give the name of the person who was told that he should not use a conveyance?

Mr. V. N. JOG : In Dharwar, some persons who have been kept under parole have been told that they are not to use any conveyance.

The Honourable Mr. W. F. HUDSON : I should like to have one concrete case.

The Honourable the PRESIDENT : Name ?

The Honourable Mr. W. F. HUDSON : Does the honourable member know that within his own personal knowledge, or has he only read it in the newspapers ?

Mr. V. N. JOG : I was supplied with a copy of the conditions that were imposed in Dharwar. One of the conditions was that no conveyance was to be used.

The Honourable Mr. W. F. HUDSON : If the honourable member will send a copy of the order, I will see that it is cancelled tomorrow.

Mr. V. N. JOG : It is likely that such orders may be passed in the future. When they come to notice, Government may cancel them, but inconvenience is caused if such orders are passed.

I was referring to another instance. I wanted to quote an instance from Khandesh, where the Chairman of the School Board was ordered not to visit schools or have a talk with the teachers.

The Honourable Mr. W. F. HUDSON : Quite likely.

Mr. V. N. JOG : Such orders were passed. Perhaps he was suspected

The Honourable Mr. W. F. HUDSON : Not perhaps ; certainly.

Dewan Bahadur D. R. PATIL : What Khandesh ; East or West ?

Mr. V. N. JOG : I do not remember. Such are the orders passed. Orders have been passed saying "Do not wear *khaddar* caps ; do not wear *khaddar*". A man, who was not himself a detenu or under any orders, was served with an order in Dharwar that he should not give his motor car to his wife or take his wife in his motor car. Instances like that can be multiplied. I submit that any sort of order would come under this clause. The purpose of the Government would be served by the first three clauses, (a), (b) and (c) and it is not necessary to retain this clause, which is capable of being interpreted in various ways. There is nothing to limit it ; it is limited only by the imagination of the persons who issues the orders. There are orders issued to hotel-keepers not to serve food to the civil resisters. Supposing a civil resister goes to a hotel and wants to have a meal. Orders have been passed not to serve him food. [*An Honourable Member* : Where ?] Do not ask me ; you know it. So, I submit, Sir, that unless this clause is omitted, many orders are likely to be passed which will be harmful to the very existence of life, and therefore I submit that this clause be omitted.

The Honourable the PRESIDENT : I would once again draw the attention of the honourable members to the fact that they should address the House only if it is absolutely necessary. The general discussion during the last five days has gone into every aspect of the Bill and the aims and objects of Government in bringing in this Bill. The opposition said whatever they wanted to say on behalf of the country outside, and the whole thing has been discussed in full detail. Now we are dealing with

[The President]

the technical side of the Bill by way of amendments which require support with brief remarks; and if one member has supported an amendment other members need not get up to support it. That is the only way by which, I think, we would be able to get over this Bill with hundreds of amendments. Otherwise, I will have to consider whether we should sit extra hours, nightly sittings and early morning sittings and so on. Of course, the opposition will be given every chance in the shape of amendments, but a few members should get up to support an amendment and that too with few remarks. I cannot repeat it too often.

Dr. M. D. GILDER (Bombay City, North): Sir, I have only to make one remark. The section as it stands says that a man "shall conduct himself in such manner", and it is this section which will be used in asking a man to report himself to the Police once, twice or thrice a day. When we ask the honourable members of the opposite side to report themselves to the tellers, who are their own companions in this House, three or four times a day, they grouse and the honourable member Sir Shah Navaz Bhutto said he was fed up with this business. How much more fed up the man would be who has to report to the Police several times a day!

Mr. G. S. GANGOLI (Kanara District): Sir, I had tabled an amendment myself, and perhaps it is the smallest amendment to this clause.

The Honourable the PRESIDENT: The smallest. Which is that?

Mr. G. S. GANGOLI: The amendment is:

"Delete the words 'shall conduct himself in such manner'."

Rao Bahadur R. R. KALE: It is my amendment also.

Mr. G. S. GANGOLI: But you have confused that with the other amendments.

Rao Bahadur R. R. KALE: No, No.

The Honourable the PRESIDENT: The honourable member has not followed correctly. Rao Bahadur Kale simply asked whether all amendments under this particular portion of the clause could be proposed, and then every member proposing it, should speak on the amendment so that time might be saved. I have, therefore, now put the two amendments of the honourable member, and I will put the two amendments as two amendments and not one amendment, and the first amendment is that of the honourable member, which, he says, is the smallest.

Mr. G. S. GANGOLI: So, I am not to move that amendment. Sir, the section says first, "shall not enter, reside or remain in any area specified in the order"; secondly, "shall reside or remain in any area specified in the order"; thirdly, "shall remove himself from, and shall not return to, any area specified in the order"; and fourthly, "shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order". Now, Sir, I would put it to the Legal Remembrancer what would be lost if the words I complain of, are deleted? Is

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there any concrete example to show that if these words are omitted, any case cannot be properly handled? If he shows any such example, I will not move my amendment.

Mr. V. A. SURVE (Ratnagiri District) (Addressed the House in Marathi): Sir, this is not a deed of adoption but this is law. You say that the general discussion on this Bill has taken five full days. But I must submit, Sir, that the nature of the law is so serious that whenever we want to speak on it we should be given an opportunity to do so. If you say that we should not speak on it, then, with respect, I submit, Sir, that you ought not to have brought this Bill before us.

The Honourable the PRESIDENT: Now please come to the point.

Mr. V. A. SURVE: Sir, I support the amendment of my honourable friend, Mr. More, to clause 4 (1) (d). This section contemplates certain harsh conditions to be imposed upon a person. I daresay, Sir, that if such conditions are imposed even those persons who are not Congressmen at present would become staunch Congressmen. I feel certain that this Bill is bound to create more Congressmen. With these words I support the amendment.

Rao Bahadur R. R. KALE (Bombay University): Sir, I want to make the matter clear. The first amendment dealing with clause 4 (1) (d) is of an all embracing nature. Those who want to have the whole clause omitted they should go with that. The second amendment refers to the deletion of certain portions of clause 4 (1) (d) and the third deals with property. So, it will be quite open for all on this side of the House to act as they like. The amendments will be put separately and they need not be afraid that there is any confusion.

The Honourable the PRESIDENT: Now, I think, the honourable members will clearly understand the position. The reply of the Honourable the Home Member will be the final reply now.

The Honourable Mr. W. F. HUDSON: I think the honourable members do not seem to be entirely unanimous about this clause. I will do my best to answer the various amendments in one very brief speech.

It seems to be thought that here again we have displayed almost satanic ingenuity in drafting this clause, but I think some of the lawyer members of this House have forgotten that most of it comes direct from the Criminal Procedure Code and has been in use for years in connection with section 144. Section 144 has been used to deal with much less important matters, much less serious matters, than the Civil Disobedience Movement. What was good for section 144, surely should not necessarily be ruled out when we come to deal with a more serious situation. The only part that is new is the first line, "shall conduct himself in such manner" and I agree that it is not in section 144. But the other two things are there.

I also agree that "shall conduct himself in such manner" is used chiefly for the purpose of insisting on reporting to the Police, and I agree

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also with what my honourable friends have said that there is undoubtedly a great prejudice in this country against reporting to the Police. Whether it is justified or not, I am not prepared to say, but I admit that such a feeling exists. Well, Sir, we are not prepared to give up this particular provision, but I would like to tell the House that we have issued the most careful orders from the beginning that this particular order was only to be issued in the case of people who have finally and definitely refused to abstain from taking part in the Civil Disobedience Movement. It is not meant for the ordinary persons, but when we get a dangerous man who says, "I am going on with this movement", the only thing to do, except to send him to jail, in order to prevent him from doing so, is to tell him that he will have to put in an appearance once a week or once a day at the Police station. The alternative to that is to give him an order—which I am sure will be more unpleasant for him—under sub-section (b) that he is to remain in a specified area, say his own compound. Well, Sir, I do not want to turn private houses into jails, if it can be helped. But if you once allow such people complete freedom they will disappear and so this provision has to be maintained. I am sorry I do not know at the present moment how many such orders are passed, and I am going to look into it, but we will certainly see that these instructions are enforced, that is to say, this order is only to be given in extreme cases. First of all, the officers have to satisfy two conditions, that they are really serious people and that they have finally refused to abstain from taking part in the Civil Disobedience Movement in future. No man is obliged to do that. Perhaps the honourable members forget this fact. For those who give such an undertaking, the penalties of this section fall to the ground in their case.

With regard to "abstain from such acts", Mr. Jog told us one or two hard cases. I do not think that he has personal knowledge of any of them—

Mr. V. N. JOG : I am almost certain.

The Honourable Mr. W. F. HUDSON : If the honourable member can send me a true copy of any such order as he mentioned, I will see that it is cancelled at once. But I cannot conceive any circumstances under which such an order could have been passed. Of course, I do not mean I will cancel the order as regards reporting at the Police station. That is a different matter.

One honourable member did not object to anything in the section except the portion about property. As I have said before, that is already embodied in the Criminal Procedure Code and is frequently used. I will give a sort of case. A man has a printing press from which he disseminates seditious literature. We do not necessarily sell the press. We only say, seal the press till the conditions improve. I will give another instance. A man has a house which he proposes to let to a Congress organisation—when I say Congress organisation I do not mean an organisation of the Indian National Congress, but an organisation dealing in Civil Disobedience Movement. We forbid him from doing that. Does the House seriously think that we are doing anything wrong

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in interfering with the rights of the owner? If they think so, I am afraid I must differ from them. I regret I must oppose all the various amendments, the complete deletion of the clause, deletion of the first sentence, deletion of the second sentence and deletion of the third sentence of the section. I am afraid I have not pleased anybody.

Rao Bahadur R. R. KALE: Would it not be possible to issue an order asking a man to report to the magistrate and not to the police? If that is done, there would be less hardship.

The Honourable Mr. W. F. HUDSON: I am not sure, but I believe that in some cases such orders have been passed. But Rao Bahadur Kale will realise that there are fewer magistrates than police stations, and if such an order is passed, very often the person would have to go a good deal further than he has to go if he has to report to the Police station and we do not desire to put him to unnecessary inconvenience. But I will see whether it is possible to issue an order asking a man to report himself at the Taluka Office rather than at the police station.

Question put, and negatived.

The Honourable the PRESIDENT: I now put the amendment by the honourable member Rao Bahadur Kale:

In clause 4, sub-clause (1) (d), delete the words "conduct himself in such manner".

Question put. The House divided: Ayes, 25; Noes, 50.

Division No. 15.

Ayes

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
DESAI, Mr. H. R.
DEXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GILDER, Dr. M. D.
GOVEE RORA, Mr.
JOG, Mr. V. N.
KALE, Rao Bahadur R. R.
KAMAT, Mr. B. S.

KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.
MEHTA, Mr. M. H.
MORE, Mr. J. G.
PATIL, Dewan Bahadur D. R.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SURVE, Mr. A. N.
SURVE, Mr. V. A.
SYED MIRAN MAHOMED SHAH
VAISHAMPAYAN, Dr. V. G.
VAKIL, Mr. PESTANSHAH N.

Tellers for the Ayes: Mr. M. M. KARBHARI and Mr. G. S. GANGOLI.

Noes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
ADVANI, Mr. P. B.
AMINUDDIN, Mr. SAIYID
ARBUTHNOT, Mr. C. W. E.
ASAVALE, Rao Bahadur R. S.
BANGI, Mr. A. K. J.
BHUTTO, Sir SHAH NAWAZ
BRADAR, Sardar MAHABOORALI KHAN
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
CLAYTON, Mr. H. B.
COLLACO, Dr. J. A.
DAVIS, Mr. G.
DESAI, Rao Saheb B. G.
DECRANDHAR, Mr. J. R.
GENNINGS, Mr. J. F.

GHULAM HUSSAIN, the Honourable Sir
GHULAM NABI SHAH, Khan Bahadur
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur
JAN MAHOMED KHAN, Khan Bahadur
KALBHOOR, Mr. G. M.
KAMBLI, the Honourable Dewan Bahadur S. T.
MASTER, Mr. A.
MAXWELL, Mr. R. M.
MEHEERBAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
MODAK, Rev. R. S.
MODI, Sardar Dattat T. K.
NAMDEORAO BUDHAJIRAO Mr.

Noes—contd.

NAVLE, Mr. N. E.	SHANKARRAO JAYARAMRAO ZUNZARRAO,
NAWAB SHAH ROOKH SHAH YAB JUNG	Mr.
BAHADUR	SOLANKI, Dr. P. G.
OWEN, Mr. A. C.	SPENCER, Sir REGINALD
PATIL, Mr. N. N.	SYED MUNAWAR, Mr.
RAFIUDDIN AHMAD, Moulvi Sir	TARAPOREWALA, Mr. V. F.
RAHIMTOOLA, Mr. HOOSENALLY M.	TURNER, Mr. C. W. A.
ROOSE, Mr. F. O. J.	VAKIL, the Honourable Sirdar Sir RUSTOM
SKEVAL, Mr. A. E.	JEHANGIR
SHAIK ABDUL AZIZ, Mr.	VANDEKAR, Rao Bahadur R. V.
	WINTERBOTHAM, Mr. G. L.

Tellers for the Noes: Mr. P. B. ADVANI and Mr. J. HUMPHREY.

Question "Omit the words 'or take such order with any property in his possession or under his control'" put, and negatived.

The Honourable the PRESIDENT: The next amendment is that of the honourable member Mr. Jog, to clause 4 (2).

Mr. G. S. GANGOLI: On a point of order. I had tabled an amendment to clause 4 (1) (d), namely, to add the following words:—

"Provided that reasonable time and facility are given to the person to obey such order or to dispose of saleable property immediately, provided however where Government require him to be dispossessed of his property, but do not think fit to allow him to sell, he shall be compensated for the cost price or market price thereof whichever is less."

The latter part of the amendment required the sanction of His Excellency the Governor. Now, I am not moving this amendment, but on a point of order, supposing His Excellency has not granted sanction to the latter part of the amendment, can I not move the former part of it?

The Honourable the PRESIDENT: The honourable member submitted that as one amendment. The amendment as a whole was considered by me and the honourable member was informed that sanction under section 80 C of the Government of India Act was necessary. The honourable member, I presume, had applied for it, and I understand sanction has been refused.

Mr. G. S. GANGOLI: I started by saying that I am not moving the amendment. That is not the point now. My question is,—

The Honourable the PRESIDENT: The question then becomes academic.

Mr. G. S. GANGOLI: Not that. Supposing I omit that part of the amendment to which the previous sanction of the Governor is required, can I not move the other part?

The Honourable the PRESIDENT: I should not be dragged into a discussion on hypothetical questions. The honourable member gave notice of the amendment as a whole, it was considered as a whole, and it was properly decided upon. The matter is at an end now.

Mr. V. N. JOG (Dharwar District): Sir, the amendment of which I have given notice and which I move is as follows:—

In clause 4 sub-clause (2) omit the words "unless the Governor in Council by special order otherwise directs".

Clause 4 (2) will then read like this:

"An order made under sub-section (1) shall not remain in force for more than one month from the making thereof."

[Mr. V. N. Jog]

By the words which I wish to omit the period can be prolonged from time to time. Therefore I submit that restraining the liberty of the person in this way shall be only for one month and not more. I do not want to repeat the reasons, because it has already been stated that all these restrictive actions are very oppressive and harsh. I therefore move that the words I have mentioned be omitted, and the order may be confined to only one month.

Question proposed.

Rao Bahadur R. R. KALE (Bombay University): Sir, I wish to know from the Honourable the Home Member how many persons are now subject to such orders passed under clause 4. I have here to refer again to the instance which I referred to at the time of the discussion on the first reading of the Bill, that is the instance of Vinayak Joshi Masurkar, the manager of the Masur Ashram. Although restrictions were placed on his movements and he agreed to abide by all of them, still the order not to leave his place without the permission of the District Magistrate is still in force, although it is now nearly a year since that order was passed. He has complied with every order. At the time he was released, he offered to abide by any conditions that may be imposed.

The Honourable the PRESIDENT: Is the honourable member speaking to the amendment?

Rao Bahadur R. R. KALE: Yes, Sir. My point is that there must be some limitation.

The Honourable the PRESIDENT: There is six months limitation at present.

Rao Bahadur R. R. KALE: I do not mean to say that all the directions are in force all the time, but one or other of the directions is still in force. The man was arrested in January; he was released in February. Then the directions were given. He gave an undertaking to abide by them. There was a direction to report himself to the police every day; the period of that direction was then reduced to a week. The condition of not leaving the district without the permission of the District Magistrate still remains in the case of at least three persons from my district (Satará) whom I know. My point is, really speaking, there should be some limitation. Now that person is a man, as I say, who is simply pining for knowing what there is against him which keeps him from his institution, which he has been conducting for the last 12 years. His property is attached, his press is sold, and he himself is under this restriction. My point is, in such circumstances, if there is no limit at all to the restrictions, then I mean to say the bitterness that arises is simply enhanced, and I therefore do submit that there must be some limitation, and the order should not be extended to any period. As the clause stands at present, the order may remain in force for an unlimited period.

The Honourable Mr. W. F. HUDSON: No; only as long as this Act is in force.

Rao Bahadur R. R. KALE : As long as this Act is in force. It will be in force definitely for a period of one year, and after that the Governor in Council can by notification extend it for a period of another two years. Are all these persons who have been subject to one order or another to continue to obey the orders for all these three years ?

Mr. M. M. KARBHARI : On a point of information. Reading sub-clause (2) of clause 4, the meaning conveyed to my mind is that the first order is not to remain in force for more than one month from the making of the order. But there is also another proviso to that, namely, unless, the Governor in Council by special order otherwise directs. May I know from the opposite benches whether the meaning conveyed by these words is that it will not be prolonged beyond one month, but that it can be brought down to less than a month, or does it mean that the period will be increased ?

The Honourable the PRESIDENT : What else does it mean ? It can be extended.

Mr. M. M. KARBHARI : If that is so, then I support the amendment.

The Honourable Mr. W. F. HUDSON : Sir, we cannot possibly confine this order to a period of one month, which is what the honourable member's amendment would amount to. We should then have to adopt what I think honourable members object to, such as a cat and mouse procedure. We should be passing two orders probably on the same facts. It would be quite impossible for us to control the movements of these people if we were only allowed to do it for one month.

I think, Sir, perhaps it would be convenient if, at this stage of the proceedings, I told the House that I propose to move an amendment in these words—I am not going to move it now—but perhaps it will help honourable members to realise what the position is. It is quite true, as my honourable friend Rao Bahadur Kale says, that at present under the Bill as it is there will be no limitation to these orders, except the actual limitation of the Act, which we all hope and believe will fall into disuse on the 29th of December 1933. If it does, of course all the orders will then lapse. But I propose, as a fresh safeguard, to submit to the House an amendment on these lines :

After sub-clause (3) of clause 4 insert the following sub-clause :

“(4) The Governor in Council shall, subject to the provisions of section 21 of the Bombay General Clauses Act, 1904, so far as conveniently may be, at intervals of six months take into consideration and review any orders in force made or deemed to have been made under sub-section (1) and when in the opinion of the Governor in Council it is compatible with the public safety or peace to cancel or modify any of such orders, the Governor in Council shall cancel or modify any such orders accordingly. Any decision of the Governor in Council that any such order can or cannot be cancelled or modified or as to the manner in or the extent to which any such order can be modified shall be final and conclusive.”

The point of that is this. A great many of these orders have already been cancelled or modified as time went on. But this will provide for a regular review of all such orders by Government and I think that ought to be satisfactory to the House. We cannot accept any limitation of time and still less can we accept the limitation of one month. I will put a concrete case. We imagine a case of A who has been told that he must

[Mr. W. F. Hudson]

not live in Bombay, we will say. He says at the end of six months that when he returns to Bombay he will join the civil disobedience movement and do mischief with twice as much vigour as before. In that case we will have to deal with him. But we are going to provide for a proper and regular review of all these orders under clause 4 and I shall move the amendment at the proper time. This is a little safeguard so that no case may slip through and as a matter of fact no case slips through. If he wishes the order to be cancelled, there is nothing to prevent him from saying 'if you will cancel the order, I will do so and so'.

Rao Bahadur R. R. KALE : The Act says that after one month the Governor in Council will review and make up his mind whether to extend the period or not. There is another review at the end of six months.

The Honourable Mr. W. F. HUDSON : Every six months each order which has been extended will be reviewed.

Rao Bahadur R. R. KALE : In addition to the review after one month?

The Honourable Mr. W. F. HUDSON : When any order for extension is issued, the original order is reviewed.

Mr. J. G. MORE : I have got my own amendment and the amendment now proposed by the Honourable the Home Member should not be put before my amendment is put.

The Honourable the PRESIDENT : The Honourable the Home Member has not moved it and he will do so at the proper place.

Mr. V. N. JOG (Dharwar District) : Sir, the Honourable the Home Member said that these orders will be reviewed within an interval of six months and he also gave the reason that if a person, even after the expiry of three months, refused to give an undertaking that he shall desist from those activities then the order for extending the period would be issued ; and that if he again persists in his refusal after the expiry of the period extended, another order would be issued for further extending the period. But what I submit is that it should not be automatically extended like this. He should be released first, and if the person again gives cause for putting him under restraint under clause 4 then a fresh order could be issued. It should not be automatically extended.

Question put, and negatived.

Mr. J. G. MORE (Sholapur District) : Sir, I beg to move.

" At the end of clause 4, add the following :

' (4) The special order issued by the Governor in Council under sub-clause (2) shall not remain in force for more than three months from the making of the order under sub-clause (1).'

Sir, under section 3, there is a limit to the order issued by the Governor in Council, that a man should not remain in custody for more than two months. Under section 14, if a man breaks the conditions imposed on him under section 4, the punishment proposed to be inflicted on him

[Mr. J. G. More]

is two years' imprisonment *plus* fine. There too, we get a limit on punishment. Therefore in all fairness I think that there ought to be some limit to the period that may be extended by the special order under clause 4. So my amendment is quite reasonable and is in keeping with the spirit underlying the Bill. I hope my amendment will be acceptable to Government.

Question proposed.

Rao Bahadur R. R. KALE (Bombay University): Sir, there is much force in the amendment moved. The intention in putting one month is clear that orders under this clause should be for a short period. It is not quite clear that the intention is that the period ought not to exceed three months. If in case the man persists, a fresh order can be issued. The procedure is such that there is no *res judicata*. Why should the original order be extended to any extent?

The Honourable the PRESIDENT: Ordinarily it is one month unless Government find it necessary to extend it. The honourable member supports the amendment?

Rao Bahadur R. R. KALE: I support it on this ground that so far as experience goes, one month is regarded as a normal period. I am not in possession of statistics. Because one month is mentioned, the further period which is extended must have relation to the original period mentioned.

The Honourable Mr. W. F. HUDSON: The period under the ordinances was six months; under the present Bill it will be one month to a year. I only said that because the honourable member asked me what the limit was. It does not in the least follow that an extending order will say it should be for a period of 12 months; it will only say that the order will continue so long as may be necessary. That can easily be cut short by the individual himself by saying that he is not the kind of person to whom this order should apply and that he will abstain from any unlawful activities.

Mr. G. DAVIS: Sir, I may just explain. We are putting in the new sub-clause to this clause 'Subject to the provisions of section 21 of the General Clauses Act' and that really is to make it perfectly clear that although we say that there should be a general review at the end of six months, the orders may be cancelled or modified prior to those six months. That was put in so as to draw the attention of Government to the fact that there was section 21 of the General Clauses Act and the provisions which we are now going to enact as clause 4 do not exclude the powers of Government to cancel or modify the order at any time.

Question put, and declared lost.

Mr. J. G. MORE: Division, Sir.

The Honourable Mr. W. F. HUDSON: Sir, I think that Government must ask the House to go on sitting to-night until we finish clause 4. I am saying this because I find perfectly useless divisions are asked for. I ask, Sir, with very great regret, that we should sit till we finish clause 4.

The House divided : Ayes, 20 ; Noes, 48.

Division No. 16.

Ayes

BAKHALE, Mr. R. R.
BALOCH, Mr. HAJI MIR MAHOMED
CHIKODI, Mr. P. R.
CHITALK, Rao Bahadur G. K.
DESAI, Mr. H. R.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GILDER, Dr. M. D.
GOVER RORA, Mr.
JOG, Mr. V. N.

KALE, Rao Bahadur R. R.
KARBHARI, Mr. M. M.
KULKARNI, Rao Saheb P. D.
MEHTA, Mr. M. H.
MORE, Mr. J. G.
PETIT, Mr. J. B.
PRADHAN, Rao Bahadur G. V.
SURVE, Mr. A. M.
SURVE, Mr. V. A.
VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes : Mr. N. N. PATIL and Mr. P. R. CHIKODI.

Noes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
ADVANI, Mr. P. B.
AMINUDDIN, Mr. SAIID
ARBUTHNOT, Mr. C. W. E.
BANOL, Mr. A. K. J.
BHUTTO, Sir SHAH NAWAZ
BRADAR, Sardar MAHABOUBALI KHAN
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
CLAYTON, Mr. H. B.
COLLACO, Dr. J. A.
DAVIS, Mr. G.
DHURANDHAR, Mr. J. R.
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur
KADRI, Mr. J. S.
KALBHOE, Mr. G. M.
KAMBELI, the Honourable Dewan Bahadur S. T.
KHURO, Khan Bahadur M. A.
MASTER, Mr. A.
MAXWELL, Mr. R. M.

MEHEERAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
MODI, Sardar Davar T. K.
NAMDEORAO BUDHAJIRAO, Mr.
NAVLE, Mr. N. E.
NAWAB SHAH ROOKH SHAH YAB JUNG BAHADUR
OWEN, Mr. A. C.
PATIL, Mr. N. N.
RAFIUDDIN AHMAD, Moulvi Sir
RAHIMTOOLA, Mr. HOSENALLY M.
ROOSE, Mr. F. O. J.
SERVAL, Mr. A. E.
SHANKERRAO JAYARAMBAO ZUNZARRAO, Mr.
SOLANKI, Dr. P. G.
SPENCE, Sir REGINALD
SYED MIRAN MAHOMED SHAH
SYED MUNAWAR, Mr.
TARAPOREWALA, Mr. V. F.
THAKOR OF KERWADA, Sardar BHASABH RASINHSI
TURNER, Mr. C. W. A.
VAKIL, the Honourable Sirdar Sir RUSTOM JERANGIB
VANDEKAR, Rao Bahadur B. V.
WINTERBOTHAM, Mr. G. L.

Tellers for the Noes : Mr. P. B. ADVANI and Mr. HOSENALLY M. RAHIMTOOLA.

The Honourable the PRESIDENT: The Honourable the Home Member will now move his amendment.

The Honourable Mr. W. F. HUDSON: Sir, I beg to move my amendment which is—

“ After sub-clause (3) of Clause 4 insert the following clause :—

‘ The Governor in Council shall, subject to the provisions of section 21 of the Bombay General Clauses Act, 1904, so far as conveniently may be, at intervals of six months take into consideration and review any orders in force made or deemed to have been made under sub-section (1) and when in the opinion of the Governor in Council it is compatible with the public safety or peace to cancel or modify any of such orders, the Governor in Council shall cancel or modify any such orders accordingly. Any decision of the Governor in Council that any such order can or cannot be cancelled or modified or as to the manner in or the extent to which any such order can be modified shall be final and conclusive.’ ”

Question put, and agreed to.

Question, "That Clause 4, as amended do stand part of the Bill," put. The House divided: Ayes, 49; Noes, 22.

Division No. 17.

Ayes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	MAXWELL, Mr. R. M.
ADVANI, Mr. P. B.	MEHERBAKSH, Mr. S.
AMINUDDIN, Mr. SAITID	*MEHTA, Mr. M. H.
ARBUTHNOT, Mr. C. W. E.	MITHA, Mr. MAHOMED SULEMAN CASSUM
ASAVALI, Rao Bahadur R. S.	MODI, Sardar Davar T. K.
BANGL, Mr. A. K. J.	NAMDORAO BUDHAJIRAO, Mr.
BHUTTO, Sir SHAH NAWAZ	NAVLE, Mr. N. E.
BIRADAR, Sardar MAHABOOBALI KHAN	NAWAB SHAH ROOKH SHAH YAR JUNG
BRANDER, Mr. J. P.	BAHADUR
BULLOCKE, Mr. A. GREVILLE	OWEN, Mr. A. C.
CLAYTON, Mr. H. B.	PATIL, Mr. N. N.
COLLAGE, Dr. J. A.	RAFIUDDIN AHMAD, Moulvi Sir
DAVIS, Mr. G.	RAHIMTOOLA, Mr. HOUSENALLY M.
DESAL, Rao Saheb B. G.	ROOSE, Mr. F. O. J.
DEURANDHAR, Mr. J. R.	SERVAL, Mr. A. E.
GENNINGS, Mr. J. F.	SHANKARRAO JAYARAMRAO ZUNZARRAO,
GHULAM HUSSAIN, the Honourable Sir	Mr.
HAMPTON, Mr. H. V.	SOLANKI, Dr. P. G.
HUDSON, the Honourable Mr. W. F.	SPENCE, Sir REGINALD
HUMPHREY, Mr. JOHN	SYED MIRAN MAHOMED SHAH
JAM JAN MAHOMED KHAN, Khan Bahadur	SYED MUNAWAR, Mr.
KADRI, Mr. J. S.	TARAPOREWALA, Mr. V. F.
KALBHOR, Mr. G. M.	THAKOR OF KERWADA, Sardar BHASABEB
KAMBLI, the Honourable Dewan Bahadur	RAISINHI
S. T.	VAKIL, the Honourable Sirdar Sir RUSTOM
KHURRO, Khan Bahadur M. A.	JEHANGIR
MASTER, Mr. A.	VANDEKAR, Rao Bahadur R. V.
	WINTERBOTHAM, Mr. G. L.

Tellers for the Ayes: Mr. P. B. ADVANI and Mr. HOUSENALLY M. RAHIMTOOLA.

*Mr. Mehta's name was wrongly marked in the "Ayes" (*Vide Debates of 1st December 1932*).

Noes

ACHREKAR, Mr. A. B.	KALE, Rao Bahadur R. R.
BAKHALI, Mr. R. R.	KARBHARI, Mr. M. M.
BALOOCH, Mr. HAJI MIR MAHOMED	KULKARNI, Rao Saheb P. D.
CHIKODI, Mr. P. R.	MEHTA, Mr. M. H.
CHITALE, Rao Bahadur G. K.	MORE, Mr. J. G.
DIXIT, Dr. M. K.	PETTIT, Mr. J. B.
GANGOLI, Mr. G. S.	PRADHAN, Rao Bahadur G. V.
GILDER, Dr. M. D.	RESALDAR, Mr. A. K.
GOKHALI, Mr. L. R.	SURVE, Mr. A. N.
GOVER ROBA, Mr.	SURVE, Mr. V. A.
Jog, Mr. V. N.	VAISHAMPAYAN, Dr. V. G.

Tellers for the Noes: Mr. N. N. PATIL and Mr. P. R. CHIKODI.

The Honourable the PRESIDENT: The House is now adjourned to 2 o'clock to-morrow, Thursday, the 1st December 1932.

Thursday, the 1st December 1932.

The Council re-assembled at the Council Hall, Bombay, on Thursday the 1st December 1932, at 2 p.m., the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 ACHREKAR, Mr. A. B.
 ADVANI, Mr. P. B.
 AMINUDDIN, Mr. SAIYID
 ARBUTHNOT, Mr. C. W. E.
 ASAVALE, Rao Bahadur R. S.
 BAKHALE, Mr. R. R.
 BALOCH, Mr. HAJI MIR MAHOMED
 BANGI, Mr. A. K. J.
 BHUTTO, Sir SHAH NAWAZ
 BIJARANI, Khan Bahadur SHER MUHAMMAD KHAN
 BIRADAR, Sardar MAHABOOBALI KHAN
 BOLE, Rao Bahadur S. K.
 BRANDER, Mr. J. P.
 BULLOCKE, Mr. A. GREVILLE
 CHIKODI, Mr. P. R.
 CHITALE, Rao Bahadur G. K.
 CLAYTON, Mr. H. B.
 COLLACO, Dr. J. A.
 COOPER, Khan Bahadur D. B.
 DAVIS, Mr. G.
 DESAI, Rao Saheb B. G.
 DESAI, Mr. H. R.
 DHALUMAL LILARAM, Mr.
 DEURANDHAR, Mr. J. R.
 DIXIT, Dr. M. K.
 D'SOUZA, Dr. J. ALBAN
 GANGOLI, Mr. G. S.
 GENNINGS, Mr. J. F.
 GHULAM HUSSAIN, the Honourable Sir
 GHULAM HYDER SHAH, Mr.
 GHULAM NABI SHAH, Khan Bahadur
 GILDER, Dr. M. D.
 GOKHALE, Mr. L. R.
 GOVER RORA, Mr.
 HAMPTON, Mr. H. V.
 HUDSON, the Honourable Mr. W. F.
 HUMPHREY, Mr. JOHN
 JAM JAN MAHOMED KHAN, Khan Bahadur
 JAN MAHOMED KHAN, Khan Bahadur
 JOG, Mr. V. N.

JONES, Major W. ELLIS
 KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHUHHO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MATCHESWALLA, Mr. G. E.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MEHTA, Mr. M. H.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MODI, Sardar Davar T. K.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATEL, Mr. C. N.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dr. P. G.
 SPENCE, Sir REGINALD
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SYED MIRAN MAHOMED SHAH
 SYED MUNAWAR, Mr.
 TALPUR, MIR BANDEH ALI KHAN
 TARAPOREWALA, Mr. V. F.

THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.
 VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
 VANDEKAR, Rao Bahadur R. V.
 WINTERBOTHAM, Mr. G. L.

**BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON
 GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF
 MAINTAINING LAW AND ORDER).**

(Clause by clause reading resumed.)

Clause 5 (Power to prohibit or limit access to certain places.)

The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

Mr. V. N. JOG (Dharwar District): Sir, there are several amendments to clause 5, the first of which is to omit the clause. Can I not move it as a substantive amendment?

The Honourable the PRESIDENT: No, not when the Bill is being considered clause by clause. That has been the practice of this House. The honourable member can oppose the clause.

Mr. V. N. JOG: Sir, there are four amendments of which I have given notice. Of these, I do not wish to move the amendment to substitute "Governor in Council" for "District Magistrate" as also the one to substitute "they" for "he", because I think—

The Honourable the PRESIDENT: No reasons need be given.

Mr. V. N. JOG: I then move the following amendments:

"In clause 5, line 3, delete the words 'for the public advantage.'

"Add the following words at the end of the clause:

'of any person whose access to the said premises is in his opinion prejudicial and dangerous to public safety, order or peace.'

The clause, as amended, will read as follows:—

The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place, of any person whose access to the said premises is in his opinion prejudicial and dangerous to public safety, order or peace."

Sir, the term "public advantage" is a very vague one. When I was opposing the first reading of this Bill, I have given illustrations how this clause could be misused. Therefore, we want to control the operation of this clause, by limiting it to such persons whose access to the

[Mr. V. N. Jog]

said premises is, in the opinion of the District Magistrate, dangerous to public safety, order or peace. We say that the access of such persons to the premises might be controlled. Otherwise, there is no knowing how this clause would be misused. It may be misused to a great extent, because the words are very comprehensive, and there is no limit to the occasions when this power may be called into use. I think the addition of the words which I propose will serve the purposes of Government, because they say that they want only to fight the civil disobedience movement. Therefore, if there are reasons for the District Magistrate to believe that access of such persons to such premises is prejudicial to public safety, order or peace, then only orders under this clause should be passed. Otherwise, as I have already said, there will be a lot of inconvenience caused to the general public. Also, because the words "local authority" occur in the clause, the District Magistrate can prohibit access to meetings of local boards and municipalities as coming under this clause. Therefore, I propose these amendments. If these amendments are not carried, then I oppose the whole clause, as I think it is not in the interest of the public that Government should have such powers to put restraints on citizens.

Question proposed.

Mr. J. G. MORE (Sholapur District): Sir, I rise to support the amendment proposed by my honourable friend Mr. Jog. Under clauses 3 and 4 it is contemplated that action is to be taken against those who commit acts against peace, and safety. Only those persons whose acts are likely to come under the provisions of clauses 3 and 4 are to be arrested. Under clause 5, there is nothing of that kind. Access to the premises mentioned in the clause of any persons can be prohibited. So, this clause contemplates restrictions upon all persons alike. There will be no distinction between persons who are law-abiding and persons who are not. I do not know why the clause should be so vaguely worded. Again there are the words "public advantage" in the clause. They are not defined in the Bill. What "public advantage" means, or how the District Magistrate is to interpret that phrase, is not stated. So, it is very dangerous to allow the clause as it stands. I have given notice of my own amendments to the clause, but if the amendment under discussion is accepted, I do not wish to waste time in moving mine. Sir, I may give one illustration. There are local authorities—municipalities and local boards. Even to these bodies access may be prohibited. There are municipalities and local boards in which Government or the district officers sometimes favour one party or the other. Supposing that there is a vote of censure proposed against a party in a municipality or district local board which is favoured by Government officers, and if the vote of censure is likely to be carried, that also may amount to public disadvantage according to certain Government officers, and the District Magistrate may, on the ground of public advantage, ask certain members of the local board or of the municipality proposing the censure motion not to attend the meeting. Such a very wide interpretation can be put upon the clause as it stands. So, if my honourable friend's amendments

[Mr. J. G. More]

are accepted, I think we will be acting in keeping with the intentions of Government. So, I support the amendments.

The Honourable Mr. W. F. HUDSON: Sir, I cannot accept this amendment as it stands. It would render the position of the District Magistrate impossible. Let me take a concrete case. I am taking the amendment to the amendment. The honourable member wishes to distinguish between persons whose access is likely to be prejudicial and persons whose access is not likely to be prejudicial to public safety. I will give him a concrete case. His Excellency the Governor is proceeding from Bombay to Poona. The Police Commissioner receives credible information that the opportunity is to be taken by some terrorist organisation to shoot him. In the ordinary course there will be 600 or 700 people at the Victoria Terminus. Is it possible for the Police Commissioner to decide in regard to each individual whether he is or he is not a person whose access will be prejudicial to public safety. He must close all access to the station for three-quarters of an hour. Let us take another probable instance. Suppose the Congress makes a raid on the holiest of holy places, the Secretariat, on a Saturday morning. There will be many people going to the Secretariat on Saturday morning. They have a perfect right to go there. Unquestionably we must close all access to the Secretariat and it will be quite impossible to distinguish between those who have a right to go there and those who have no right to go there. I shall give another instance. Some honourable member talked about municipal buildings. It is quite possible that we may have a municipality which does not want to float the national flag. The Congress decides upon a raid on the municipal building in order to bring the municipality to its senses. There is every likelihood of a breach of peace. The District Magistrate will be perfectly right if he prohibits everybody from entering the building under this Act. It is quite impossible again for him to distinguish whether they are there for proper purposes or improper purposes. During the last 11 months this section has been made very little use of, and I assure the House that this section will be used very rarely. This distinction cannot be made and it is not practicable to carry it out, when such circumstances occur. This section is taken from the Defence of the Realm Act. I do not know whether it is word for word the same section, as I have not verified it. When a war is on, we cannot curtail the powers of our officers. No District Magistrate will close access to a station without justification for it, because if he does so, he will incur the displeasure of the Railway Company. The instance I gave about the Victoria Terminus must appeal to all reasonable people.

Rao Bahadur R. R. KALE: After the speech of the Honourable the Home Member in giving effect to the last amendment, my own suggestion is that instead of the words 'public advantage'——

The Honourable Mr. W. F. HUDSON: I was going to say that.

Rao Bahadur R. R. KALE: If you introduce the words 'safety or peace,' I think it will be satisfactory.

The Honourable Mr. W. F. HUDSON: "If the District Magistrate thinks it necessary for public safety or peace"; I am quite willing to accept it.

Mr. G. DAVIS: I move that in clause 5, substitute the words 'in the interests of the public safety or peace' for the words 'for the public advantage'.

Question proposed.

Mr. V. N. JOG: Is that the idea that the whole access should be stopped?

The Honourable Mr. W. F. HUDSON: On some occasions it is inevitable. But no District Magistrate will think of inconveniencing the public. In many cases it will be individuals wearing red caps and carrying red flags. Honourable members must assume that our District Magistrates are reasonable men and the last thing they will do is to interfere with the convenience of the public.

Mr. V. N. JOG: I accept the amendment and beg leave of the House to withdraw my amendments.

Amendments, by leave, withdrawn.

The Honourable the PRESIDENT: Now, I put the amendment of the Remembrancer of Legal Affairs.

Question put, and agreed to.

The Honourable the PRESIDENT: The honourable member Mr. Petit. Does he move his amendment?

Mr. J. B. PETIT: Before I move my amendment, Sir, I would like to know whether the application of the powers conferred by this clause is to be for any length of time. How long can an officer, acting under this clause, exercise the powers conferred on him—for one month or——

The Honourable Mr. W. F. HUDSON: There is no limit. Probably in some cases two hours. It is impossible to foresee all circumstances. It will be as long as it is necessary in the interests of public peace and safety. As soon as these interests are not involved, the prohibition or limitation will be withdrawn.

Mr. J. B. PETIT: I am not moving it.

Mr. G. S. GANGOLI: I want to know the meaning of the words 'public advantage.' In every section this expression finds a place.

The Honourable Mr. W. F. HUDSON: When we come to it, I will see whether I cannot explain.

Clause 5, as amended, ordered to stand part of the Bill.

CORRECTION OF DIVISION LIST.

The Honourable the PRESIDENT: A discrepancy has been pointed out to me in the last voting list yesterday. The honourable member Mr. Mehta is found to have voted on both sides. I wonder on which side he voted?

Mr. M. H. MEHTA : I voted for the Noes.

The Honourable the PRESIDENT : There was some mistake. The tellers were the honourable members Mr. Chikodi, Mr. Advani, Mr. Patil and Mr. Rahimtoola who is not here. I suppose that this must be taken as a mistake. The honourable member says he voted for the Noes. So, the total for the "Noes" will be 49 and not 50.

DISCUSSION ON SPECIAL POWERS BILL—Resumed.

Clause 6 (*Power to prohibit or regulate traffic.*)

The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary for the public advantage, traffic over any road, pathway, bridge, waterway or ferry.

Mr. G. S. GANGOLI : To this section there are 5 or 6 amendments and some of them propose the deletion of the clause. My first submission is what the meaning of the word 'public advantage' is. Secondly I want to be enlightened why this section is necessary when it is covered by section 5 and the provisions under the District Police Act.

The Honourable Mr. W. F. HUDSON : In connection with what ?

The Honourable the PRESIDENT : He is going to move an amendment after the explanation. His amendment is :

"At the end of the clause add the following :

'such order shall not be in force for more than three hours'."

The Honourable Mr. W. F. HUDSON : As regards his first point, I think it is desirable to substitute the words 'in the interests of the public safety or peace' for the words 'public advantage'.

As regards why we want this clause I will point out that this clause gives more immediate powers to deal with the civil disobedience movement and provides more serious penalties than the provisions of the District Police Act. Under the District Police Act, it is necessary to make rules and orders.

Mr. G. S. GANGOLI : Sir, in view of the provisions of the District Police Act and section 144 of the Criminal Procedure Code which give ample powers to the District Magistrate, I do not understand in what contingency this provision is required. I move, therefore :

"In clause 6 at the end add the following : 'such order shall not be in force for more than three hours'."

Question proposed.

The Honourable Mr. W. F. HUDSON : It must be perfectly obvious that an amendment like this reduces the section to nullity. I do not want to trouble the House with any detail. Suppose we learn that the Congress is embarking on a salt raid with three thousand 'determined' people. It is necessary to hold up all trains and close bridges and roads for traffic. If we close at 12 noon and open at 3 o'clock, no possible advantage will be gained. The House will see that it is impossible to accept any proposal of this sort.

Mr. G. S. GANGOLI : Can no other reasonable amendment be made ?

The Honourable the PRESIDENT : Has the honourable member any reasonable amendment ?

Mr. G. S. GANGOLI : What contingency will arise and what time will it require, some limit must be imposed.

The Honourable Mr. W. F. HUDSON : We must assume that our District Magistrates are reasonable people. They will certainly not interfere with essential traffic on a road or ferry or bridge unless they consider it necessary in the interest of public peace.

Mr. G. S. GANGOLI : In view of this assurance, I beg leave to withdraw my amendment.

Amendment, by leave, withdrawn.

The Honourable Mr. W. F. HUDSON : Sir, I propose—

In clause 6, for the words 'for the public advantage' substitute the words 'in the interests of the public safety or peace'.

Question put, and agreed to.

Dr. M. K. DIXIT : Sir, in view of the fact that the Honourable the Home Member has got the salt raid on his brain, I do not think I shall move the amendment standing in my name, namely :—

"At the end of clause 6, add : "provided that such order shall remain in force for a period not exceeding three days."

Mr. C. N. PATEL : Sir, I wish to move my amendment. Are all my amendments frivolous ? I am partly getting converted to the Government side.

The Honourable the PRESIDENT : We shall see when we come to clause 7, to which his amendment relates.

The Honourable Mr. W. F. HUDSON : I should like to see the honourable member on our side.

Mr. C. N. PATEL : It is converting me.

The Honourable the PRESIDENT : I do not welcome the conversion.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 (Power to regulate means of transport).

"7. (1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order."

Mr. G. S. GANGOLI (Kanara District) : Sir, I am moving my amendment—

Delete sub-clause (1) of clause 7.

In this clause the words 'public advantage' are not put in, and there is no mention made also as to the contingency which may justify such a return to be called for. If a return is required, that can be obtained from the local authority. Why should the District Magistrate call for a return from private individuals ? There are the revenue officers who can maintain a register of vehicles.

Question proposed.

The Honourable Mr. W. F. HUDSON : Sir, sub-clause (1) is merely a means of preparation. When a war is on, the first thing that you want to know is what are your possible resources, and one of the essentials is that you should know what transport you can get in an emergency and where you can get it. It may easily happen that we have to transport considerable bodies of police from one place to another in the hope of stopping a riot or in the hope of stopping other illegal activities, and it is very useful to the District Magistrate to know where and at what place he can, if necessary, commandeer motor transport, instead of waiting for the time till the commotion has arisen. Otherwise, when he has to transport 60 or 100 policemen, he has to be looking about where the motors are. It is no hardship whatsoever upon any owner of cars to be asked to state that he has three or four at his disposal. It is no infringement of the liberty of the subject. What is required in this case is only a return. That is all.

Mr. J. B. PETIT (Bombay Millowners' Association) : I do not think, Sir, that this sub-clause, if allowed to go in, is likely to be of any very material help to the Government. On the other hand, it is certain to be productive of very great disadvantage and inconvenience to the public. I can understand why the Government should get the information they want under sub-clause (1), but I do not understand why they should require private individuals to place their carriages, cars and other facilities of transport at the disposal of the Government, as laid down in sub-clause (2). The power to require any person to place his means of transport at the disposal of the Government is likely to be of very great inconvenience to the public and is liable to be misused for trifling reasons. The Government have got numerous facilities and all the resources of an Empire at their beck and call. I do not know why then they should require the public to give them these facilities. If the idea is that the owners of these conveniences are likely to misuse them against the Government, then that point should have been clearly brought out. But we are told that the reason for requiring this information is to call upon the owners at a time of emergency to place their vehicles at the disposal of the Government. If this is really so, it is equivalent to the commandeering of private vehicles, and it appears to me to be hardly necessary. I do not understand why the vehicles of private individuals should be thus commandeered. No case appears to have been made out for such a proposal. Under these circumstances, I support the amendment and I hope the House will accept it.

Mr. C. N. PATEL (Kaira District) : Sir, I oppose sub-clause (1). The information required is sought in order to commandeer the vehicles when required. We have found how they will be used. As was stated some time back, they may be smashed to pieces and they may be driven by unlicensed drivers, and they may be used for any purpose. There is no safeguard whatever, and there is no talk of any recompense to the individual suffering under such circumstances. There is also no provision for remuneration being given. Supposing a vehicle happens to be belonging to a man who hires it out usually, Government will

[Mr. C. N. Patel]

commandeer it and use it without making any compensation or recompense whatsoever. They may use all the petrol that may be left in the car and even take away the spare petrol that is left in the car and use it without giving any recompense. I hope Government will in their wisdom think it proper to make proper safeguards for such contingencies.

The Honourable Mr. W. F. HUDSON : Sir, I readily admit that the implication of this clause is that under certain circumstances it will be necessary for Government to commandeer vehicles, but there is nothing whatever to say that they would not pay for the vehicles. I have known of many instances in which they have paid for the vehicles. I am not going to put it in the Bill, but Government would generally pay for what they commandeer. I may inform the House that in all countries in the world, when there is serious civil commotion, it is the habit of the executive to commandeer means of transport, because that is the only way of dealing with the situation. My honourable friend Mr. Petit said : " Government have got their means of transport ; why should they not use them ? " We have enough to deal with normal circumstances, but we have not enough to deal with abnormal circumstances. The House will not suggest for a moment that we should, in anticipation of a commotion that may arise twice or thrice in the year, equip the police with motor vehicles all the year round. If that is the intention, it will cost the Presidency a good many lakhs, a contingency which he, in common with other honourable members opposite, would wish to avoid. It is far better on these rare occasions that private persons should be put to some temporary inconvenience, but, I hope, to no pecuniary loss.

Mr. G. S. GANGOLI (Kanara District) : Sir, in the first sub-clause it is only stated that the District Magistrate may call for a return. It is not stated for what purpose and under what circumstances. He may issue a general order that all persons should submit a return within the end of seven days. The intention that it is to commandeer the vehicles is not apparent from the sub-clause. Some safeguard that he should take good care of them has also not been inserted. For these reasons, I press my amendment.

The Honourable Mr. W. F. HUDSON : Sir, I will only just point out to the honourable member that what we propose that the District Magistrate may do in an emergency is what is already being done by every cantonment and municipality. If the honourable member possesses a motor car and lives within municipal limits, he knows perfectly well that every three or six months he is required to fill in a form and make a return to the municipality. So, there is really nothing hard in his being asked to do in the interests of public safety and peace what he does for the purposes of the municipality.

Question put, and negatived.

Rao Bahadur R. R. KALE (Bombay University) : Sir, the amendment that stands in my name reads as follows :

In clause 7, sub-clause (1), after the word " person " add " after hearing him ".

[Rao Bahadur R. R. Kale]

Sir, the reason why I wish that before a person is called upon to give a return, the District Magistrate should give him an opportunity of being heard, is that disobedience of an order under this Bill is an offence punishable under clause 15. The imprisonment is not for more than six months. All the same there is the punishment. We know that this Bill may come into operation not only in municipal towns, but anywhere. But where there is the practice of submitting returns of vehicles, no statement may be necessary, because Government can obtain it from the municipality. But there are places where no such returns are necessary. And persons who own cars, carts and other conveyances, must be given some time. A return is a thing which I think must relate to a sort of permanent possession. Supposing a man is in temporary possession of a car or of a cart or any other conveyance, he may not as a matter of fact possess it at the time. Perhaps when the commandeering of vehicles is rendered necessary—we know we are talking here of some miniature war, considerable hardship that is likely to be caused is to be guarded against, and therefore I say that before a person is required to submit a return, some means may be adopted by which the person is made known of this obligation. The District Magistrate passes an order and requires a person at once without hearing anything of the man's difficulty or as to the nature of his possession etc. So, my point is that the introduction of the words "after hearing him" may be in a way a kind of a safeguard which will protect persons from being unnecessarily punished for disobedience—

The Honourable the PRESIDENT: I understood the Honourable the Home Member to mean that really speaking "require any person" means "all persons" by a general circular. I thought the Honourable the Home Member said that everybody would be asked to submit a return.

The Honourable Mr. W. F. HUDSON: No, I do not think that we really contemplated that. We should not wish to put every member of the public who owns a motor car to the trouble of sending in a return. We will say that a District Magistrate thinks that in a case of some emergency he requires 12 motor cars. Then he will probably ask a man who owns six motor cars (if he is a public vehicles proprietor) to send in a return showing that he has six and another one who has six. I think it would be ridiculous to suggest that if a man owned only one motor car that the District Magistrate would haul him up for not submitting a return, but of course any neglect to reply, if it was mere neglect, would not be punished. There again, I must ask the House to realise that the District Magistrates are quite reasonable persons and that it would only be contumacious disobedience that would be punished.

Rao Bahadur R. R. KALE: Sir, the point is that it would be very well for the Honourable the Home Member to say that only contumacious disobedience would be punished, but the wording of the section 15 relates to disobedience of other orders than orders under section 4 because it reads "subject to the provisions of section 14, whoever disobeys or neglects". There is no "wilfully" or "intentionally" in that.

The Honourable Mr. W. F. HUDSON: We are going to put in "intentionally" there.

Rao Bahadur R. R. KALE: My point is that there should be some such word there. The Honourable the Home Member says that it is not the intention to call upon all persons but particular persons. Supposing information is given that a certain man has three motor cars. Out of them two are not really his but belong to his relative or somebody else. Before he is called upon to submit a return, an *ex parte* enquiry is probably made but no enquiry to the man's knowledge. He is not possessed of the knowledge. Behind his back, some information is furnished to the District Magistrate, say by some police officer. The District Magistrate issues an order calling upon the man to submit a return of his vehicles. I know the occasions will be rare—

The Honourable Mr. W. F. HUDSON: In that case exactly the same thing will happen as happened to myself only last month. The municipality in which I was residing accused me of owning three motor cars and charged me accordingly. All I did was to write back to the Municipality saying that so far from owning three motor cars I only had one and that I would only pay for one. There was no question of prosecuting me or anything of the kind. If the Municipality had reason to doubt my word, I suppose they would have sent a man round to check. Exactly the same thing will happen in the case which my honourable friend Rao Bahadur Kale suggests. If the man has got three motor cars of which he only owns one, all that he has to do is to write to the District Magistrate and say "It is quite true that I have three motor cars but two of them belong to somebody else", and if the police have any reasons to suppose that the man is making a misstatement, they will make further inquiry, and if their inquiry is satisfactory, surely it is obvious nothing further can happen.

Rao Bahadur R. R. KALE: Is the word "intentionally" going to be put in there?

The Honourable Mr. W. F. HUDSON: Yes, I am going to put it in.

Rao Bahadur R. R. KALE: In view of that assurance, I beg leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Dr. M. K. DIXIT (Surat District): Sir, I beg to move:

Clause 7, sub-clause (2). Omit the sub-clause.

My reasons for this amendment are very plain. The Honourable the Home Member imagines that there is a state of war in the country—

The Honourable Mr. W. F. HUDSON: I am told so by the opposite side, I do not mean in this House, but by our friends the enemy outside the Hall.

Dr. M. K. DIXIT: I do not see any war outside.

The Honourable Mr. W. F. HUDSON: The honourable member must keep his eyes open.

Dr. M. K. DIXIT : All that talk of establishing a parallel government and subversion of the British Government, etc., is to my mind only bunkum. Congress seems to have successfully bluffed them.

The Honourable the PRESIDENT : The honourable member has in mind of course the fact that clause (1) stands.

Dr. M. K. DIXIT : Yes, Sir. The system of keeping returns already exists in municipalities. The sub-clause (2) gives a lot more power to District Magistrates than I think is necessary. We are enacting a law as if a condition of war is existing in the country. These are all phrases such as commandeering this thing and that thing which are used when a big war like the last World War is proceeding. We are not used to these sorts of phrases even at this stage in spite of the civil disobedience movement which has not been completely controlled.

As far as the first clause is concerned, any person could be asked to give a return. That is to my mind redundant as the Honourable the Home Member said because a list of cars and vehicles and even bullock carts is maintained by the municipalities, and even the police department has got a list of cars and car-owners because they have got to register the numbers of all these cars.

The Honourable the PRESIDENT : That clause stands now.

Dr. M. K. DIXIT : So, I do not object to that, but what I object to is that anybody can be asked to hand over his car, that he should be compelled to hand over his car for the use of somebody else than himself for whom the car or the comforts of the car are necessary. Sir, if a man has got more than one car and he has got superfluous vehicles at his disposal and if the District Magistrate asks for them, I suppose he may not refuse, but if a poor man like myself who has got only one single car is deprived of it, it will cause great inconvenience to him and to his patients and clients. Under these circumstances, I feel inclined that I should press for this amendment and so I say that sub-clause (2) of clause 7 should be dropped altogether.

Question proposed.

Mr. G. S. GANGOLI (Kanara District) : We know, Sir, that this provision will be made use of only when there is an emergency. We are also given to understand that whenever a vehicle is directed to be given over for public use some return or report will be made, but nothing like that appears in this clause, and it further says not only the vehicles owned but vehicles in the possession and under the control even will have to be handed over. Although there is the oral assurance, there is nothing in writing in the Act itself. So, my duty would be to oppose the entire clause 7. So I submit that not only sub-clause (2) but the whole clause itself should be deleted.

The Honourable Mr. W. F. HUDSON : Sir, I do not think I need add anything to what I have already said. My honourable friend Dr. Dixit seems to have curious views of what we call civic responsibility. I really cannot understand how inconvenience is going to be caused to any person, and I am quite sure that in the interests of humanity the District Magistrates will see that doctors' cars will be the last to be called for.

Mr. V. N. JOG : Sir, I support the amendment moved by my honourable friend Dr. Dixit. We have not yet heard what words are to be substituted for the words "public advantage"——

The Honourable Mr. W. F. HUDSON : The same words as before.

Mr. V. N. JOG : Then I have nothing to say.

Amendment put, and negatived.

Rao Bahadur R. R. KALE (Bombay University) : Sir, I beg to move :

Clause 7, sub-clause (2). In line 3 after the word "writing" add "after hearing any person" and in the same line substitute the word "such" for the word "any".

Sir, here perhaps the necessity in my humble opinion is greater and some provision ought to appear there. Just as the words "in the interests of public safety or tranquillity" are going to be inserted, so also I think it is necessary to add some such words as "public advantage"——

The Honourable the PRESIDENT : Order, order. I have had to point out to the House more than once during this session that private conversation is carried on by honourable members in all corners of the House and I cannot easily follow the honourable members who are taking actual part and giving their best consideration to the Bill.

Rao Bahadur R. R. KALE : Sir, the reasons which I advanced for the amendment to the first sub-clause apply with greater force to this second sub-clause because you are actually depriving a man of his vehicle, not only his own vehicle but also a vehicle which may simply be in his possession as a bailee or which may be under his control. And so, before a man is asked to part with a car which is under his control or in his possession, certainly he should have his say in the matter and unless his explanation or statement is taken, I fear there may be some risk of incurring penalty. Once the District Magistrate orders that so and so is to hand over the car to the Police, that order must either be obeyed or disobeyed. I, therefore, submit, Sir, that some provision may be made to meet such cases, and therefore, I have moved this amendment.

Question proposed.

The Honourable Mr. W. F. HUDSON : Sir, I agree with what my honourable friend said that this amendment of his is more important than the one he moved before. But I am afraid I cannot accept it for the simple reason that in an emergency you cannot wait. If you wait you cannot do anything. Just take one case. Suppose, in the district of Kaira there is such an emergency, and it is essential that the Superintendent of Police should have five motor cars. He looks at his returns and the District Magistrate gives an order for those five motor cars. Now, suppose, the owner of one motor car is in Calcutta. Does the honourable member suggest that we should wait till the owner returns and is asked by the District Magistrate to show cause why his motor car should not be commandeered temporarily ?

Rao Bahadur R. R. KALE : In such a case somebody else on his behalf should be asked.

The Honourable Mr. W. F. HUDSON: That somebody is sure to protest against the car being taken away. Whoever his servant may be, he will say "you cannot take away the car. My master is not here and he has not given me permission to allow the use of the car to others." I understood the honourable member to suggest that the District Magistrate sitting in his office should send for the owner of the car and ask him to give his reasons why his car should not be commandeered. I am afraid the District Magistrate will have far too much to do to consider whether it is or it is not convenient. All that the District Magistrate can do is to see that in commandeering motor cars in the interest of public safety no more inconvenience than is absolutely necessary is caused.

Mr. A. N. SURVE (Bombay City, North): Sir, I cannot understand one difficulty. Suppose the owner of a motor car keeps his car in a garage. It is kept under lock and key of the garage-keeper who has no authority to allow its use by any one else. If, in that case the garage-keeper is asked to give the use of that car to the police, what is the position in law? He holds the car as a bailee. He is the keeper thereof. He has no power to give it to anybody else. I, therefore, submit that in such a case the position in law becomes very untenable. I should, therefore, suggest that a man who has merely the physical control for possession of a car should not be obliged to give its use to the police, because he himself would be brought under the clutches of the law. That is my difficulty.

Mr. G. DAVIS: May I explain to the honourable member? In the circumstances, to which he referred, the man would be described as having a car in his custody and not under his control or in his possession. The man is in possession of the car just to take care of it, and the car is not under his control or in his possession within the meaning of this section.

Question put, and negatived.

The Honourable Mr. W. F. HUDSON: Sir, I beg to move that—

"In sub-clause (2) of clause 7, for the words 'for the public advantage' substitute the words 'in the interests of the public safety or peace'."

Question put, and agreed to.

Question, "That clause 7 as amended do stand part of the Bill," put.
The House divided: Ayes, 54; Noes, 20.

Division No. 18

Ayes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	BULLOCKE, Mr. A. GREVILLE
ADVANI, Mr. P. B.	CLAYTON, Mr. H. B.
AMINUDDIN, Mr. SAJID	COOPER, Khan Bahadur D. B.
ARBUTHNOT, Mr. C. W. E.	DAVIS, Mr. G.
BANGI, Mr. A. K. J.	DESAI, Rao Saheb B. G.
BHUTTO, Sir SHAH NAWAZ	DHURANDHAR, Mr. J. R.
BLJARAN, Khan Bahadur SHEH MURHAM-MAD KHAN.	GENNINGS, Mr. J. F.
BIRADAR, Sardar MAHABOOBALI KHAN	GHULAM HUSSAIN, the Honourable Sir
BOLE, Rao Bahadur S. K.	GHULAM NABI SHAH, Khan Bahadur
BRANDER, Mr. J. P.	GRAVES, Mr. J. B.
	HAMPTON, Mr. H. V.
	HUDSON, the Honourable Mr. W. F.

Ayes—contd.

HUMPHREY, Mr. JOHN	PATIL, Mr. N. N.
JAM JAN MAHOMED KHAN, Khan Bahadur	RAFIUDDIN AHMAD, Moulvi Sir
JAN MAHOMED KHAN, Khan Bahadur	ROOSE, Mr. F. O. J.
JONES, Major W. ELLIS	SERVAL, Mr. A. E.
KADBI, Mr. J. S.	SHANKARRAO JAYARAMRAO ZUNJAR- RAO, Mr.
KALBHOR, Mr. G. M.	SOLANKI, Dr. P. G.
KAMBLI, the Honourable Dewan Bahadur S. T.	SYED MIRAN MAHOMED SHAH
KHUHRO, Khan Bahadur M. A.	TALPUR, MIB BANDER ALI KHAN
MASTER, Mr. A.	TARAPOREWALA, Mr. V. F.
MAXWELL, Mr. R. M.	THAKOR OF KERWADA, Sardar BHASHAHEE RAISINGHI.
MITHA, Mr. MAHOMED SULEMAN CASSUM	TOLANI, Mr. S. S.
MODAK, Rev. R. S.	TURNER, Mr. C. W. A.
NAMDEORAO BUDHAJIRAO, Mr.	VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR.
NAVLE, Mr. N. E.	VANDEKAR, Rao Bahadur R. V.
NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR.	WINTERBOTHAM, Mr. G. L.
OWEN, Mr. A. C.	
PATEL, Khan Bahadur A. E.	

Tellers for the Ayes : Khan Bahadur A. E. PATEL and Khan Bahadur M. A. KHUHRO -

Noes

ACHREKAR, Mr. A. B.	KARBHARI, Mr. M. M.
BAKHALE, Mr. R. R.	KULKARNI, Rao Saheb P. D.
BALLOCH, Mr. HAJI MIB MAHOMED	MEHTA, Mr. M. H.
CHIKODI, Mr. P. R.	MORE, Mr. J. G.
CHITALE, Rao Bahadur G. K.	PATEL, Mr. C. N.
DIXIT, Dr. M. K.	PETTIT, Mr. J. B.
GANGOLI, Mr. G. S.	PRADHAN, Rao Bahadur G. V.
GOVEB RORA, Mr.	SURVE, Mr. A. N.
KALE, Rao Bahadur R. R.	SURVE, Mr. V. A.
KAMAT, Mr. B. S.	VAISHAMPAYAN, Dr. V. G.

Tellers for the Noes : Mr. J. B. PETTIT and Khan Bahadur D. B. COOPER.

Clause 8 (Power to control posts and telegraphs)—

The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station, and, in particular, may intercept any postal article or telegraphic, telephonic or wireless message in the course of transmission, may ascertain its contents and may prohibit its further transmission.

Mr. V. N. JOG (Dharwar District) : Sir, I rise to a point of order with regard to this clause. The same point of order will also govern the next clause, clause 9. The point of order is this, that it is *ultra vires* of this legislature to enact clause 8. The local legislature has been given power to legislate for certain purposes. I refer to section 80A of the Government of India Act. Sub-section (1) of that section says :

"The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province."

Sub-section (2) of the section lays down :

"The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature."

Then comes sub-section (3) to which a reference has been made in sub-section (2) as "subject to the provisions of the sub-section next following". It says :

"The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—"

[Mr. V. N. Jog]

In this connection, no doubt the other side might rely upon sub-section (3). But my submission is that the legislatures have been given certain positive powers to legislate. You will be pleased to see, Sir, that in section 65 the Indian Legislature has been given powers to legislate. The section says :

“ The Indian legislature has power to make laws—

(a) for all persons, for all courts, and for all places and things, within British India ; and

(b) for all subjects of His Majesty and servants of the Crown within other parts of India.”

So, wherever the power is positively given, the words used are in the positive sense by positive direct words. It is laid down that they “ may legislate for so and so ”. But sub-section (3) of section 80A says that the local legislature of any province “ may not, without the previous sanction of the Governor-General ” do certain things. That cannot be converted into something meaning that “ the local legislature of any province may, with the previous sanction of the Governor-General ” legislate for certain things. It does not say that “ the local legislature of any province may, with the previous sanction of the Governor-General, make or take into consideration any law ”. I think the legislature that passed the Government of India Act knew the positive phraseology, and we know that wherever they have given positive directions or positive authority to make laws, they have used the words “ may legislate ”. But sub-section (3) of section 80A simply says “ The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law ”. If the framers of the Act wanted to provide that the local legislature can legislate for all these things, they could have very well said “ The local legislature of any province may, with the previous sanction of the Governor-General, make or take into consideration any law ”.

The Honourable the PRESIDENT: That is the paraphrase of the words as they stand. It says “ The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law ”. What is the significance of the words “ without previous sanction ” ?

Mr. V. N. JOG: I will come to that. We know from the Act that wherever power has been given to a legislature to frame laws, they have provided for it in the positive form—“ they may make laws for so and so ”. Under sub-section (3), what has been stated is that “ the local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law ”. This sub-clause should be read in connection with sub-clause 2. Sub-section (2) provides for a case where by a positive phraseology the local legislature has got the power but subject to sub-clause (3). That means even then, under sub-section (3) they cannot legislate, unless there is previous sanction. Even though they have got the power, they cannot legislate unless they get previous sanction. But that cannot be tantamount to saying that they can legislate

[Mr. V. N. Jog]

with previous sanction in any matters whatever which are within the jurisdiction of the Indian legislature or other legislature than their own. That can be made plain by reading sub-section (2) combined with sub-section (3). Sub-section (2) says "The local legislature..... subject to the provisions of the sub-section next following". So, a reference has been given to the next sub-section. They can legislate to repeal or alter as to that province any law made either before or after the commencement of the Government of India Act by any authority in British India other than the local legislature. The present legislation, for the matter of the subjects of sections 8 and 9 is not by way of repealing or altering any law made either before or after the commencement of the Government of India Act by any authority in British India other than our local legislature. It is altogether a new legislation not legislated previously by any authority in British India. *Vide* the Preamble.

The Honourable the PRESIDENT : Sub-section (1) of the section says that they can legislate for the peace and good government.

Mr. V. N. JOG : I am coming to that. I am now arguing the point about sub-section (2) being read with sub-section (3). Under sub-section (2) the local legislature has the power only to repeal enactments of any authority in British India, those of even the Indian legislature. They have got that power, but that is subject to certain provisos. It means that unless the Governor-General has given previous sanction, they cannot repeal or alter an enactment of any authority in British India. Government cannot take shelter under sub-sections (2) and (3) and say that what they are proposing to do is *intra vires*. Then, as the Chair pointed out to me, sub-section (1) of section 80A says :

"The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province."

It is only when the subject matter is within that province that they can legislate for peace and good government.

The Honourable the PRESIDENT : Under sub-section (3), they can, with previous sanction, make any law for a matter provided in clause (e), "regulating any central subject".

Mr. V. N. JOG : That is with respect to sub-section (2). In sub-section (2) it is said that "the local legislature of any province may, subject to the provisions of the sub-section next following.....".

The Honourable the PRESIDENT : I should like to understand the point of order. That is why I am interrupting the honourable member. He probably thinks that the two sub-sections (2) and (3) read together really mean that the previous sanction refers to an attempt of the provincial legislature to legislate with regard to central subjects, by altering or repealing any of those Acts : is that what he means ?

Mr. V. N. JOG : Yes, Sir.

The Honourable the PRESIDENT : What about the words "make or take into consideration any law" ?

Mr. V. N. JOG : It is subject to the provisions of the sub-section. Sub-section (1) should be read with sub-section (2). They can legislate subject to—

The Honourable the PRESIDENT : Subject to what ?

Mr. V. N. JOG : Subject to the provisions of the sub-section next following.

The Honourable the PRESIDENT : The honourable member said that sub-section (2) refers to the alteration or modification of any existing law made either before or after the commencement of the Act. They can alter or modify with previous sanction, reading the two sub-sections together. Sub-section (3) goes further. It says they can not only alter or modify, but make or take into consideration any law regarding matters given in the sub-section.

Mr. V. N. JOG : It does not say "take into consideration" absolutely. That is the point I am urging. It can take into consideration any law made as mentioned in clause 2.

The Honourable the PRESIDENT : There are two negatives in sub-section (2). If the condition is satisfied, then the local legislature can make or take into consideration.

Mr. V. N. JOG : I do not think that is the natural interpretation according to the accepted canons of interpretation. Because in the very section, in one part of it we have got the words in a positive form. Then what harm was there in their using the same positive form in the other part ? We find different wording used in sub-section (1) and sub-section (2), and the wording in sub-section (3) differs from that used in sub-sections (1) and (2). Would it not have been sufficient to say in sub-section (3) "The local legislature of any province may, with the previous sanction of the Governor-General, make or take into consideration", etc. ? Why did they adopt this roundabout way of putting it ?

The Honourable Sir GHULAM HUSSAIN : We cannot discuss that. The honourable member is now raising a point of order.

The Honourable the PRESIDENT : He has not finished it.

Mr. V. N. JOG : I will finish. As the Chair put me a question, I was trying to answer it. If the framers of the Government of India Act wanted to provide that the local legislature can legislate with the previous sanction of the Governor-General, nothing would have been easier and simpler for them than to say that "the local legislature of any province may, with the previous sanction of the Governor-General, make or take into consideration any law".

The Honourable the PRESIDENT : And if you put in the words "may not" followed by the words "without the previous sanction", then ?

Mr. V. N. JOG : That can be reconciled. But there are two meanings, and we have to extract the other meaning rather indirectly from the phraseology, whereas I think a direct phraseology was in contemplation, and actually the framers of the Act have used it. So, why has this

[Mr. V. N. Jog]

particular phraseology been used there? Because it has got reference to sub-section (2), which says "The local legislature of any province may, subject to the provisions of the sub-section next following....". I will take an illustration, as this appears to be rather difficult. I have already referred to section 67 of the Government of India Act. Sub-section (2) of that section says:

"It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of either chamber of the Indian legislature any measure affecting—

(a) the public debt or public revenues of India or imposing any charge on the revenues of India."

For the matter of that, I will take an illustration with regard to Hindu Law. The Indian legislature, though it has not codified the whole of Hindu Law, with regard to matters of succession in certain cases, it has passed an Act now; it is with regard to certain cases of inheritance. The Indian legislature passed such a law recently. If the local legislature wants to amend it, it can do so with previous sanction. But it does not follow from that, whatever central subjects there are, we can take hold of all of them for purposes of legislation. Even if the Governor-General gives his sanction, I submit under the Government of India Act it will be *ultra vires*.

The Honourable the PRESIDENT: I do not know that.

Mr. V. N. JOG: It will be, because the Government of India Act is passed by the British Parliament, it is not an Indian Act, and the Governor-General can act only within the purview of the Act. If, as I have contended, and the Chair agrees with me, there is no positive direction, but it has to be extracted from this negative form, then I think we cannot do it. If it was permissible for us to do it, what kept them back from using the positive phraseology, that a local legislature may even in central subjects do so?

Then I refer to section 45A of the Act. It says:

"Provision may be made by rules under this Act—

(a) for the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislatures."

Under the Devolution Rules which are on page 110 of the Manual for the purpose of this clause I take item No. 10, which says "Posts, telegraphs and telephones, including wireless installations" are central subjects. Again—I do not want to repeat—"railways and extra-municipal tramways" in so far as they are not classified as provincial subjects are central subjects. I submit, Sir, that the Government of India Act has made it clear that the Indian legislature alone can deal with these subjects. Railways and telegraphs are central subjects and the provincial legislature cannot deal with them. Even under section 80A which is in vague terms, we cannot take shelter. It says:

"to make laws for the peace and good government of the territories for the time being constituting that province."

[Mr. V. N. Jog]

Under section 65 the Indian legislature has power to legislate "for all persons, for all courts, and for all places and things, within British India" whereas the provincial legislature can deal only with persons and places within its own province. This section 80A says "to make laws for the peace and good government of the territories for the time being constituting that province". If that is so, how can this Government stop a telegram sent to Calcutta from Bombay? If a telegram is sent from Bombay to London, how can this Government stop it? I can very well understand the Ordinance of 1932 giving power for these things. The Indian Legislature can undertake legislation for these subjects but they have not done so. The Bill to supplement the Criminal Law does not contain these clauses. I submit that, as these are central subjects, the Government of Bombay have no right to stop a telegram that goes from Bombay to Calcutta or London or any other place. Under section 65, the central Government can legislate for "all subjects of His Majesty and servants of the Crown within other parts of India and for all native Indian subjects of His Majesty without and beyond as well as within British India". This is specifically mentioned. Suppose I have to travel to a place outside the province, can the train be stopped under clause 9?

The Honourable the PRESIDENT: I have understood the point of order.

Mr. V. N. JOG: So, I submit the enacting of this provision will be *ultra vires* of this legislature.

Mr. G. DAVIS: I can imagine the honourable member in the dark hours of the night in the wilds of Dharwar struggling with this high constitutional question. It is quite probable that the—

Mr. V. N. JOG: I do not think this is a matter to be laughed at.

Mr. G. DAVIS: I am not laughing: the gentleman who drafted section 80A perhaps understands the use and the interpretation of what I might call technical English better than the honourable member. The object of section 80A is perfectly clear:

"The local legislature of any province has power subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province."

No one thinks but that this is legislation relating to the peace and good government of the province. This is legislation undertaken to meet emergencies. Then the next sub-section gives power to the provincial governments to legislate for central subjects subject to restrictions.

"The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province....."

The words "subject to the provisions" are important.

"...any law made either before or after the commencement of this Act by any authority in British India other than that local legislature."

If we have any limitation it is in the words "subject to the provisions of the sub-section next following." This sub-section says that the local legislature can repeal or alter any law made by the central Government.

[Mr. G. Davis]

Coming to the limitation, the honourable member asked how can this Government alter the law made by the central Government? They can with the previous sanction of the Governor-General as provided under sub-section (3). This sub-section is put in the form of a double negative. In the first sub-section—

Mr. V. N. JOG : Before the honourable member goes on, I would point out that power is given to modify or repeal. This is altogether a new legislation. There is nothing of repealing.

The Honourable the PRESIDENT : Sub-section (1) of 80A.

Mr. V. N. JOG : It is a different point.

Mr. G. DAVIS : May I say that it is probable that the Government of India understand the interpretation of this statute better than the honourable member? When we applied for the sanction of the Governor-General for these sections, we specially pointed out those sections and they have given us sanction to legislate in respect of them. The Government of India gave their sanction under section 80A (3) (e); we can therefore legislate as to the central subjects with their previous sanction, which we have got. I do not think it necessary further to argue.

The Honourable the PRESIDENT : The honourable member has taken great pains and argued out a point of order which I do not think is a point of order at all. I have tried to understand his point very closely and I do not think there is any point of order. I think that this House has got powers to legislate on subjects contained in sections 8 and 9 with the previous sanction of the Governor-General which has been obtained in this case. The point of order, therefore, does not arise.

Rao Bahadur R. S. ASAVALE (Bombay City, North) : Sir, I move the following amendment :

"In clause 8, after the word 'and' and before the word 'may' in line 8, insert the following words : 'if they are in any way objectionable'."

My amendment is a simple one and I am quite sure that Government are not going to detain any telegrams unless they are objectionable. As it is not clear, I want to make it clear.

The Honourable Mr. W. F. HUDSON : How will it read?

Rao Bahadur R. S. ASAVALE : It will read thus :

"...and, in particular, may intercept any postal article or telegraphic, telephonic for wireless message in the course of transmission, may ascertain its contents and if they are in any way objectionable may prohibit its further transmission."

If Government are not going to detain any letters or telegraphic messages, unless they are very objectionable it should be made clear to the people that Government are not harsh on the public. I am going to give them the right to open letters and telegraphic messages. If they are objectionable they should be detained. If an officer is very harsh he may detain for a certain time. If it is an important letter connected with trade, business or messages concerning the death of a person, these communications should not be detained. Supposing a man has a telegraphic message

[Rao Bahadur R. S. Asavale]

about the death of some nearest relative, if such a message is detained, he would lose the opportunity of going to the place in time. That is why I want these words to be added.

Question proposed.

The Honourable Mr. W. F. HUDSON : I do not think I can accept the amendment, Sir. We cannot accept amendments which are of no practical use. I may tell the honourable member why it is not of any practical use. He suggests that a harsh officer may detain a letter when he has no need to do so. If there is such an officer, he will merely consider it objectionable and nothing further happens. What is of practical use is already there. I had to examine some of these communications and I have done so, even before the Ordinances were introduced, as Commissioner in Sind. I was authorised under the law to intercept these letters and telegrams, but we did not detain letters necessarily because they were objectionable. There were a good number of objectionable communications which, after perusal, we sent to their destinations. We have not the slightest wish to hamper communications between individuals. All we are concerned with is to obtain information and we detain communications for as little time as possible. I am reading every week communications which are most unquestionably objectionable. The officer who is empowered to intercept the letters is the best judge of the nature of the contents of the communications. All our officers know what the orders are. If the communications are such as to further spread the civil disobedience movement or in any way make things more difficult for Government, they are objectionable. Such communications for instance as pour shocking abuse on officers of Government go on to their destination. It is only when the information would lead to untoward events that we hold it up. Therefore, my honourable friends will see that no useful purpose will be served. I am anxious not to cumber this Bill with more words than is absolutely necessary ; it is too long as it is. I forgot to say, Sir, that I am going to put in here the same amendment as has been incorporated in other clauses. Instead of "for the public advantage," I am going to put in "in the interests of the public safety or peace" with the approval of the House. That of course will govern the whole sub-clause, both the control and the inspection.

Rao Bahadur R. S. ASVALE : I do not wish to say anything.

Question put, and negatived.

Mr. G. S. GANGOLI (Kanara District) : Sir, I move—

In clause 8, add the following words at the end :

"and in such cases inform the party concerned of such action forthwith."

When such letters and telegrams are intercepted or stopped, at least the person who sent them should be informed that it has been intercepted or stopped. It is to provide for that that I move this amendment.

The Honourable Mr. W. F. HUDSON : Now, Sir, I entirely sympathise with the excellent motives of my honourable friend opposite, but I must try to remind him once again that we are not playing a game of cricket or trying to draw up rules for bridge. We are engaged in arming this Government to conduct a war, and when you have obtained useful information about the enemy's next move, you do not go and tell him that you have obtained that information, you let him go on with the belief that you do not possess it. May I once again impress upon the House that we are not playing but that we are engaged in a very very serious business ?

Mr. G. S. GANGOLI : Sir, as I am not armed for a war, I am going to press this amendment.

Question put, and negatived.

The Honourable Mr. W. F. HUDSON : Sir, I beg to move—

In clause 8, for the words "for the public advantage" substitute the words "in the interests of the public safety or peace."

Question put, and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9 (Power to regulate the use of railways and vessels).

"The District Magistrate may—

(a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry ;

(b) require that any specified persons or classes of persons or persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel ;

(c) exclude or eject any passenger from any train or vessel ;

(d) stop, or prohibit the stopping of, trains or vessels at any station ; or

(e) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons."

Mr. J. B. PETIT (Bombay Millowners' Association) : Sir, I move—

"Delete sub-clause (a) of clause 9.

I am for deleting this sub-clause, because I do not think that this power should be given to the officers of the Government. Sir, we are told that these extraordinary powers are required because of the emergency that at present exists in the country. But, we must remember that it is intended that this Bill should remain in force for three years ; and we do not know when these powers may be used. It is not quite fair to this House to argue that these powers are likely to be used only in the event of an emergency. They may be used at any time, whenever the Government may think it proper to do so. I think the House is therefore entitled to ask that such safeguard as it is possible to impose, should be provided for in the interests and for the safety of the public.

It has also been argued with some show of reason that we must trust to the discretion of the District Magistrates and the other officers of the Government, to use these powers rightly and discreetly. Of course,

[Mr. J. B. Petit]

nobody for one moment doubts that these officers are ordinarily men of common-sense and responsibility, and that if left to themselves, may use these wide powers with a due sense of proportion. But what we have to remember is that we are about to pass an Act of the Legislature and that we cannot therefore leave anything to chance, but must see that every possible contingency has to be provided for. If the argument advanced by the Government is pushed to its logical conclusion, we may as well give their officers a *carte-blanche*; or not have any Act at all. Why should we then even provide for safeguards of any kind in any of the clauses? If they are good in one place, they are equally good in another. I therefore think that this sub-clause should not be allowed to go in, because it is not a reasonable one and is likely to be misused.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, I have a sort of recollection that I have already explained this in connection with the first reading. I think there was an amendment which you regarded as an amendment of principle and which was discussed at the first reading. It is rather hard that we should have to go over it again. I have explained something about railway trains and passengers, but I am not sure that it is in relation to this particular sub-clause.

The Honourable the PRESIDENT: It was the whole clause.

The Honourable Mr. W. F. HUDSON: The whole clause! I can only say the same thing that I said then, that is to say, first of all, we have practically in the last eleven months never made use of it. We should have been very glad to have used it when the salt raids at Wadala took place. One honourable member said that the salt raids were on my brain. After all, there was nothing unique about the Wadala raid, but they provided a spectacular form of entertainment which had a serious effect upon the public. What happened was that large bodies of volunteers intended to go out to a certain place and take part in the raid. And we, I think quite rightly, told the railway that they were not to take them and the railway said that they could not help it and we had no provision to prevent them from taking them. I am sure one railway did not feel disposed to prevent them. But surely it is not in the interests of the public safety or peace that they should be allowed to travel in the railway; it is in the interests of the public safety or peace that when occasion arises the District Magistrate should have the power to prevent it. As I said before, we can only do this obviously without the approval of the railway authorities, and therefore we shall only do it in extreme cases. And I think I am absolutely right in saying that not a single passenger has been excluded from a train in the last eleven months under this section of the Ordinance. Honourable members will perhaps correct me, but, as far as our information is concerned, that has not occurred. nor is it likely to occur save in such extreme circumstances.

Mr. J. B. PETIT: Sir, I have nothing to add.

Question put, and negatived.

The Honourable Mr. W. F. HUDSON: Sir, would it facilitate matters if I said that I propose to add after the words 'District Magistrate' the words 'if, in his opinion, it is necessary in the interests of the public safety or peace.'? That will come at the beginning of the clause and apply to the whole clause.

The Honourable the PRESIDENT: Is that only as regards this sub-clause; or does it apply to the whole clause?

The Honourable Mr. W. F. HUDSON: I am only saying that because honourable members may be persuaded not to move some of their amendments. It is proposed to put in those words at the beginning of the clause. I move—

In clause 9, after the words 'District Magistrate' in the first line, insert the words 'if, in his opinion, it is necessary in the interests of the public safety or peace.'

Mr. G. S. GANGOLI: I have tabled an amendment in this connection to add at the end of the first line the words 'for public advantage.'

The Honourable Mr. W. F. HUDSON: Do you not prefer mine?

Mr. G. S. GANGOLI: No. That is why I am speaking. I think there should be some definite advantage. The words 'public safety or peace' give only an abstract idea, and anything will go in the name of public safety or peace. I should say 'public advantage'; there should be something definite.

The Honourable Mr. W. F. HUDSON: It seems impossible to satisfy the honourable member. I have been converting 'public advantage' into 'public safety or peace' I thought with the approval of the opposite side. Now, the honourable member wants me to go back to 'public advantage.' I do not mind it.

Mr. G. S. GANGOLI: In this case, I wish to add 'public advantage.'

The Honourable the PRESIDENT: The honourable member wants to add 'public advantage' in this particular instance, as he thinks that would be more proper. But that does not affect this amendment.

The Honourable Mr. W. F. HUDSON: Sir, we cannot have it both ways.

The Honourable the PRESIDENT: The honourable member Mr. Gangoli opposes this?

Mr. G. S. GANGOLI: If the honourable member is agreeable, he may say 'for the public advantage.'

Question (the honourable Mr. Hudson's amendment) put, and agreed to.

Rao Bahadur R. R. KALE (Bombay University): Sir, I beg to move—

In clause 9 (a), omit the last portion: 'and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry.'

[Rao Bahadur R. R. Kale]

Now, Sir, we are told that these provisions are required as an emergency measure. May I ask whether it is necessary to make such a drastic provision, giving power to Government to exclude persons who have already taken their seats? Clause (c) says: "exclude or eject any passenger from any train or vessel." Clause (a) already contains a provision to exclude persons who are already being carried. I have given an amendment for deleting both. But dealing with the present clause, I do not think it would be impracticable for Government to give five or ten minutes' notice to the railway authorities before the train arrives. Why should persons who are already sitting in the train be excluded because accommodation is required for persons whom Government want to send? I do not see why the power should extend so far that persons who have already taken seats should be obliged to vacate. That is the reason why I have tabled this amendment and I do feel that the provision is rather much too drastic. We have been told, Sir, that there is a war on. There is a war mentality, at least on the opposite side, but the war, if there is any, is of a very different kind from the war as is understood by my honourable friends opposite. These provisions appear to me to have been borrowed from the Defence of the Realm Act. My submission is that here the war is on a miniature scale. What should I say, I do not understand—

The Honourable Mr. W. F. HUDSON: It was not on a miniature scale. It is at the moment, I agree.

Rao Bahadur R. R. KALE: It is now, but, Sir, the point is whether Government really think that something is going to happen which will really develop into a war of the kind which these provisions seem to contemplate. My submission is that the provisions are rather too drastic and therefore I do hope that this power of excluding passengers should not be given to the Government.

Question proposed.

Mr. J. G. MORE (Sholapur District): Sir, I rise to support the amendment proposed by my honourable friend Rao Bahadur Kale. To me it appears that the words beginning with "and" and ending with the words "to carry" are superfluous and drastic. There are clauses (b), (c), (d) and (e) which cover the cases contemplated. Under (c) Government can exclude or eject any passenger from any train or vessel. So it is not necessary that that power should be repeated again under (a). Under (e) Government can arrange for the conveyance of goods or passengers by special trains, if the word "goods" is substituted for the words "other persons" in (e). If Government do that, every purpose of Government will be served. Otherwise, every person who may be travelling may be harassed by the order of the magistrate unnecessarily.

The Honourable the PRESIDENT: I think the honourable member has misunderstood the different objects of these various sub-clauses. The first (a) is to require accommodation for a number of people that Government wish to transport from one place to another and (c) is to

[The President]

exclude men they do not want to travel from one place to another. If the honourable member understands that position and if he then wishes to press for the amendment, he is entitled to do so. I thought I might only draw his attention to that fact.

Mr. J. G. MORE: I still maintain, Sir, that it is superfluous. Any passenger can be harassed. If a man acts in a manner prejudicial to public safety or peace, Government can arrest him under section 3 and take necessary steps so that before he starts to catch the train he can be arrested under clause 3.

The Honourable the PRESIDENT: The honourable member has elaborated these points very well in the general discussion.

Mr. J. G. MORE: Then I simply support the amendment.

The Honourable Mr. W. F. HUDSON: Sir, I think there is very little I need add to what you have already said. There are two classes of persons who will be affected (1) the perfectly harmless and unfortunate person who is to be temporarily displaced from the train in which he is sitting as Government may have to get on with their business of transporting their police and troops as quickly as they can to the scene of action. That, Sir, is a provision which is necessary but which I trust will never have to be used. It has never been used in the last eleven months. We have to put in the provision about goods, because naturally if we had to decide whether we would remove passengers or goods, that is to say, whether we would remove six men or six bags of rice, I say we should push out the rice bags rather than the six men. The sub-clause (c) which we have not yet reached has an entirely different object, namely, to prevent people who are obviously proceeding to some place to indulge in unlawful activities. That will enable us to stop those people from going there. We can say to the Railway Administration "You shall not carry these passengers out to say, Thana or wherever it is, because we have reasons to believe that they are going out for an unlawful purpose." That provision, I think it is quite possible, may have to be used, but I doubt very much whether the unfortunate passenger we are talking about will ever be displaced.

Rao Bahadur R. R. KALE (Bombay University): Sir, my argument is strengthened. Perhaps that provision may have to be retained and I may see my way not to press my objection, but innocent persons are concerned in this and I do fear that they may have to be displaced in order to accommodate certain other persons. I recognise however that such occasions may be few and far between, but still it would be causing unnecessary inconvenience to passengers and therefore I think my amendment should be accepted by the House.

Amendment put, and negatived.

Dr. M. K. DIXIT (Surat District): Sir, I beg to move my amendment as follows:—

Clause 9, sub-clause (a). Omit the words "already carrying or."

[Dr. M. K. Dixit]

Sir, the object of my amendment is perfectly clear. For the purpose of accommodation this sub-clause (a) has been introduced. I understand that if accommodation is required, an extra wagon or two could be easily attached to the train that is moving out and if more accommodation is required the station master or the railway department could stop people entering that train, they could exclude people who want to travel from travelling by that train, but to take out people who are already travelling is preposterous, I think, will be causing immense hardship to people who are going by that train. Supposing a person is going from Ahmedabad to Bombay—

The Honourable the PRESIDENT: And Surat needs accommodation for some people—

Dr. M. K. DIXIT: Yes, Surat may need accommodation. In that case people who are booked for Bombay might be taken out of that train. There may be no people in Surat to whom the passengers who have been displaced could go for shelter, and women and children may be stranded under those circumstances in a strange place. Perhaps they may not have sufficient money to accommodate themselves in the city. I suppose under those circumstances it will be a great hardship for people who have travelled half-way and are ultimately taken out of the train they were travelling. I suppose that is a very reasonable amendment and I do not think Government will object to accept it.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, if it were so simple as my honourable friend Dr. Dixit seems to think, of course I should be quite willing to accept this amendment. but it is not. The honourable member suggests that a new wagon should be attached to the train and that the station master should be asked to do this, that, and the other. Of course, the station master will do this, that, and the other if he can. But in many stations there are no extra wagons, in many cases the train is already up to its full load. Is this emergency then to wait for the next train or should the station master break the rules? No, Sir. The only thing to do on these rare occasions is to inconvenience the public. Now, I am going to do what I seldom do in this House. I shall quote to the House a Latin tag which some of the honourable members probably learnt in their school-boy days:—

“Salus reipublicae suprema lex”

which means the safety of the State is the supreme law.

Although no one would deplore more than Government the inconvenience caused to the individual, nevertheless there are occasions upon which the safety of the State is the supreme law and must remain so. I do not think myself that there is more than one chance in a thousand that we shall have to make use of this provision, but I am not going to withdraw it or in any way to curtail it. Of course, we know what would happen. I should think it extremely unlikely that a District Magistrate or a District Superintendent of Police, if he thought

[Mr. W. F. Hudson]

there was no emergency, would empty a train and put the police in, but by accepting the amendment we should be putting not only ourselves but our unfortunate officers in a very difficult and awkward position, and no Government could be expected to do that. The House may be perfectly certain that this provision will not be made use of save in an emergency.

Amendment put, and negatived.

Mr. G. S. GANGOLI (Kanara District): Sir, I wish to move my amendment as follows:—

Clause 9, sub-clause (a). Add the following at the end: "For reasons to be supplied in writing to such passengers or owners of goods."

My reason for moving this amendment is this. We find that a District Magistrate may by order in writing do certain things under sections 5, 6 and 7 also, but that provision does not appear in section 9 under which no writing is necessary as it only says "The District Magistrate may require."

I want these words to be added in the interests of some persons who happen to be litigants or witnesses or at least persons who are required to attend on parole. Suppose such a man on parole is detained in a certain train and he has to attend a police station at a particular hour. What is the remedy next? Let him have the order so that he can show to the satisfaction of the officer that he was so detained. He may lose some of his cases by not being present in court at the proper time. A warrant of arrest may also be ordered against him, he being a witness and not having attended the court. For all these reasons, I say there should be some such provision because in that case such a man would be able to prove to the court that he was detained by some order of a magistrate. Let there be some order in his hands to excuse him in any criminal or civil court. With this in view I move this amendment.

The Honourable the PRESIDENT: I was just looking into my powers under the Standing Orders just as I did in the case of the amendments tabled by the honourable member Mr. Patel. I find that as we have gone on, explanations after explanations have been given as to why a particular provision in the Bill is necessary. I think I should now take upon myself a great responsibility not to put the amendment. There is only one tangible argument the honourable mover has produced, namely, that if he were inside a train and had to go to a particular place to report himself to a police officer, and if he were detained by an order of a magistrate, he should have something in writing which he could produce to the police officer and get himself excused for failure to report in time. But in doing that, he gets into another difficulty. I cannot understand how this amendment could be seriously taken up, viz., "For reasons to be supplied in writing to such passengers or owners of goods". It has been pointed out that only in a moment of great emergency an action like that will have to be taken and a coming train with passengers may have to be stopped or delayed on the way and the passengers made to get out of it. For that these measures are claimed to be necessary.

[The President]

After that to move and require that the District Magistrate should give in writing to all the passengers and owners of goods reasons in writing as to why that is being done seems to me to be asking too much.

Mr. G. S. GANGOLI : In sections 5, 6 and 7 also an order in writing has been made necessary, but no order in writing is necessary in this clause as it is now worded.

The Honourable the PRESIDENT : The order is to the officer who goes to the station asking the station master to take certain steps according to this section.

Mr. G. S. GANGOLI : A copy of that order would help the man.

The Honourable the PRESIDENT : No, I do not think I shall put this amendment to the House.

The Honourable Mr. W. F. HUDSON : Thank you, Sir.

Mr. G. S. GANGOLI : In such a case I would appeal to the Chair to overrule it beforehand instead of giving me all the latitude to move it and then calling it preposterous.

The Honourable the PRESIDENT : Very well, I shall do that. In fact it occurred to me only after the honourable member gave his reasons. But I shall do that in the case of the remaining amendments if I find it is necessary to do so.

Mr. J. B. PETIT (Bombay Millowners' Association) : I beg to move, Sir, that—

“ Sub-clause (b) of clause 9 be deleted.”

The reasons are, Sir, that I am not satisfied with the arguments advanced against my amendment to delete sub-clause (a) of clause 9. I think the powers included there, are very wide ; and they are, therefore, likely to be misused. It is not necessary to my mind that these extravagant powers should be given. I, therefore, move that this clause be deleted.

Question proposed.

The Honourable Mr. W. F. HUDSON : I have nothing to add to what I have said before. I think this question of transport has been discussed threadbare. But I will point out to the honourable member that this actual power has been already very, very frequently used in connection with people going to pilgrimages. I do not say that it is quite on all fours with this, but we have very often issued orders to railways not to carry persons to a place where there is a pilgrimage in the interest of public health, and I submit that the public safety is quite as important as the public health.

Question put, and negatived.

Rao Bahadur R. R. KALE (Bombay University) : I am not going to move my amendment, but I just want an explanation from the Honourable the Home Member as to what is meant by the expression “ or classes of persons ”.

The Honourable Mr. W. F. HUDSON: Congress volunteers for instance. We send a notice to the railways saying that persons wearing red shirts with green bands should be stopped from going to a particular place.

The Honourable the PRESIDENT: I do not think the honourable member Rao Bahadur Asavale is going to move his amendment to sub-clause (c) of clause 9.

Rao Bahadur R. S. ASAVALE (Bombay City, North): I am not going to move it, but I want to get some information as to whom this clause will apply—whether it will apply to all persons or only to persons connected with the civil disobedience movement.

The Honourable the PRESIDENT: That has been already explained by the Honourable the Home Member.

The Honourable Mr. W. F. HUDSON: I do not suppose the honourable member expects me to reply that the clause would apply to school-boys going to the schools. Nothing of the kind. We will issue an order to the railway which they will understand. We would ask the railway not to carry persons on a particular occasion who are wearing red shirts with green badges. I do not understand what are my honourable friend's apprehensions. If I could remove them I would be glad.

Rao Bahadur R. S. ASAVALE: My apprehension is that any passenger would be ejected.

The Honourable Mr. W. F. HUDSON: Will the honourable member bear in mind that we have inserted in the beginning of the clause the words "in the interests of the public safety and peace?"

Mr. J. B. PETIT (Bombay Millowners' Association): Sir, I beg to move that—

"Sub-clause (c) of clause 9 be deleted."

I move this amendment for the same reasons that I advanced in favour of my amendments to sub-clauses (a) and (b).

Question proposed.

The Honourable Mr. W. F. HUDSON: I do not think my honourable friend Mr. Petit would consider it discourteous on my part if I do not repeat again what I have said before. I have no intention of pleading guilty to the charge of discourtesy. I think the House has heard everything in detail on this subject, and I have nothing further to say.

Question put, and negatived.

The Honourable the PRESIDENT: Then comes Mr. Gangoli's amendment, namely, between the last words "station" and "or"—

Mr. G. S. GANGOLI: Is this amendment in order?

The Honourable the PRESIDENT: When I give a ruling it is not to be questioned by such methods. It should not be taken that I have not given enough latitude in the passage of this Bill. I will resent any gesture of that kind from any member. I will point out when he is out of order. He need not do so.

Mr. G. S. GANGOLI (Kanara District) : I wish to move my amendment, namely, that—

“ At the end of sub-clause (d) of clause 9, between the last words, ‘ station ’ and ‘ or,’ insert the words ‘ for not more than 12 hours ’.”

As there is no time limit mentioned in the entire section, I submit that it should be only 12 hours.

Question proposed.

The Honourable Mr. W. F. HUDSON : I do not believe the honourable member thinks that we are all mad. I cannot accept this amendment because it means nothing. It is obvious that we are not going to stop or prohibit the stopping of any train at any station for more than 12 hours. The whole thing is inconceivable. Perhaps the honourable member has not grasped the meaning of the clause. Perhaps I might explain to him. A train is going out to some place carrying people who are going to indulge in unlawful activities. Then we would ask the railway not to stop the train at a scheduled station but a station or two before the scheduled station and ask them to get out. Or in the alternative. — This has actually happened—there was a large body of volunteers determined to break the law. They took a train for a certain station where they were going to break the law. We just told the railway authorities that instead of stopping the train at that particular station they had better stop it at the next station. That is prohibiting the stopping of a train. But we should never dream of stopping or prohibiting the stopping of a train at a particular station for more than 12 hours.

Question put, and negatived.

Mr. J. G. MORE (Sholapur District) : Before I move my amendment to sub-clause (e) of clause 9 I wish to know who these “ other persons ” are.

The Honourable Mr. W. F. HUDSON : It might be the District Magistrate ; it might be the sub-divisional magistrate. It is only to make it possible to put into the train other people than troops or police. It might be that wounded people have to be taken away from a fight. It is only to enable us to requisition special trains and not to depend upon whether the railway would or would not provide special trains. The whole object is that the District Magistrate ought to be in a position to requisition special trains. We may have to carry 30 or 40 wounded people from a fight, as no doctor is within reach. Then it will be competent to the District Magistrate to requisition a special train and carry the wounded to the nearest headquarters, but unless we put in this clause the words “ other persons ” he would not be so competent.

Mr. J. G. MORE : In view of this explanation I do not wish to move the amendment.

Mr. G. S. GANGOLI (Kanara District) : Now that the section is amended so far as the intention is concerned I do not want to move my amendment to clause 9.

Clause 9, as amended, ordered to stand part of the Bill.

(After recess.)

Clause 10 (*Power to secure reports of public meetings.*)

The District Magistrate may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

Explanation.—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

Mr. J. G. MORE : Before I propose my amendment, Sir, I wish to know what is meant by "other persons."

The Honourable Mr. W. F. HUDSON : Well, Sir, it might easily mean shorthand writers like my friend at the table here who are specially deputed to report that meeting, but who did not happen to be police officers. In certain circumstances we have to utilise whatever we can get, and if our expert police shorthand writers are already employed, we may have to employ some one else. The object in view is, if possible, to get some one who can record correctly what is said, and for that purpose we might easily have to depute some one who was not actually in the police ranks.

Mr. J. G. MORE : I am not moving my amendment.

Mr. A. N. SURVE (Bombay City, North) : Sir, I move the following amendment :

In clause 10, after the word "persons" add the words "who have specially qualified themselves to take shorthand notes in the language in which the proceedings are conducted."

The reason for moving this amendment is that, generally speaking, the head constables are not supposed to be trained to take shorthand notes. There is another difficulty, namely, that in this Presidency many languages are spoken. Take, for instance, Belgaum or Dharwar. There the majority of the people are Kanarese speaking. But there are other languages spoken also, e.g., Marathi. Take the case of a Maratha constable who does not know Kanarese.

The Honourable Mr. W. F. HUDSON : He would not be asked to report a Kanarese meeting.

Mr. A. N. SURVE : My point is that there should be some safeguard. The clause as it stands does not exclude that contingency. The other difficulty is that head constables as such are unable to take shorthand notes. On the shorthand notes the higher officers will take action, and if the notes are inaccurate, then the safety of accused persons will be greatly endangered. For this reason, Sir, I think that this safeguard is necessary. My own experience of these head constables who go to take reports at meetings is rather very disappointing.

The Honourable the PRESIDENT : Did the honourable member follow the remarks of the Honourable the Home Member in regard to the last amendment which was intended to be proposed, when he was

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asked the meaning of the words "other persons"? The Honourable the Home Member then said that Government had in contemplation the inclusion in "other persons" of shorthand writers particularly.

Mr. A. N. SURVE: The point that I am emphasising is that if other persons are not deputed and only head constables are sent, what is to happen then? Because the clause says "head constables or other persons." Government may send only head constables, and the man sent may be incompetent to take shorthand notes. What is to happen in that contingency? For this reason, Sir, as we are dealing with the liberties of the public, some sort of safeguard is absolutely necessary.

The Honourable the PRESIDENT: But the honourable member is not proposing to delete the words "or other persons"?

Mr. A. N. SURVE: I am not proposing that. My point is, be he a head constable or any other person, he must be competent to take shorthand notes.

The Honourable Mr. W. F. HUDSON: I think, Sir, I understand what the honourable member means. He has not worded it very happily. He wants this qualification to apply to both these classes.

Mr. A. N. SURVE: That is what I mean. The singular includes the plural in interpreting statutes and therefore though the plural is used, both the head constable and the other persons are meant to possess that qualification. I was just stating that my experience of these police reporters is very disappointing. At several meetings I have seen that after the meetings are concluded, these police reporters go to the conveners of the meetings and ask for the resolutions that have been passed. They themselves never take notes at the meetings themselves. They only ask for the resolutions, and on that, when they go home, very probably they may be writing out the proceedings from memory. In that case the liberties of the subjects are greatly endangered. For that reason I move this amendment.

Question proposed.

Mr. PESTANSHAH N. VAKIL: On a point of information. Does the word "persons" include others besides shorthand writers, or is it restricted only to shorthand writers?

The Honourable Mr. W. F. HUDSON: It might easily include others. For instance, it is by no means infrequent to depute a taluka magistrate to attend a meeting and report what the proceedings are.

Mr. PESTANSHAH N. VAKIL: I ask this question because our honourable friend takes it for granted that it is restricted to only one class of people.

Rao Bahadur G. K. CHITALE (Ahmednagar District): In this particular case, Sir, I think Government will be well advised in taking more care to see that these meetings are correctly reported. I remember, Sir, cases in which, under the Ordinances, a talati or a head constable was usually deputed to report the proceedings of meetings, and it is

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within my memory that there were several cases as a result of those meetings, based on such reports. As I was defending the accused, I found that one of the most effective ways of cross-examining the head constable was to dictate to him some matter almost in the same way in which I would speak, and ask him to take notes in the presence of the magistrate, and therein I found that even when I had completed four sentences, he was unable to copy even one. I am not drawing on my imagination, but in such cases the magistrates were rather inclined to believe the reports of the head constables, because they put it that no person present at the meeting would come forward to give evidence, and even if he came forward on behalf of the accused, his evidence was usually discarded. I should think that is rather an intolerable state of things. Unfortunately for us, in this movement, there were very few public meetings. Now, I might just say that a speaker like me may state the point at issue by saying for instance that the Ordinances are so and so; we are asked to do this, that and the other; we are not asked to do this, that and the other, and so on. Those may be my preliminary remarks, but from the report of my speech by the head constable, it might be held that I have made a seditious speech, or a speech which has a seditious import, or a speech which is likely to cause hatred or contempt of the established Government. I know, Sir, that even in my district proceedings were taken against legal practitioners in about half a dozen cases for the speeches which they had made in several places. It was only at the headquarters, for a meeting which was advertised, that special reporters were indented for from Poona, but all the other meetings were usually reported either at taluka or other places by head constables who were not trained to take down shorthand notes, and the result, I should think, in at least three cases that I know of was what it should not have been. The head constable was unable to report, the talati much less. In one case the meeting was reported by a talati who did not happen to know even the Marathi language quite fluently. Under those circumstances, I think Government, in the days of war which is more imaginary than real, must make adequate provision for the proper reporting of meetings, and therefore there must be this qualification put in the clause. I am not satisfied with the wording, but I know what the honourable mover means. He wants that a qualified man, either a head constable or any other officer, who will be able to take correct notes should report the speeches. It is absolutely necessary for us to see that the man is correctly reported. Surely it is no use telling us that the magistrate would see to it and do justice. Justice is a peculiar word and we have paper justice also. Nobody can claim that it is perfect justice that one expects in courts. The courts are bound by so many rules, procedure and other things. I would like to know what is exactly in the mind of the Honourable the Home Member. Here his usual phraseology will come in, because the other party sees that it is war time, therefore it is necessary to have clumsy methods in order to see that those people are brought to book. I think it is far from his mind. I think at one time or other, I have a recollection that

[Rao Bahadur G. K. Chitale]

the Honourable the Home Member said that he had in his mind to depute for this purpose a head constable well-qualified in shorthand reporting. I do not know what position he takes now. That is my recollection. I think that will be satisfactory to this side of the House. I know that the Honourable the Home Member will in his usual amiable manner argue that if there are hundreds of meetings held all over the district it will not be possible to have these meetings reported only by head constables and Police officers well qualified in shorthand. That may be a difficulty. Surely you are enacting a law of this drastic nature. The war is still on and the war mentality governs all your actions. It is necessary at least so far as the wording is concerned, there must be some safeguard of that kind. I therefore support the motion.

The Honourable Mr. W. F. HUDSON: Sir, my honourable friend Rao Bahadur Chitale hardly understands section 11. May I refer him to the marginal note? "Power to secure reports of public meetings." It does not say verbatim reports. We never pretended that we were taking verbatim reports. Very often with six speeches all that we want is that "the general line of speeches is as follows". My honourable friend Mr. Surve said that in a certain meeting he attended, he was disappointed at the transcript of the reporters. That is an experience common to all of us. In spite of the very great experience of the hard-working men at the table, sometimes honourable members read in the transcript of their speeches matters which they never uttered, or even thought of, or quite the contrary of what they said. In my own speeches I have sometimes found exactly the opposite of what I said. Only the other day, in a speech of mine the word "otiose" appeared as "odious". However good our reporting staff, such mistakes occur. Even if we appoint a reporter on Rs. 300 for attending every meeting, when it comes to a question of cross-examination in court by able pleaders like our honourable friends Rao Bahadur Kale and Rao Bahadur Chitale, any reporter can be turned inside out. The suggestion that the head constable would not take reports of meetings correctly can often be substantiated. But we have to do the best we can. The head constables are all men getting something like Rs. 50 a month. We cannot get a really good shorthand reporter for anything less than Rs. 200. In this House we pay to the reporters a good deal more. If it is suggested that no one should report public meetings unless he is a shorthand reporter, it is entirely out of question. I would point out to honourable members, if Government propose, as they assume, to take proceedings against an individual on the strength of the report of the speech he makes at a public meeting, it is obviously in our interest to send the best possible man, because the better the reporter, the less will it be possible to upset him in cross-examination. In most cases it is not the intention to take proceedings against any speakers, but Government want to know what is going on. Though I do not know shorthand myself, I could give a very good account of what happened in this House to-day. Such a report will give the District Magistrate an idea of the general views of people who have spoken at a meeting. That is all that the report does. When it is

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necessary to take proceedings against anyone for a speech that he has made at any meeting, then we do the best we can. But it is for the court to see whether the report laid before it, is reliable or not.

The Honourable the PRESIDENT: I should like to say something about the remarks made by the Honourable Member as regards this House. His remarks are worthy of all consideration and I am glad that my attention has been drawn to the fact that sometimes speeches taken down by our reporters are contrary to what was said. But I should all the same wish the House to know that in case of disputes on such points I would still rely on my reports. [*Honourable Members*: Hear, hear.] I do not want any honourable member to run away with the idea, because of this criticism which has come in by way of a side issue, that the record taken by our reporters can be challenged easily.

The Honourable Mr. W. F. HUDSON: Sir, I never intended it as a criticism. I have the highest admiration for their remarkable skill. I was only trying to point out that, however much we pay, we cannot get a perfect report.

Amendment put, and negatived.

Rao Bahadur R. R. KALE (Bombay University): Sir, I move the following amendment:

"In clause 10, in line 4, substitute 'meeting in a public place' in place of 'public meeting'."

I may point out that this amendment has a close relation to the explanation and therefore with your permission I may be allowed to move this amendment also which is separated by the intervening amendment of Mr. More, in order to save the time of the House. Further, these two amendments are closely allied to each other. I am obliged to put in this, because of the explanation. Let me make this clear. I admit that the amendment is not perfectly worded but I shall be obliged if the Honourable the Home Member or any other legal members on the opposite bench gives me the real definition of what is meant by "public meeting" in section 10. I want a clear idea about the meaning of the word, by reference to any authorised definition from any code or dictionary or anything. In the absence of such authority, I am obliged to stick to my amendment. The explanation says: "For the purposes of this section a public meeting is any meeting which is open to the public." So far so good. Then it says: "or to any class or portion of the public and a meeting may be a public meeting, notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise". If the definition is to operate only with regard to a public meeting, we can leave it. But my suspicion is that if we invite half a dozen persons to a party, because admission is restricted, it may also be included under the category of "public meeting", and also because it is a meeting held in a private place. That will be a public meeting, because it is open to the public or to any class or portion of the public. "Portion of the public" I do not know what it means. "Any class" may mean the Marathas or whatever class may be. But what "portion of the public"

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means I do not understand. I do not know whether half a dozen or a dozen members of the Legislative Council will not be considered as portion of the public. Suppose that I invite some 20 prominent people of Bombay for a party, it will be regarded as a portion of the public. Even if the admission is limited, still it will be a public meeting. Therein lies the danger of the word "public meeting". We have no objection to any officers of Government attending a public meeting and taking notes. In the discussion on the last amendment, we were told that it was not possible to take an exact verbatim report. I quite agree. It is not possible even for competent shorthand writers to take full notes. Generally, what happens is that an intelligent individual in that locality is asked to attend. He has to attend the meeting with an escort of Police officers—not only one man but he is allowed to go into a private place with an escort of Police officers. There may be an occasion to protect him. But, Sir, how is this to be considered not as an in-road upon private rights of citizens? I regard this as an important matter. Leave the public meeting as a public meeting only. But when you proceed to make definitions like this it becomes very difficult; and it is why I have moved the amendment to substitute the words "meeting in a public place" for the words "public meeting". There is some safeguard. The place is a public place and so any persons can gather. So, this is one way to look at a public meeting. I am prepared to accept any better wording than my amendment, provided the liberty of citizens is safeguarded. With these words, I move the amendment. If you will permit me, I move:

"In clause 10, delete the explanation."

because they must go together. I also move:

"In clause 10, in line 4, substitute "meeting in a public place" in place of the words "public meeting"."

Question proposed.

Dr. M. K. DIXIT (Surat District): Sir, I have tabled an amendment regarding this explanation. When I tabled that amendment the idea which the honourable member Rao Bahadur Kale has brought forward was uppermost in my mind. In Gujarat at any rate, there are several castes and they have their caste meetings, where no politics or anything else is discussed; only social problems are talked about, such as a religious ceremony or a dinner or a marriage. And in that connection I may submit that if those meetings are considered as public, though there is no public interest attached to them, and nothing except certain caste matters which, perhaps people want to talk over in caste meetings without giving publicity to what is being talked about they may be interfered with by the Police if they insist upon attending such meetings. Then we have social meetings, at-homes or tea parties. If Police officers insist upon attending those meetings, I am sure all the pleasure and happiness of the social party will disappear and both the host and the guests will feel uncomfortable. Surely, they do not discuss politics or any matters with a view to subvert Government in a social party like that. It is in that light that I tabled my amendment. I support the honourable

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member Rao Bahadur Kale's amendment that the deletion of the explanation should be effected. With these words, I support the amendment.

Mr. J. B. PETIT (Bombay Millowners' Association): Mr. President, I have an amendment for the deletion of the explanation and I desire to offer a few remarks in that connection.

Sir, up to now we have had to deal with provisions which related to and aimed only at the curtailment of the liberty of the individual. But, this clause, Sir, strikes at the root of the liberty of the public by imposing unwarranted conditions upon public meetings, and thereby interfering with and impeding such public activities as may be carried on in the Presidency. The clause is so wide that it is likely to cover almost anything; and is liable to be used in a meddlesome and oppressive manner. Even if half-a-dozen persons happen to meet in a private place, and discuss some purely non-contentious and even personal matters, the Police can insist upon entering such a place in order to take notes and make a report thereon to the officer concerned, who may take such action against them as he may in his absolute discretion think proper on the strength of those notes. If we accept this clause as it is, what little liberty is yet left to the public to meet together even for such private consultations and conferences, is likely to be taken away. My honourable friend Rao Bahadur Kale, in the simplicity of his character, enquired if the Government had any authority or precedent from constitutional sources which might justify a clause of this character. It is amazing that a public man of his experience should have asked such a question. I thought that by this time he had found out and known the ways of the Government. I am surprised that it has not yet dawned upon him that in matters of this character when the Government are bent upon a particular course of action, they do not either need or wait for precedents—constitutional or otherwise—but simply do what they wish to. They have only to ask, and they get what they want. What is then the good of asking for authorities and precedents?

Sir, it is bad enough already; but it is going to be much worse hereafter. Under the present rules, a policeman can enter only a public meeting and take notes. Henceforth, he can go to a private meeting, in a private house, take notes of even private conversations, and make reports on them, on which very drastic action may be taken. The power is most dangerous; but what is worse, it is likely to annoy, irritate and hurt only the honest and the constitutional workers. The dishonest and unscrupulous agitators will always know how to get out of those restrictions. There are several other dangers inherent in the exercise of this power, which are likely to add to its oppressive character. Not the least of those are the difficulties of and incidental to reporting. I entirely agree with my honourable friend the Home Member that reporting in this country is certainly not what it ought to be. I think that the difficulties of reporters are very considerably enhanced by the differences and variations of language,

[Mr. J. B. Petit]

of terminology, of expression, of diction, of speed, of pronunciation, of euphonic effect, and last though not least, of the special linguistic characteristics and peculiarities of each district, section and community. The Honourable the Home Member is himself an exceedingly fast and fluent speaker, and must have already noticed this from his own personal experience. I myself am a fast speaker and know to my cost what bad reporting is. In this country, it is unfortunately so bad, that I often dread making speeches; and have now come to the conclusion that it is much easier to make a speech than to correct one. When public speakers are not coherent and the reporters are not quite conversant with the languages in which the speeches are delivered, the possibilities of making mistakes and even missing the general tenor of the utterances, are multiplied a hundredfold. It is accordingly for this honourable House to consider what value to attach to reports which may be taken down under such conditions,—reports, which are bound to be at variance with the original utterances, their intentions, and even the spirit underlying them. And yet, the Honourable the Home Member and his officers will have only these before them to base their proceedings upon! The utility of such reports will therefore be absolutely nil and the action to be based thereon, will accordingly reduce itself to a farce.

But, Sir, the most harmful aspect of this clause is, that it gives power to the officials of the Government to enter private residences and probe the secrets of confidential conversations and even of personal businesses. All those who meet in private and carry on conversations in confidence, do not necessarily discuss public affairs or political questions, or even matters in which the Government may be interested, or on which they may consider themselves entitled to have some information. It is accordingly a most dangerous power to place at the disposal of officers, who may any day misuse them, and in my opinion are sure to do so. I hope, therefore, that this honourable House will see the wisdom of deleting this explanation, which, if allowed to remain in the Bill, will enable the officers of the Government, practically to run away with the bit in their mouth and to do anything they may like, when people meet in private and discuss even personal matters of whatever kind, which may not be either public or even semi-public in the remotest degree.

I accordingly move that this explanation be deleted.

The Honourable Mr. W. F. HUDSON: Sir, I agree with the honourable member who said that this was an invasion of private rights. No one will deny that for a moment. It is an invasion of my private rights when I am asked to keep to the left hand side of the road if I much prefer to drive on the right hand side. But no one can say for a moment that it will be to the greatest good of the greatest number that I should be allowed to exercise my private rights in that respect. Now, Sir, this is a section which has been in force for a year very nearly, and I should like to know

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what private tea parties, what private meetings, what private gatherings of persons discussing private affairs have been invaded. I understand that my honourable friends opposite held a good many meetings in the committee rooms to think over what their line of policy should be in connection with this Bill. Were they invaded by the police? No, Sir, I have received no complaint of any such meeting being invaded by the police. My Moslem friends here wanted to decide whether they would get a sufficient number of seats in the legislature under the communal award and they held meetings for that. Did the police go there? Certainly not. They only invade meetings where they have good reasons to suppose that dangerous talk is going on.

Now, Sir, I am not going to attempt to define a public meeting: it has not been defined in any statute. But I do know, Sir, that there have been many attempts to disguise what is a public meeting under the form of an invitation—people receive invitation cards to attend meetings, they pay four annas and a ticket of admission is issued or they do not pay anything—and a meeting is held in a private house, that is to say, not in a public hall, and far more dangerous talk goes on there than in a public place. It is absolutely essential that we should be able, if necessary, to invade those private places—I am quite willing to use the word “invade.” It is quite possible that in any one of those magnificent palaces on Malabar Hill, twenty, thirty or forty communists may get together and hatch plots against the safety of this Government; it is perfectly possible for a number of terrorists to get together there and hatch a plot against the life of some exalted personage. And such a meeting is no less a public meeting because it happens to be in a place which is not public. Honourable members may rest assured—I need hardly say; it is almost an insult to the intelligence of this House—that Government have no desire whatsoever to intervene at private gatherings. Even if we want to do so, we have not got the staff: it is out of the question.

And the best argument I have is: the proof of the pudding is in the eating of it. Will honourable members get up and tell me quite plainly how many meetings honourable members have attended during the past eleven months, how many private gatherings they have been to, social parties, caste meetings, and so forth, and tell me also how many times they were invaded by the police? I do not think the number of invasions will be large. I will also give a guarantee that I will give an order that an invasion of that kind, if there was such a thing, shall not be repeated. But we are going to invade meetings, whether in private or public places, where terrorists, communists and followers of the civil disobedience movement meet and hatch their nefarious plots.

Rao Bahadur R. R. KALE (Bombay University): Sir, I want to make it clear that there are two amendments which of course will be put to the vote separately. As for the first amendment, I have made it clear that I am prepared to have an alternative. But as no alternative has been suggested, I have to stick to my own phraseology. But that is

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a separate matter. I am not insisting upon a change of the wording if the explanation is removed. May I ask whether in any country in the world, where a movement for subversion of the Government is going on or where private plots are hatched, there are measures of this type adopted by the Government in power? Is there any precedent in any country for this definition of "public meeting"? No explanation is forthcoming as to what precedent this definition follows or on what it is based. Therefore, I would strongly urge my second amendment to drop the explanation. The first amendment also may be separately dealt with. That is the amendment to substitute "meeting in a public place" for the words "public meeting."

I think, Sir, that in spite of the fears expressed by the Honourable the Home Member and the necessity he urged of watching communist movements, the balance of advantage lies in deleting the explanation as it stands, because the explanation creates in the minds of the people a feeling that it is not only an encroachment, but, as the Honourable the Home Member put it, an invasion, of their private rights. I hope, therefore, Sir, that the honourable House will vote for my amendment.

The Honourable Mr. W. F. HUDSON: Sir, I would just like to say that there is a point which I did not perhaps emphasize as much as I should, and that is, this particular provision has been forced upon us by facts. At the beginning, it is perfectly true we only had to attend public meetings—in other words meetings held in public places. But our extremely intelligent friends who are the leaders of the civil disobedience movement found that it did not pay very well to hold their meetings in public, and they took to holding their meetings in private places—entry with tickets and all the rest of it. Therefore, Sir, we were obliged to invade meetings in private places. We never wish to invade private places, but if they choose to go to private places to hatch their plots, we have got to follow. That is the whole point.

Question put, that in clause 10, in line 4, substitute "meeting in a public place" in place of "public meeting", and negatived.

The Honourable the PRESIDENT: I now put the honourable member, Rao Bahadur Kale's amendment "Delete the Explanation."

Question put. The House divided: Ayes, 22; Noes, 45.

Division No. 19.

Ayes

ALMERKAR, Mr. A. B.
 BAKHALE, Mr. R. R.
 BALUCH, Mr. HAJI MIER MAHOMED
 CHITALE, Rao Bahadur G. K.
 DESAI, Mr. H. R.
 DIXIT, Dr. M. K.
 GANGOLI, Mr. G. S.
 GILDER, Dr. M. D.
 GOVER ROBA, Mr.
 JOG, Mr. V. N.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. N.

KARBHARI, Mr. M. M.
 KULKARNI, Rao Saheb P. D.
 MORE, Mr. J. G.
 PARULEKAR, Rao Bahadur L. V.
 PETIT, Mr. J. B.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 THAKOR OF KEKWADA, Sardar BRASAREK
 RAJISINHJI
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.

Tellers for the Ayes: Mr. PESTANSHAH N. VAKIL and Mr. G. S. GANGOLI.

Noes

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	KHUHRO, Khan Bahadur M. A.
ADVANI, Mr. P. B.	MASTER, Mr. A.
AMINUDDIN, Mr. SAITID	MAXWELL, Mr. R. M.
ARBUTHNOT, Mr. C. W. E.	MITHA, Mr. MAHOMED SULEMAN CASSUM
ASAVALE, Rao Bahadur R. S.	NAMDEORAO BUDHAJIRAO, Mr.
BANGI, Mr. A. K. J.	NAVLE, Mr. N. E.
BHUTTO, Sir SHAH NAWAZ	NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
BIRADAR, Sardar MAHAROOBALI KHAN	OWEN, Mr. A. C.
BRANDER, Mr. J. P.	PATEL, Khan Bahadur A. E.
BULLOCKE, Mr. A. GREVILLE	PATIL, Mr. N. N.
CLAYTON, Mr. H. B.	PRATER, Mr. S. H.
COOPER, Khan Bahadur D. B.	ROOSE, Mr. F. O. J.
DAVIS, Mr. G.	SERVAL, Mr. A. E.
DHURANDHAR, Mr. J. R.	SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
GENNINGS, Mr. J. F.	SPENCE, Sir REGINALD
GHULAM HUSSAIN, the Honourable Sir	SYED MIRAN MAHOMED SHAH
HAMPTON, Mr. H. V.	TALPUR, Mir BANDEH ALI KHAN
HUDSON, the Honourable Mr. W. F.	TARAPOREWALA, Mr. V. F.
JAM JAN MAHOMED KHAN, Khan Bahadur	TURNER, Mr. C. W. A.
JAN MAHOMED KHAN, Khan Bahadur	VAKIL, the Honourable Sirdar Sir RUSTOM
JONES, Major W. ELLIS	JEHANGIR
KADBI, Mr. J. S.	WINTERBOTHAM, Mr. G. L.
KALBHOR, Mr. G. M.	
KAMBALI, the Honourable Dewan Bahadur S. T.	

Tellers for the Noes : Mr. SHAIKH ABDUL AZIZ and SYED MIRAN MAHOMED SHAH.

Mr. J. G. MORE (Sholapur District) : Before I move this amendment, Sir, I wish to know whether Government are prepared to add some such words as "in the interests of public peace and safety" after the words "The District Magistrate may". If they do, I will not move my amendment.

The Honourable Mr. W. F. HUDSON : At the beginning of clause 10 ?

Mr. J. G. MORE : Yes.

The Honourable Mr. W. F. HUDSON : Yes, certainly. I would say:—

"The District Magistrate may, if it is in his opinion necessary in the interests of the public safety or peace, by order....."

I particularly wish to emphasize something which I am afraid I missed. I specially wish to emphasize the fact that this is not giving police officers indiscriminate power and no such meeting can be attended until and unless the District Magistrate by order in writing has given sanction and, surely, Sir, who would anticipate for a moment that a District Magistrate is going to give an order for attending a tea party or anything of that kind? That is the real safeguard. It is so obvious to me, but I am sorry I did not point that out as clearly as I should have done because we were so occupied with the definition of "public meeting" that we missed the most important point of all, and that is that this is not giving an indiscriminate authority to the police and no policemen will go to these meetings except on a written authority of the District Magistrate who, as I have over and over again stated in this House, until the contrary is proved, may be supposed to be a reasonable and an intelligent individual. I am quite willing to accept the words which my honourable friend suggests.

The Honourable the PRESIDENT: The amendment proposed to be moved is:—

Clause 10, line 1. After the word "may," add the words "if it is in his opinion necessary in the interests of the public safety or peace."

The Honourable Mr. W. F. HUDSON: We want it now as it is in section 8. It is this:

"The District Magistrate, if in his opinion it is necessary in the interests of the public safety or peace, may, by order in writing...."

The conditional clause comes first.

The Honourable the PRESIDENT: The amendment moved by the Honourable the Home Member is:

"In line 1, between the word 'Magistrate' and the word 'may' insert the words 'if, in his opinion, it is necessary in the interests of the public safety or peace'."

Question put, and agreed to.

Dr. M. K. DIXIT (Surat District): I beg to move, Sir, my amendment to the explanation to clause 10, namely,—

"Omit in the third line 'or to any class or portion of the public'."

I have already explained my reasons for tabling this amendment.

The Honourable Mr. W. F. HUDSON: I have nothing to add to what I have said before. The words "or to any class or portion of the public" ought to remain.

Question put, and negatived.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move that—

"In line 3 of the Explanation to clause 10, after the word 'public' add the words 'and the avowed object of which is calculated to be prejudicial to public safety or peace'."

Sir, in this connection I have to bring to the notice of the Honourable the Home Member that some meetings are religious meetings. In certain places we celebrate the anniversaries of saints like Tukaram and Namdeo. In such celebrations even some religious rites are performed. Here the avowed object of the meeting is religious. Therefore if Government insists on sending a reporter—and it may be that the reporter may be of a different religion than the members who have assembled at the meeting, and as religious functions are being performed, such thing will hurt the religious feelings of the people. Therefore, where it is a matter of religion I think Government should respect the feelings of people. Of course, if the avowed object is something different, then that is another matter. But where the avowed object is the celebration of the anniversaries of saints, in such cases, I think, some measure ought to be adopted to exempt meetings of this kind. I have this thing in my mind and with that object I have moved this amendment.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, if all political leaders were as transparently honest as my honourable friend the mover of the amendment, I should have been glad to accept this amendment, but unfortunately our experience in this presidency shows that a meeting is called with a certain avowed object, and then very little time is devoted

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to that object, and the occasion is used for discussing something entirely different. We had a case of that kind in Bombay not so very long ago. I do not wish to stir up bitter feelings by referring to it in more detail, but there is no question that a big meeting was called in a public place in Bombay with a reasonable object with which most people in the city had quite a sincere sympathy, and ultimately that meeting degenerated into the worst type of political meeting; and it is no use whatever to say that if people announce in a programme that they are going to discuss the question of lepers in Bombay, therefore, we must allow that meeting and that nobody should be deputed to report the proceedings of that meeting, because, I regret to say, the chances are that the lepers would get very little of their attention.

Question put, and negatived.

Mr. J. G. MORE (Sholapur District): Sir, I beg to move an amendment to the explanation to clause 10, namely,—

“Delete the words ‘and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.’”

Sir, we are told that under the British Rule everybody's home is his castle. But if this explanation is accepted in *toto*, I think that proud maxim of the Britishers in India will not be there and instead of that everybody's home will be a police station. Sir, “a private place” means even a home or a house. Now, if police are to enter private places then the sanctity and peace of the private life is extinct. So, I ask in all seriousness whether the Britishers who are so proud of their homes as being their own castles, are prepared to allow the same concession to the Indians in this country. If they are not going to allow that then I think there is an end to every reason which may be advanced in support of my amendment. Sir, Government seem to be bent upon having a record so far as the passage of this Bill is concerned. But I request them not to press this too far. I am told that a similar piece of legislation has been passed by the Bengal Provincial Council and there a safeguard has been introduced so far as the entry into private places is concerned. There, unless the police have got orders from the Governor in Council they cannot enter a private place. If Government are not going to accept that at least then I think the House will be well advised to support my amendment, so that during the passage of the whole Bill at least we will have one amendment carried in response to the wishes of the people.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, I am not going to say anything on the subject of private places except to emphasise the fact that this so-called invasion—I am quite prepared to use that word—can only be done on the authority of the District Magistrate, and I do not know where my honourable friend gets his information about the Bengal safeguard.

Mr. J. G. MORE: I meant in the Punjab.

The Honourable Mr. W. F. HUDSON: The honourable member distinctly said Bengal. The section clearly says:

"The District Magistrate may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers."

The honourable member says that a safeguard has been provided for in the Punjab Bill. But, I think, if I look into that Bill I shall find something else. After all, we are not obliged to follow any other province. I merely quoted Bengal because the honourable member himself quoted Bengal. I do not think I need repeat the arguments which I have already advanced. I regret very much that owing to the action of the civil disobedience movement people in holding their meetings in private places it is necessary for us to enter into private places. If they had confined their meetings to, say, Cowasji Jehangir Hall or any other place which they can easily get for a few rupees for a night, it would not have been necessary for us to take this action.

Rao Bahadur R. R. KALE: It is open to the Governor in Council to invest persons other than the District Magistrates with these powers.

The Honourable Mr. W. F. HUDSON: We have not done so in the past, and I think we are not likely to do it in the future.

Question put, and negatived.

Mr. J. G. MORE: Sir, I claim a division.

The Honourable Mr. W. F. HUDSON: The honourable member will realise that we have practically divided on this already. If it were a different thing, I should not have protested. But we were divided on the principle only a quarter of an hour ago.

The Honourable the PRESIDENT: It is the same principle only in a different form. The opinion of the House on this principle has been already taken.

Clause 10 as amended ordered to stand part of the Bill.

Rao Saheb P. D. KULKARNI: Sir, I claim a division. I have claimed it in time.

The Honourable the PRESIDENT: The question has been already decided.

Rao Saheb P. D. KULKARNI: But I demanded a division in time.

The Honourable Mr. W. F. HUDSON: Order, order.

The Honourable the PRESIDENT: The honourable members on his side do not support him.

Clause 11 (*Power to issue search warrants*) ordered to stand part of the Bill.

Clause 12 (*General power of search*)—

Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of—

(a) ascertaining whether it is necessary or expedient to exercise such power; or

(b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with; or

(c) generally, giving effect to such power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

Mr. G. S. GANGOLI (Kanara District): Sir, I move the following amendment:

In clause 12, line 3, after the word "person" insert the words "not below the rank of a sub-inspector of police."

The clause, as it stands, reads as follows:

"Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of—"

My only reason in moving this amendment is that the words "authorise any person" occur in the clause. But in view of the proposed deletion of clause 16 (3), the expression "any person" will lose all its weight, if some restriction is not placed there. If any person has to go and search, it will be, according to my amendment, a sub-inspector of police, of whom we have more than one or two in every tahuka.

Question proposed.

Mr. J. G. MORE (Sholapur District): Sir, I beg to move an amendment to the amendment, as follows:—

For the words "sub-inspector of police" substitute the words "inspector of police."

Question proposed.

The Honourable Mr. W. F. HUDSON: I cannot accept this amendment, Sir, for two reasons. In the first place, we cannot confine the authority to the ranks of the police, because, as a matter of actual practice, the more important searches have been frequently carried out by subordinate magistrates, and personally, I think that is a very desirable thing when it can be done. Of course it cannot always be done. Similarly, it is not always possible to authorise a sub-inspector, because he may not be available. There may be too many of these searches to be made, but as a matter of actual practice again, as a rule the searches are made by sub-inspectors. But I cannot tie our hands to it, still less can I tie our hands to the inspector, because we have very few of them in the mofussil.

The Honourable the PRESIDENT: What does the clause say?

The Honourable Mr. W. F. HUDSON: "Any person" is what it says. But, of course, as a matter of actual practice, the person who will be empowered as a rule will be the sub-inspector, who will very frequently be accompanied by a magistrate.

Mr. J. S. KADRI: Can you not say, any person of the Police Department?

The Honourable Mr. W. F. HUDSON: I do not want to confine it only to the police department, because it is most desirable in certain cases, where the house may belong to a person of some importance, that the search should be carried out by a magistrate or in the presence

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of a magistrate. If we confine it to the police, we cannot make that provision. Those are the reasons why we have left it vague. But we are not going to authorise *pattewalas* or postal peons. We will not do anything so foolish.

Rao Bahadur R. S. ASVALE : What about the City of Bombay ?

The Honourable Mr. W. F. HUDSON : I could not say offhand, but I imagine the city of Bombay is the place where probably it is easier than anywhere else to get a superior police officer. But I am not going to confine it even there. I believe myself, even there, occasionally a search has been carried out in the presence of a magistrate, though I am not absolutely certain about it, but I know it happens in the mofussil.

Mr. M. M. KARBHARI : May I know whether "any person" means any person in the service of Government or any person outside it also ?

The Honourable Mr. W. F. HUDSON : It is any one who is authorised by general or special order. I do not think we ever employ private individuals. I shall not ask the honourable member to conduct a search, I promise him.

Mr. G. S. GANGOLI : Can you not add "not below the rank of a sub-inspector of police and a third-class magistrate" ?

The Honourable Mr. W. F. HUDSON : I thought the honourable member had nothing further to say. I do not propose to carry on the discussion.

Amendment to the amendment put, and negatived.

Amendment put, and negatived.

Clause 12 ordered to stand part of the Bill.

The Honourable the PRESIDENT : I should point out here that I am guided—I suppose the House has forgotten that—more by the volume of the majority of voices, and not by the loudness of the voices. Honourable members need not strain themselves unnecessarily.

Mr. G. L. WINTERBOTHAM : What is the difference between volume and loudness ?

Clause 13 (*Power to give effect to orders if disobeyed*)—

(1) If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under sub-section (1).

Rao Bahadur R. R. KALE (Bombay University) : Sir, I have an amendment to clause 13. Some time ago the Honourable the Home Member said that he would put in the word "intentionally" before the word "disobeys". The clause would then read :

"If any person intentionally disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority....."

[Rao Bahadur R. R. Kale]

The amendment is necessary in order to cover cases of the kind, an instance of which I gave in another connection. There the magistrate admitted—

The Honourable Mr. W. F. HUDSON: No, Sir. I shall just make it easy for the honourable member. The proper place for it is section 14 and not section 13. It is not a penal section.

Rao Bahadur R. R. KALE: In giving notice of this amendment, my view is to ascertain what is exactly meant by "the authority which made the order may take or cause to be taken such action as it thinks necessary to give effect thereto". If it does not relate to any prosecution, then the section as it stands serves the purpose. I am not in a position to understand what exactly is meant by "the authority whose direction is disobeyed has to take action". Does it mean that it has to give sanction for the prosecution?

The Honourable Mr. W. F. HUDSON: I, as a District Magistrate, order a man to seal the press which I consider to be disseminating seditious matter but he neglects to obey the order. I seal the press myself. I do so myself or direct a sub-inspector to do so. No action for compensation lies against me for doing so. If a person refuses to carry out an order of a particular kind, the next step in order to ensure my order being carried out is for me to do it myself.

Rao Bahadur R. R. KALE: In that case the amendment will be unnecessary.

The Honourable the PRESIDENT: I have not understood the amendment properly.

Rao Bahadur R. R. KALE: I was under the impression that it meant giving sanction for prosecution. So, I am not moving it.

The Honourable the PRESIDENT: There are other amendments to sub-clause (2), which require the sanction of the Governor. Those amendments are in the names of honourable members Dr. Dixit, Mr. More, Mr. Gangoli, Rao Bahadur Kale and Mr. J. B. Petit. The next amendment stands in the name of the honourable member Mr. More.

Mr. J. G. MORE (Sholapur District): I move, Sir:

"In sub-clause (2) of clause 13, after the words 'damage caused' add 'wilfully or wrongfully'."

Mr. G. DAVIS: I think it is just the opposite of what the honourable member intends.

The Honourable the PRESIDENT: Will the honourable member read it?

Mr. J. G. MORE: I beg to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 13 ordered to stand part of the Bill.

Clause 14 (*Penalty for disobeying order under section 4*)—

Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

The Honourable Mr. W. F. HUDSON : Sir, I move :

"That in clause 14, after the word ' whoever ' the word ' intentionally ' be inserted."

Question put, and agreed to.

Mr. G. S. GANGOLI : May I know the difference between " disobeys " and " neglects to comply " ?

Mr. G. DAVIS : May I explain, Sir ? If a man is ordered to seal his press and refuses to do so, he disobeys the order. But if he does not refuse to do so but keeps the press open, then he neglects to comply with the order.

Mr. G. S. GANGOLI : What about the intention ?

Mr. G. DAVIS : It is governed by the word " intentionally " which we put in now.

Mr. G. S. GANGOLI : At the time I gave notice of the amendment there was not that word.

The Honourable the PRESIDENT : The next amendment is of the honourable member Mr. Gangoli.

Mr. G. S. GANGOLI : Sir, I want to omit the fine also. May I know whether it is necessary to obtain the sanction of the Governor ?

The Honourable the PRESIDENT : No sanction is necessary.

Mr. G. S. GANGOLI : I beg to move :

" Omit the last line and substitute ' to six months ' in clause 14."

Mr. V. N. JOG (Dharwar District) : Sir, I move :

In clause 14, insert the word " simple " before the word " imprisonment " .

Sir, these cases arise out of breaches of orders under clause 4. Yesterday in the course of the discussion we referred to the circumstances under which these orders are passed. Sometimes these orders are very oppressive and therefore breaches are made. There may also not be wilful breaches, but only technical breaches. At any rate, I think that punishment with hard labour is rather too oppressive. Therefore, I propose that the word " simple " should be added before the word " imprisonment " .

Question proposed.

The Honourable Mr. W. F. HUDSON : Sir, I confess I am rather surprised that a hardworking man like my honourable friend Mr. Jog should wish these people to sit in complete idleness in prison, not for some time, but for several months. I cannot imagine anything more harmful for a young man—many of these young men have never done a day's labour in their lives—than to sit idly and, I am afraid, plotting mischief. It is far better for their health and morals that they should do a job, and, if possible, even learn something of the elements of a useful trade. If my honourable friend knew as much about the inside of jails as I do, (*Laughter*)—he would know that there is nothing more pitiful than the contrast between the undertrial wards and the convict wards. In the undertrial wards there are a lot of miserable people, sitting about, doing nothing, trying to kill time, and I am afraid, killing it in the wrong way. In the convict wards, for a good many hours in the day, they are engaged

[Mr. W. F. Hudson]

in useful occupations,—and in no case are they made to do work for which they are unsuited. Our jails provide a large variety of employment, and we know on the highest authority that there is no degradation in any kind of manual labour, and, if I may say so without disrespect, to learn something about the dignity of manual labour is a very useful lesson for what we call the young *intelligentsia* of this country. And, therefore, Sir, on general grounds I most strongly oppose this amendment. I hope the House will agree with me in this particular.

Rao Bahadur R. R. KALE (Bombay University): Sir, while we are on this subject, I may point out the section in the Indian Penal Code which provides for punishment of disobedience of orders promulgated by public servants, namely, section 188. In the first place that section does not provide for punishment for mere disobedience. Punishment is inflicted only if such disobedience causes or tends to cause obstruction, annoyance or injury etc., to any person lawfully employed, and the punishment for that is simple imprisonment for one month or a fine of Rs. 200. If such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, then the punishment provided is imprisonment of either description for six months or fine of Rs. 1,000 or both. That being so, in this case also there should be some restriction on the period as well as the nature of the imprisonment to be awarded. In cases where the disobedience does not cause any further consequences the sentence should be less severe and not more than where serious consequences are apprehended.

The Honourable Mr. W. F. HUDSON: Sir, I do not think I have anything to add to what I have said.

Mr. V. N. JOG (Dharwar District): Sir, in reply I will simply say that in cases where even for trivial offences punishment with hard labour for a year or a year and a half is inflicted, the convicted persons are not always youngsters. Even on old persons who are unable to work hard labour is inflicted. No doubt some magistrates are lenient and give lenient punishments but we have found in various cases that the punishment is very severe and is imprisonment with hard labour. It is in that view that I wanted to restrict this punishment to simple imprisonment. Then, I have an amendment to limit the period of imprisonment to six months.

The Honourable the PRESIDENT: That has not been proposed yet.

Mr. V. N. JOG: The Honourable the Home Member said that as the period was long these people would get lazy if they were not employed in some job. But if the period is shortened, as I have proposed, then there will be no laziness developed; it will be a period of rest for them, without their doing any sort of mischief. They will enjoy that rest if the period is cut down.

Question put, and negatived.

Mr. V. N. JOG : Sir, I move formally—

In clause 14, substitute the words "six months" for the words "two years."

This is to shorten the period of imprisonment. I adopt the same reasoning as the one I adopted for the last amendment.

Question proposed.

Mr. J. B. PETIT (Bombay Millowners' Association): Sir, I beg to move the following amendments :

(*Clause 14*). For the words "two years" substitute the words "one year."
After the word "fine" add the words "not exceeding one thousand."

My object is to reduce the rigour of the sentence that may be inflicted under this clause. I know that there is an amendment, seeking to reduce the period of punishment to six months; and another one to reduce the fine to a smaller figure.

The Honourable the PRESIDENT: Then we will take those separately.

Mr. J. B. PETIT: Very well, Sir. I accordingly propose first my amendment for the insertion of the words "one year." But I shall be quite willing to vote for "six months", in the alternative, if the feeling is in favour of a smaller period.

The Honourable the PRESIDENT: There are two amendments. The honourable member is perfectly right in saying that he supports six months in the alternative if the amendment for one year is lost. The amendments moved are those which suggest six months for two years and one year for two years.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, I should have been very glad to accept the amendment about one year but for this fact that in this movement we have persons of all sorts and degrees, and we have occasionally very bad cases indeed, cases of continued defiance, cases of people who are really dangerous, and it is desirable that we should reserve a certain period of considerable length in which their activities could be effectively curtailed. As a matter of fact, Sir, as probably the House knows, although two years have been in the ordinances for eleven months there have been very very few cases in which a sentence of two years has been passed. That sentence has been passed only in those cases in which the magistrates considered that something in the nature of drastic treatment was required, and even that, Sir, is not final and only the day before yesterday I released before the period of one year was up some one sentenced to two years. We are looking into all those cases in which sentences of two years have been passed. I propose to investigate them myself in the course of the next month or so as soon as we have finished with our legislative business, but I must retain the period of two years in order to deal with what I call the extreme cases. The magistrates understand perfectly well, as any one knows who follows their sentences, that in a great majority of cases no such sentence is required, just as it is not by any means necessary in murder cases always to inflict the supreme penalty although we must keep the supreme penalty for the worst cases.

[Mr. W. F. Hudson]

I understand, Sir, that on this amendment we are not discussing the question of fine although it is put down there.

The Honourable the PRESIDENT : Yes, that is so.

Dr. M. K. DIXIT (Surat District) : Sir, I have got an amendment to reduce the punishment to six months' simple imprisonment. I do not touch the point of fine at present, but I support the amendment of my honourable friend Mr. Jog that the period of punishment should be reduced to six months from two years.

We have been told by the Honourable the Home Member that the punishment usually given out is not the full period but that the magistrates are always considerate in giving punishment. Sir, that may be so, in his opinion, before but still, experience is different and if the latitude allowed to them is for the period of two years, the magistrates are not always very considerate or moderate in inflicting punishment and in that connection, I just wish to refer to a paragraph from the judgment of Mr. Justice Madgaonkar in the case Emperor versus Sakinabai Lookmani reported in the Bombay Law Reporter, Volume XXXII, page 1514. It is this :

" Even apart from this view of law, I am constrained to observe that the sentence was rash and inappropriate. On the record as it stands, the accused, a respectable woman of sixty, felt it her duty to dissuade people from drinking. The sentence of rigorous imprisonment for four months and a fine of Rs. 100 and in default one month's rigorous imprisonment was in my opinion excessive and might even be criticised as vindictive. It is necessary at all times and not least when respect for the law is being undermined that whatever the attitude or the politics of any party, the courts should in all respects scrupulously hold the scales even and observe the correct procedure and they should not by such sentences themselves still further undermine this respect for law. Such sentences defeat their own object and usually produce an effect contrary to what perhaps they are intended to do."

From this paragraph it is clear that there have been cases of what you call "judicial high-handedness," and if that period of two years in this particular case be reduced to six months, no magistrate will be authorised to give a punishment which will be considered as excessive. Sir, I do wish to maintain that the rigour of the punishment does not in any way create any respect for law amongst those people who are determined to break the law, but such hard cases, one of which I have quoted, do occur and in those circumstances the period should be reduced to the minimum as far as possible. With these words, I support the amendment moved by my honourable friend Mr. Jog, and in the event of that amendment being lost, I would support the amendment moved by the honourable member Mr. Petit.

The Honourable Mr. W. F. HUDSON : Sir, I only wish to say just this in answer to my honourable friend Dr. Dixit that it is not a question of punishment. There are two points, viz. (1) we want to keep the man from continuing to do mischief and (2) which is even more important, we want to discourage other people from following his bad example. Short sentences unfortunately do not have that effect.

The Honourable the PRESIDENT: I put the first amendment about six months as proposed by the honourable member Mr. Jog.

Question put, and negatived.

The Honourable the PRESIDENT: I now put the second amendment, the one reducing the period from two years to one year, as proposed by the honourable member Mr. Petit.

Question put. The House divided: Ayes, 20; Noes, 44.

Division No. 20.

Ayes.

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
BALOOCH, Mr. HAJI MIR MAHOMED
CHITALE, Rao Bahadur G. K.
DESAL, Mr. H. R.
DIXIT, Dr. M. K.
GANGOLI, Mr. G. S.
GOVER RORA, Mr.
JOG, Mr. V. N.
KADHI, Mr. J. S.

KALE, Rao Bahadur B. R.
KARBHARI, Mr. M. M.
MOBE, Mr. J. G.
PETIT, Mr. J. B.
RESALDAR, Mr. A. K.
SUEVE, Mr. A. N.
SUEVE, Mr. V. A.
TOLANI, Mr. S. S.
VAISHAMPAYAN, Dr. V. G.
VAKIL, Mr. PESTANSHAN N.

Tellers for the Ayes: Dr. J. A. COLLAO and Mr. N. N. PATIL.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
ADVANI, Mr. P. B.
AMINUDDIN, Mr. SAIYID
ARBUTHNOT, Mr. C. W. E.
BANGI, Mr. A. K. J.
BIRADAR, Sardar MAHABOOBALI KHAN
BRANDER, Mr. J. P.
BULLOCKE, Mr. A. GREVILLE
CLAYTON, Mr. H. B.
COLLAO, Dr. J. A.
COOPER, Khan Bahadur D. B.
DAVIS, Mr. G.
DHURANDHAR, Mr. J. R.
D'SOUZA, Dr. J. ALBAN
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GEEVES, Mr. J. B.
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
JAM JAN MAHOMED KHAN, Khan Bahadur
JONES, Major W. ELLIS
KALBHOR, Mr. G. M.
KAMBLI, the Honourable Dewan Bahadur
S. T.

KHURRO, Khan Bahadur M. A.
MASTER, Mr. A.
MAXWELL, Mr. R. M.
MEHEERAKSH, Mr. S.
MITHA, Mr. MAHOMED SULEMAN CASSUM
NAMDEORAO BUDHAJIRAO, Mr.
NAVLE, Mr. N. E.
NAWAB SHAH ROOKH SHAH YAR JUNG
BAHADUR
OWEN, Mr. A. C.
PRATER, Mr. S. H.
RAFIUDDIN AHMAD, Moulvi Sir
ROOSE, Mr. F. O. J.
SERVAL, Mr. A. E.
SHANKARRAO JAYARAMRAO ZUNARRAO,
Mr.
SOLANKI, Dr. P. G.
SPENCE, Sir REGINALD
TARAPORWALA, Mr. V. F.
THAKOR OF KERWADA, Sardar BHABHER
RAISINJI
TURNER, Mr. C. W. A.
VAKIL, the Honourable Sirdar Sir RUSTOM
JEHANGIR
WYTERBOTHAM, Mr. G. L.

Tellers for the Noes: Dr. J. A. D'SOUZA and Mr. MAHOMED SULEMAN CASSUM MITHA.

Mr. G. S. GANGOLI (Kanara District): Sir, I beg to move an amendment to clause 14 that—

"Omit the last line and substitute the words 'to six months'."

Sir, my submission is that it is, after all, a penalty for all sins of commission and omission referred to in clause 4. We know, Sir, that in our anxiety—

The Honourable the PRESIDENT: The question of six months has been disposed of already.

Mr. G. S. GANGOLI: I want to delete the words "two years" and substitute the words "six months" therefor.

The Honourable the PRESIDENT: The question of six months was considered. So also the question of one year.

Mr. G. S. GANGOLI: I was going to speak on the subject, but in the meantime Mr. Jog was called upon—

The Honourable the PRESIDENT: The House was divided on the question of the period of sentence. It stands at two years. Now the question is of fine. Does the honourable member want to move his amendment regarding fine?

Mr. G. S. GANGOLI: But I want to move my amendment relating to six months.

The Honourable the PRESIDENT: It has been decided. There is no question of period now.

Mr. G. S. GANGOLI: Then I am not going to move at all.

Mr. J. B. PETIT (Bombay Millowners' Association): Sir, I beg to move that—

"In clause 14, after the word "fine", add the words 'not exceeding Rs. one thousand'."

The amendment is quite clear. I want to have this limit fixed; and I shall be glad if the House accepts my amendment.

Question proposed.

Mr. V. N. JOG (Dharwar District): Sir, I beg to move an amendment to this amendment. I move that—

"for the words 'not exceeding Rs. one thousand' substitute the words 'not exceeding Rs. three hundred'."

I think, Sir, that Rs. 1,000 would be a very heavy fine especially as we know that there is a maximum punishment of two years. So, I limit it to Rs. 300.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, my honourable friend Mr. Jog coming from the wilds does not know the money there is in Bombay. A fine of Rs. 300 is a mere bagatelle to the wealthy men who have been financing this movement. Everybody knows that this movement, at any rate in this Presidency, would have fizzled out but for the large sums which are contributed by the wealthy residents of Bombay. The congress funds have received large sums by way of fines, fines inflicted on people who have not the courage to resist, and, now we are asked to fix a limit varying between Rs. 300 and Rs. 1,000. I think, Sir, that this fining business has had a very considerable effect. It diverts money from the coffers of the congress to the coffers of Government, that is to say, to the public purse. Somebody rather scornfully said the other day "why are we to make money?" If the congress makes money, why should not the Government make money? Heaven knows that the public purse in the Bombay Presidency needs it and it seems to me that we in this House can make better use of a fine

[Mr. W. F. Hudson]

of Rs. 5,000 than the congress would make of a fine of Rs. 5,000. I am astonished that a man like Mr. Petit who knows a good deal about the value of money should think that a fine of Rs. 1,000 is likely to be deterrent, and I may tell him that this penalty is intended to be deterrent. However, Sir, I am prepared, if the House approves, to fix a limit. A fine without limit is not unknown to the Indian Penal Code. It is only magistrates' fines that are limited; the High Court can impose any fine. But I agree, Sir, that, as most of these disobedience offences will be tried by magistrates, it is perhaps as well to place some limit. I am only in doubt as to what that limit should be. I understand that there is a division of opinion amongst some of my honourable friends. Some of them think it should be Rs. 10,000; some of them think it should be Rs. 5,000. And before I submit an amendment, I should be glad to hear one or two honourable members who hold strong opinions on this subject. I am not prepared to go lower than Rs. 5,000, I do not want to go higher than Rs. 10,000. But as between these two there is considerable difference of opinion, and if my honourable friends from Bombay would express an opinion on the subject, Government will have some little guidance in the matter.

Mr. HAJI MIR MAHOMED BALOCH (Karachi City) (Speaking in Urdu): Can I move an amendment to the amendment, Sir?

The Honourable the PRESIDENT: The honourable member can do it.

Mr. HAJI MIR MAHOMED BALOCH: My honourable friend Mr. Petit says that it should be Rs. 1,000; another honourable member says it must be Rs. 300. The Honourable the Home Member says it should be between Rs. 10,000 and Rs. 5,000. I say it should be a minimum of Rs. 50,000. The Honourable the Home Member says that the money will go from the Congress treasury to the Government treasury.

The Honourable the PRESIDENT (Speaking in Urdu): I do not think the honourable member is at all serious in moving his amendment. I therefore rule it out of order.

Mr. HAJI MIR MAHOMED BALOCH: But, Sir, you have not heard what I have to say.

The Honourable the PRESIDENT: Before the honourable member continues, at this stage I rule it out of order.

Dr. J. A. COLLACO (Bombay City, South): Sir, I understand that the Honourable the Home Member is prepared to accept some figure between Rs. 5,000 and Rs. 10,000. I submit that the ends of justice will be met if this fine is limited to Rs. 5,000. I think that should be the limit. We must not leave the fine at an unlimited figure. Besides that, there is imprisonment. It is fine and imprisonment. As we are on imprisonment, I want to bring to the notice of the Honourable the Home Member, certain things that are going on in jails, which he might redress. I understand that when these political prisoners are convicted and given "C" class—

The Honourable Mr. W. F. HUDSON: The honourable member is now discussing what happens in jails. Does that arise out of the question of fines?

Dr. J. A. COLLACO: I suggest Rs. 5,000.

The Honourable the PRESIDENT: Is that an amendment to the amendment?

Dr. J. A. COLLACO: It is a suggestion.

Sardar BHASAHEB RAISINHJI, THAKOR OF KERWADA: Sir, since the Honourable the Home Member has shown his willingness to consult honourable members of this House, I for one would suggest that the limit should be Rs. 5,000.

The Honourable the PRESIDENT: Is that a suggestion?

Sardar BHASAHEB RAISINHJI: If you like.

The Honourable Mr. W. F. HUDSON: Then I shall move an amendment, if I may, that in clause 14, after the words "or with fine" insert the words "which shall be limited to Rs. 5,000."

Mr. G. DAVIS: I suggest that it would be better to have this in clause 26.

Dr. M. K. DIXIT: There is an amendment in my name.

The Honourable the PRESIDENT: The honourable member was not here when I called out his amendment.

Amendment to the amendment put, and negatived.

Amendment put, and negatived.

The Honourable the PRESIDENT: The question is:

"Clause 14 as amended do stand part of the Bill."

Mr. V. N. JOG: Before this clause is put to the vote, I would remind the Honourable the Home Member whether he would put in the words "wilfully....."

Honourable MEMBERS: It has been done.

Clause 14, as amended, ordered to stand part of the Bill.

The Honourable the PRESIDENT: The question is that clause 15 do stand part of the Bill—

Honourable MEMBERS: To-morrow.

The Honourable Mr. W. F. HUDSON: In view of the wishes of the House, we may adjourn now. I hope the honourable member the Leader of the Opposition will see that too many divisions are not called for to-morrow. I may suggest to honourable members, so that they may not be taken by surprise, that, if we have not made sufficient progress by to-morrow evening, we will have to sit from 10 o'clock to 7 o'clock on Saturday. In the public interest the Bill should be passed before Saturday evening.

The Honourable the PRESIDENT: I shall be in a position to make a statement to-morrow evening. I think that is the best time, so that

[The President]

there is a day between for honourable members to consider. If we do not make sufficient progress to-morrow evening, the House will have to sit the whole of Saturday.

Rao Bahadur R. R. KALE : Can we not meet earlier to-morrow ?

The Honourable Mr. W. F. HUDSON : That will be rather difficult, I do not mind sitting even till 8 o'clock to-morrow.

There are only two or three supplementary grants. One of them will only require a minute's speech from me. I would allow half an hour for supplementary grants. I hope we will be able to finish the session on Saturday evening.

The Honourable the PRESIDENT : To-morrow we meet at the usual hour, because it would be very short notice to honourable members if we now decided that we sit earlier to-morrow. But they must understand that to-morrow evening I might ask honourable members to sit a short time, say an hour, after the usual time. And they should keep themselves ready to meet at 10 on Saturday and sit until we finish not only the Bill, but also the other business that the Honourable the Home Member has mentioned.

The Honourable Mr. W. F. HUDSON : That is the point. Whatever progress we may make to-morrow, we shall meet at 10 o'clock on Saturday and finish the work.

The Honourable the PRESIDENT : The interval time will be announced to-morrow evening. We shall finish the whole thing on Saturday.

The House is now adjourned to 2 p.m., to-morrow, Friday, the 2nd December 1932.

Friday, the 2nd December 1932

The Council re-assembled at the Council Hall, Bombay, on Friday, the 2nd December 1932, at 2 p.m., the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding. •

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur

ACHREKAR, Mr. A. B.

ADVANI, Mr. P. B.

AMINUDDIN, Mr. SAIYID

ARBUTHNOT, Mr. C. W. E.

ASAVALE, Rao Bahadur R. S.

BAKHALE, Mr. R. R.

BALOCH, Mr. HAJI MIR MAHOMED

BANGI, Mr. A. K. J.

BIRADAR, Sardar MAHABOOBALI KHAN

BOLE, Rao Bahadur S. K.

BRANDER, Mr. J. P.

BULLOCKE, Mr. A. GREVILLE

CHIKODI, Mr. P. R.

CHITALE, Rao Bahadur G. K.

CLAYTON, Mr. H. B.

COLLACO, Dr. J. A.

COOPER, Khan Bahadur D. B.

DAVIS, Mr. G.

DESAI, Rao Saheb B. G.

DESAI, Mr. H. R.

DHALUMAL LILARAM, Mr.

DHURANDHAR, Mr. J. R.

DIXIT, Dr. M. K.

D'SOUZA, Dr. J. ALBAN

GANGOLI, Mr. G. S.

GENNINGS, Mr. J. F.

GHULAM HUSSAIN, the Honourable Sir

GILDER, Dr. M. D.

GOKHALE, Mr. L. R.

GOVER RORA, Mr.

GREAVES, Mr. J. B.

HAMPTON, Mr. H. V.

HUDSON, the Honourable Mr. W. F.

HUMPHREY, Mr. JOHN

JAM JAN MAHOMED KHAN, Khan Bahadur

JITEKAR, Mr. HAJI IBRAHIM

JOG, Mr. V. N.

JONES, Major W. ELLIS

KADRI, Mr. J. S.
 KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KHURO, Khan Bahadur M. A.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MATCHESWALLA, Mr. G. E.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dr. P. G.
 SPENCE, Sir REGINALD
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SYED MUNAWAR, Mr.
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINHJI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.

VAISHAMPAYAN, Dr. V. G.

VAKIL, Mr. PESTANSHAH N.

VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR

VANDEKAR, Rao Bahadur R. V.

WINTERBOTHAM, Mr. G. L.

STARRED QUESTIONS AND ANSWERS.

VANJARI COMMUNITY : INCLUSION IN THE MARATHA AND ALLIED CASTES FOR ELECTION TO BOMBAY LEGISLATIVE COUNCIL.

* Rao Bahadur S. K. BOLE (nominated non-official): Will the Honourable the Home and General Member be pleased to state—

(a) how and when the "Vanjari" community came to be included in the Maratha and allied castes for the Bombay Legislative Council election ;

(b) whether any representation was made by the members of the Vanjari community that their community should be included in the Maratha and allied castes ;

(c) if so, who were the first ten signatories to the representation ;

(d) whether the Vanjari community is included in the group of the backward classes together with the depressed classes and the aboriginal tribes in the Report of the Depressed Classes and Aboriginal Tribes Committee ;

(e) whether the members of the community represented that they should be included in the said group also ?

The Honourable Mr. W. F. HUDSON : (a) The Wanjaris were declared to be a Maratha caste on 13th July 1926 by orders of Government issued under the provisions of rule 2 (f) of the Bombay Electoral Rules.

(b) A petition to His Excellency the Governor praying that Wanjaris be notified as a Maratha caste under rule 2 (f) of the Bombay Electoral Rules was made by Rao Saheb Manaji, J.P., and others on behalf of the Vanjari community of the Bombay Presidency.

(c) The petition was signed by Rao Saheb Manaji Rajuji for self and for V. S. Dongre and others.

(d) Yes.

(e) No.

Rao Bahadur S. K. BOLE : Why is it that the Vanjari community is included in both the groups—Maratha and allied castes, as well as the Depressed Classes and Aboriginal Tribes ?

The Honourable Mr. W. F. HUDSON : They were included among the Depressed Classes because they were notified as a Criminal Tribe in 1916, and it was the practice to include all criminal tribes among the Depressed Classes, because it was understood that they required special help. They were included among the Marathas later on a representation, as I understand, from the leaders of the community.

Rao Bahadur S. K. BOLE: Can one community come under two groups?

The Honourable Mr. W. F. HUDSON: I admit the anomaly, but I have not been able to solve it. If notice is given I shall try to find out the solution.

RIGHTS OF THE MEMBERS OF THE EAST INDIA COTTON ASSOCIATION.

* Rao Saheb B. G. DESAI (Kaira District): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether it is a fact that only 90 representative members out of the whole body of Members of more than 350 are alone entitled to exercise the rights and privileges of Members, while the rest are debarred from enjoying even ordinary prerogatives such as participating in the deliberations, voting, etc.;

(b) whether Government are aware that under the definitions of—

- (1) Ordinary General Meeting,
- (2) Extraordinary General Meeting,
- (3) General Meetings,

as laid down in the articles of associations of the East India Cotton Association, the general and ordinary rights of Members under the common law have been denied and curtailed;

(c) if so, whether the definitions are in consonance with the main principles of the Indian Companies Act under which the East India Cotton Association has been incorporated and registered;

(d) whether Government are aware that the provisions of the Indian Companies Act have been made applicable to the adoption of all kinds of resolutions, whether ordinary, special or extraordinary, and their confirmation, etc.;

(e) if so, why the East India Cotton Association has been allowed the special privilege to exclude $\frac{3}{4}$ th of the general body of members on the roll from exercising their very fundamental and elementary rights such as participating in the proceedings of the aforesaid meeting?

The Honourable Sir GHULAM HUSSAIN: (a) and (b) No. The Honourable Member is referring to the old articles of association which were revised with the sanction of Government in 1931. The new articles of association came into force from 1st April 1932, under which the rights and privileges of members are exercised by the authorised representative of every member of the Association.

(c) and (e) Do not arise.

(d) Yes.

CO-OPERATIVE CREDIT SOCIETIES.

* Mr. L. R. GOKHALE (Poona City): Will the Honourable Minister for Education be pleased to state—

(a) the number of co-operative credit societies that have gone into liquidation in the Poona District during the last ten years and the

liabilities of these societies and the amounts returned to the creditors of these societies and the balances due to them ;

(b) whether Government are aware that the management in some of the co-operative credit societies has been unsatisfactory and the faith of the people in such societies is very much shaken ;

(c) if so, what steps they propose to take to establish the co-operative credit societies on a sound basis and to restore confidence about them in the people ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) During the last ten years ending 31st March 1932, 47 co-operative credit societies in the Poona District went into liquidation. The liabilities of these societies amounted to Rs. 6,32,072, of which Rs. 2,67,818 were returned to the creditors of these societies and a balance of Rs. 3,64,254 still remains.

(b) and (c) It is true that the management of some of the co-operative credit societies has not been altogether satisfactory but such cases are not very numerous. Whenever necessary, suitable measures for the improvement of such societies are being taken by the Co-operative Department and societies which are beyond the hope of improvement are wound up.

Mr. L. R. GOKHALE : Out of the liabilities of about Rs. 3,64,254, what amount is likely to be recovered ?

The Honourable Dewan Bahadur S. T. KAMBLI : I cannot say off-hand now.

Mr. L. R. GOKHALE : Is there any record in the office showing what are the probabilities—roughly speaking ?

The Honourable Dewan Bahadur S. T. KAMBLI : If notice is given, I shall find it out.

Mr. L. R. GOKHALE : Are Government aware that very little of this amount is possible of being recovered ?

The Honourable Dewan Bahadur S. T. KAMBLI : I do not know ; I am not aware of that.

Mr. L. R. GOKHALE : With regard to the reply to (b) and (c) it is stated that "suitable measures for the improvement of such societies are being taken by the Co-operative Department, and societies which are beyond the hope of improvement are wound up". May I know what the suitable measures adopted by Government are ?

The Honourable Dewan Bahadur S. T. KAMBLI : Improvement or winding up ; improvement, in cases where they are capable of being improved, and winding up in cases where they are beyond any hope of improvement.

Mr. L. R. GOKHALE : As regards winding up, it is clear. But as regards improvement, may I know the concrete steps taken by Government ?

The Honourable Dewan Bahadur S. T. KAMBLI: They are asked to improve their condition by being more careful, more strict, and more vigilant in their working, management and control, etc.

Mr. L. R. GOKHALE: Are Government taking any steps to help them in money matters?

The Honourable Dewan Bahadur S. T. KAMBLI: I am not aware of any such help being invoked by these societies.

EXCISE SUPERINTENDENTS: TRANSFER OF DUTIES TO COLLECTORS.

* Mr. N. N. PATIL (Kolaba District): Will the Honourable the Minister for Education be pleased to state—

(a) the excise revenue of the various districts in the Presidency for the year 1932;

(b) the annual administrative cost of the posts of Excise Superintendents;

(c) whether it is a fact that the excise auctions, collections of excise dues, opening or abolition of excise booths and shops, etc., are mostly carried out through the agency of the Revenue Department;

(d) the objections, if any, to hand over the Excise Superintendents' duties to the Collectors of the districts concerned, where the work of the district is light?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) A statement showing the total excise revenue realized in each of the districts in the Presidency, including Sind, during the year 1931-32 is placed on the Council Table.

(b) The total annual average cost of the post of a Superintendent of Excise amounts to Rs. 6,852.

(c) The Collector is responsible for deciding what licenses are to be given and to whom and on what terms they are to be given, but the Superintendent is responsible for supplying all the material and information required and making all the enquiries necessary to enable him to come to a decision. Excise revenue is actually recovered by the Revenue Department just as Land, Irrigation, Stamp and other revenues are, but the Superintendent is responsible for all the detailed work of excise revenue administration and also for the control of the excise staff for purposes of pay, discipline, etc.

(d) The whole organisation of the Department is based on the principle that the detailed work of administration should be entrusted to special officers who can devote their whole time and attention to it. That being so, it is not practicable to adopt a different form of organization for one or two light districts. All Superintendents' charges consist of two or more districts and a light district can be administered best by combining it with adjoining districts for Excise purposes to form a suitable Superintendent's charge.

Statement showing the total Excise revenue realized in each of the districts in the Presidency during the year 1931-32.

Presidency proper.

Name of District.	Revenue realized.		
	British District.	Indian State.	Total.
	Rs.	Rs.	Rs.
Ahmedabad	17,50,412	46,271	17,96,683
Kaira	4,05,476	42,562	4,48,038
Panch Mahals	1,64,903	64,946	2,29,849
Broach	7,22,726	10,024	7,32,750
Surat	21,59,683	64,172	22,23,855
Thana	15,50,752	36,476	15,87,228
Bombay Suburban District	8,79,363	....	8,79,363
Bombay	1,06,88,830	24,431	1,07,13,261
Kolaba	5,11,586	11,583	5,23,169
Ratnagiri	7,47,839	....	7,47,839
Kanara	3,05,280	....	3,05,280
Dharwar	10,58,461	67,322	11,25,783
Belgaum	7,32,808	1,49,144	8,81,952
Bijapur	3,97,250	17,114	4,14,364
Sholapur	9,88,663	62,348	10,51,011
Satara	4,83,337	1,21,653	6,04,990
Poona	24,23,659	75,207	24,98,866
Ahmednagar	5,40,427	....	5,40,427
Nasik	7,28,442	516	7,28,958
West Khandesh	6,42,502	....	6,42,502
East Khandesh	6,95,202	....	6,95,202
Total	2,85,77,601	7,93,769	2,93,71,370*

* Besides Rs. 2,93,71,370, Rs. 9,67,989 were realized from the Government Central Distillery at Nasik Road.

Name of District.	Sind.			Revenue realized :
				British District.
				Rs.
Karachi	11,65,795
Hyderabad	5,28,490
Nawabshah	1,54,310
Thar Parkar	82,070
Sukkur	4,62,923
Larkana	1,92,799
Upper Sind Frontier	71,375
Dadu	2,32,998
Total				28,90,760†

† Besides Rs. 28,90,760, Rs. 1,02,888 were realized from gain on sale proceeds of country liquor.

THE BHIWANDI PEOPLE'S CO-OPERATIVE BANK : ARBITRATION CASES.

* Mr. SHANKARRAO JAYARAMRAO ZUNZARRAO (Thana and Bombay Suburban Districts): Will the Honourable the Minister for Education be pleased to state—

(a) whether it is a fact that some arbitration cases of the Bhiwandi People's Co-operative Bank were referred to Professor V. G. Dalvi for disposal;

(b) whether Professor Dalvi is one of the arbitrators nominated by the Government for the Thana District;

(c) if not, why these cases were referred to him, and not to any of the Government nominees for the Thana District;

(d) whether Government have taken steps in the light of the remarks made by Professor Dalvi in the arbitration award? If not, why not?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) Yes.

(b) No.

(c) The cases arising out of a dispute between the parties concerned were of a complicated nature and required special treatment. It was, therefore, in the interests of both the Bhiwandi People's Co-operative Bank and the other parties concerned that they were entrusted to Mr. V. G. Dalvi, B.A., LL.B. (Cantab.), Bar-at-Law, J.P., Principal, Government Law College, and Secretary of the Bar Association, as he was considered to be eminently fitted for this work owing to his high qualifications and legal acumen.

(d) The necessary steps to wind up the affairs of the Bank have already been taken.

Mr. N. N. PATIL: With regard to (c), I want to know whether all these high qualifications possessed by Mr. Dalvi were quite essential for an arbitrator and whether the arbitrators nominated by the Government for the Thana District could not have coped with the work?

The Honourable Dewan Bahadur S. T. KAMBLI: On account of the peculiar circumstances of the case, and especially on account of its complicated nature, this particular gentleman was chosen.

Mr. N. N. PATIL: That gentleman was not nominated for the Thana District. Why should the work go to him who did not belong to the Thana District?

The Honourable Dewan Bahadur S. T. KAMBLI: On account of the complicated nature of the case, it was thought necessary to appoint him.

Dr. M. K. DIXIT: Was it because he did not belong to the Thana District that the work was entrusted to him?

The Honourable Dewan Bahadur S. T. KAMBLI: The reasons are given in the printed reply, and they are very clear. I do not think it necessary to add to those reasons.

**BASSEIN MUNICIPALITY: MISTAKE IN PUBLICATION OF THE
NAME OF NOMINATED MEMBER.**

* Mr. SHANKARRAO JAYARAMRAO ZUNZARRAO (Thana and Bombay Suburban Districts): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether there was a mistake in the *Bombay Government Gazette* in publishing the surname of one of the nominated members of the Bassein Municipality, Mr. Patil as Mr. Raut;

(b) if so, who committed the mistake and whether the mistake does not show that the office which recommended Mr. Patil had no proper information about Mr. Patil;

BOMBAY LEGISLATIVE COUNCIL DEBATES.

CORRECTION SLIP.

In Vol. XXXVI of the Bombay Legislative Council Debates, after page 575, insert the following additional Questions and Answers :—

DEPUTY AND UNDER SECRETARIES TO GOVERNMENT : APPOINTMENT OF SINDHIS.

Mr. HAJI MIR MAHOMED BALOCH (Karachi City): Will the Honourable the Revenue and Finance Member be pleased to state—

(1) the qualifications of Mr. Fernandes, Under Secretary to Government, General Department;

(2) in what parts of the Presidency he served and what his experience and length of service were before joining the Secretariat;

(3) what his special qualifications were for being selected to the post of Under Secretary in preference to other senior persons;

(4) whether Government are aware that during his tenure of office as Under Secretary to Government he has been showing special considerations with regard to promotions, etc., to persons of his own community by making supersessions of other clerks under him;

(5) the reasons why no officer from Sind is appointed to any of the posts of Deputy or Under Secretaries in the Secretariat;

(6) whether Sind is not entitled to one-fourth of the posts?

The Honourable Sir GHULAM HUSSAIN : (1) and (3) Mr. Fernandes, Under Secretary to Government, General Department, is a B.A. and has had special experience of work connected with local self-Government as Assistant Commissioner, Central Division. He was selected because his record showed that he was eminently suited to the post.

(2) He served in Poona and Bombay and had put in nearly 18 years' service before he joined the Secretariat.

(4) No. Promotions and punishments in the General Department are made by the Secretary under the general control of the Honourable Member for the General Department, not by the Under Secretary.

(5) and (6) Suitable officers of the Indian Civil Service and the Provincial Civil Service are appointed to the posts of Deputy and Under Secretaries. The cadres of these services are not separate for the Presidency and Sind.

COURT OF WARDS : MINOR V. S. B. HONNAKERI'S ESTATE.

Mr. G. S. GANGOLI (Kanara District): Will Government be pleased to state—

- (a) whether minor Venkatramana Subraya Bhatta Honnakari, taluka Kumta, district Kanara, is a ward of the Collector of Kanara ;
 (b) if so, the net income of his estate after paying off assessment and all charges of management during each of the last five years, viz. 1927 to 1931 ;
 (c) the amount of assessment paid by him in the village of Nagur ;
 (d) who is his tenant for the village ;
 (e) what is his income from the village ;
 (f) whether his tenant is the Patel of the village ;
 (g) what is the amount of rent in arrears, if any, and for what years ;
 (h) the amount of charges of administration fees, clerk's fees, audit fees, and other sundry expenses incurred annually for the management of his estate ;
 (i) whether it is a fact that the assessment for the village of Nagur has to be paid out of cash certificates held by the minor ?

The Honourable Sir GHULAM HUSSAIN : (a) Yes.

	Rs.	a.	p.
(b) 1926-27	500	0	4
1927-28	34	7	9
1928-29	642	12	11
1929-30	No income as the expenditure exceeded the income by Rs. 353-4-9.		
1930-31	No income as the expenditure exceeded the income by Rs. 416-7-3.		

(c) Rs. 566-3-6.

(d) (i) Venkatraman Narshinh Bhat.

(ii) Venkatraman Kuppa Madival.

(e) Rs. 15-4-6 (net).

(f) One of the tenants is the Patel of Nagur.

(g) Rs. 380-0-0 for the year 1930-31 for the recovery of which steps have already been taken.

	Rs.	a.	p.
(h) (i) Management fees	Nil.
(ii) Clerk's pay	180 0 0
(iii) Audit fees	30 0 0
(iv) Sundry expenses	10 0 0
Total	220 0 0

Note.—These figures relate to the year 1930-31.

(i) No.

REVENUE OR MAMLATDARS' COURTS : PLEADERS' ROOMS AND WITNESS SHEDS.

Mr. G. S. GANGOLI (Kanara District): Will the Honourable the Revenue and Finance Member be pleased to state—

- (a) whether in any of the mamlatdars' offices or revenue courts in the presidency, provision has been made for seating accommodation for the pleaders; if so, in how many offices, and what are the reasons for not making similar provision in the case of the rest of the offices;
- (b) the number of such offices or courts having witness sheds;
- (c) whether it is a fact that there is no seating arrangement made in any of the witness sheds and that the flooring therein is in a bad state of repairs?

The Honourable Sir GHULAM HUSSAIN: (a) and (b) Statements containing the necessary information are placed on the Council table. It is presumed that (a) refers to the provision of pleaders' rooms.

(c) Except in the witness shed in the Collector's office at Karwar in the Kanara District no seating arrangement is provided in any of the witness sheds in districts in the Northern, Central and Southern Divisions. The flooring of witness sheds at some places in the Ahmedabad, Kaira, Satara, Poona, Belgaum, Kanara and Bijapur districts is reported to be not in good condition. Otherwise the flooring of these sheds elsewhere is reported to be generally in a good state of repairs.

(a) Number of offices in which provision for seating accommodation for pleaders has been made in different districts.

Northern Division.	
District.	Number of offices.
Ahmedabad	4
Kaira	0
Panch Mahals	1
Broach	2
Surat	1
Thana	6

In several cases where no seating accommodation is provided the pleaders are allowed to sit in the Mamlatdar's or clerks' offices or in the verandahs of the courts.

Central Division.	
District.	Number of offices.
Ahmednagar	10
Poona	3
Sholapur	3
Satara	4
Nasik	4
East Khandesh	3
West Khandesh	3
Bombay Suburban District	0

* The Collector reports that there is no need in his district for provision of separate seating accommodation for pleaders.

In places where there are Civil Courts, the Pleaders' rooms in those courts are often situated in close proximity to the Revenue Courts and no necessity for separate Pleaders' rooms in the Revenue Courts is therefore felt in such cases.

Southern Division.

Except in seven offices in the Ratnagiri District in no offices in the Southern Division have waiting rooms been specially set apart for the use of pleaders. Everywhere seating accommodation for pleaders is found in the office rooms. There are no general complaints regarding the lack of provision of separate pleaders' rooms. Such separate rooms cannot be provided, where they do not exist already, owing to financial reasons.

(b) Number of offices having witness sheds in different districts.

Northern Division.

District.	Number of offices.
Ahmedabad	6
Kaira	7
Panch Mahals	5
Broach	7
Surat	5
Thana	11

Central Division.

Ahmednagar	12
Poona	11
Sholapur	5
Satara	9
Nasik	11
East Khandesh	14
West Khandesh	8
Bombay Suburban District	1*

* In the South Salsette Mamlatdar's office, the verandah is used as witness shed. In the Ambarnath office there is no witness shed. As the taluka is very small and there is no magisterial work, witnesses very rarely attend.

Southern Division.

District.	Number of offices.
Ratnagiri	4
Kolaba	5
Belgaum	7
Kanara	10
Bijapur } Dharwar }	Except at Muddebihal in the Bijapur District, all revenue offices in these districts have witness sheds.

TOWN PLANNING SCHEME, KARACHI NO. II: GARDEN QUARTER

Mr. GOVER RORA (Karachi City): Will the Honourable Minister for Local Self-Government be pleased to state—

(1) when the town planning scheme, Karachi No. II, Garden Quarter, was proposed by the Karachi Municipality and sanctioned by Government;

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	1922-23—contd.					
7	Assistant Master, Training School, Naushahro Feroze.	..	..	..	1	
8	Head Master, Training School, Larkana.	..	..	..	1	
9	Assistant Masters, Training School, Larkana.	..	..	..	3	
10	Assistant Master, High School, Hyderabad.	..	..	..	1	
11	Head Master, Training School, Shikarpur.	..	..	..	1	
12	Assistant Masters, Training School, Shikarpur.	..	..	..	2	
13	Assistant Master, High School, Belgaum.	..	..	..	1	
14	Drawing Master, Urdu Training School, Poona.	..	..	..	1	
15	Drawing Master, Government Middle School, Surat.	..	..	..	1	
16	Gymnast, Government Middle School, Surat.	..	..	..	1	
17	Assistant Masters, P. R. Training College for Men, Ahmedabad.	..	..	..	3	
18	Drawing Master, Girls' High School, Ahmedabad.	..	..	..	1	
19	Assistant Master, High School, Surat.	..	..	..	1	
20	Assistant Master, High School, Godhra.	..	..	..	1	
21	Assistant Master, High School, Broach.	..	..	..	1	
22	Assistant Masters, Elphinstone Middle School, Bombay.	..	..	..	11	
23	Drawing Masters, Elphinstone Middle School, Bombay.	..	..	..	2	
24	Language Teachers, Elphinstone Middle School, Bombay.	..	..	..	2	
25	Clerk, Educational Inspector, Southern Division.	..	..	..	1	
26	Head Clerk, Medical Inspector of Schools in Sind.	..	..	..	1	

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	1922-23—concl'd.					
27	Assistant Master, High School, Dhulia.	..	..	..	1	
28	Clerk, Medical Inspector of Schools in Sind.	..	..	..	1	
29	Clerk, Deputy Educational Inspector, Mulla Schools, Hyderabad.	..	..	..	1	
30	Clerk, Educational Inspector, Central Division.	..	..	..	1	
31	Clerk, Educational Inspector, Northern Division.	..	..	..	1	
32	Clerk, P. R. Training College for Men, Ahmedabad.	..	..	..	1	
33	Clerks, Medical Inspector of Schools, Northern Division.	..	..	..	2	
34	Clerk, Elphinstone Middle School, Bombay.	..	..	..	1	
35	Clerk, Deputy Educational Inspector for Mulla Schools, Larkana.	..	..	..	1	
36	Clerk, Deputy Educational Inspector for Mulla Schools, Sukkur.	..	..	..	1	
37	Assistant Masters, P. R. Training College for Men, Ahmedabad (Urdu Side).	..	..	..	2	
38	Gymnast, Deccan College, Poona.	..	..	..	1	
39	Assistant Master, High School, Ratnagiri.	..	..	..	1	
40	Assistant Masters, Elphinstone High School, Bombay.	..	..	..	7	
41	Assistant Master, High School, Sholapur.	..	..	..	1	
42	Clerks, Medical Inspectors of Schools, Bombay Division and Bombay City.	..	..	..	3	
43	Clerks, Medical Inspectors of Schools, Central Division.	..	..	..	2	
44	Clerks, Medical Inspectors of Schools, Southern Division.	..	..	..	2	
	Total ..	..	1	..	72	

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	<i>1923-24.</i>					
1	Personal Assistant to Educational Inspector, Southern Division.	1	..	..	..
2	Lecturer in Mathematics, S. T. College, Bombay.	1	..	..	..
3	Assistant Master, Training College for Men, Dharwar.	..	..	..	1	
4	Assistant Master, Training College for Men, Hyderabad.	..	..	..	1	
5	Head Master, Training School, Broach.	..	..	..	1	
6	Head Master, Training School, Nadiad.	..	..	..	1	
7	Assistant Mistress, Girls' High School, Ahmedabad.	..	..	..	1	
8	Assistant Masters, High School, Belgaum.	..	..	..	4	
9	Assistant Master, High School, Bijapur.	..	..	..	1	
10	Head Master, Training School, Surat.	..	..	..	1	
11	Assistant Masters, Training College for Men, Dharwar.	..	..	..	6	
12	Kanarese Pandit, Training College for Men, Dharwar.	..	..	..	1	
13	Persian Teacher, Training College for Men, Dharwar.	..	..	..	1	
14	Drawing Teacher, Training College for Men, Dharwar.	..	..	..	1	
15	Music Teacher, Training College for Men, Dharwar.	..	..	..	1	
16	Gymnast, Training College for Men, Dharwar.	..	..	..	1	
17	Head Master, Urdu Training School, Hubli.	..	..	..	1	
18	Assistant Masters, Training College for Men, Hyderabad.	..	..	..	6	
19	Mistry, Training College for Men, Hyderabad.	..	..	..	1	
20	Drawing Teacher, Training College for Men, Hyderabad.	..	..	..	1	

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
<i>1923-24—contd.</i>						
21	Gymnast, Training College for Men, Hyderabad.	..	..	..	1	
22	Assistant Masters, Training School, Broach.	..	..	..	2	
23	Assistant Masters, Training School, Nadiad.	..	..	..	2	
24	Assistant Masters, Training School, Surat.	..	..	..	2	
25	Clerks, Training College for Men, Dharwar.	..	..	..	2	
26	Clerk, Anglo-Vernacular Girls' School, Dharwar.	..	..	..	1	
27	Clerk, Inspectress of Girls' Schools, Southern Division.	..	..	..	1	
28	Clerk, Training College for Men, Hyderabad.	..	..	..	1	
29	Clerk, Training College for Men, Poona.	..	..	..	1	
30	Clerk, Training College for Men, Ahmedabad.	..	..	..	1	
31	Clerk, Anglo-Vernacular Girls' School, Thana.	..	..	..	1	
32	Assistant Masters, High School, Dharwar.	..	..	..	3	
33	Assistant Master, High School, Dhulia.	..	..	..	1	
34	Assistant Master, High School, Sholapur.	..	..	..	1	
	Total ..	2	..	..	51	
<i>1924-25.</i>						
1	Gymnast, Training College for Men, Poona.	..	..	..	1	
2	Assistant Master, Training College for Men, Dhulia.	..	..	..	1	
3	Drawing Teacher, Anglo-Vernacular Girls' School, Thana.	..	..	..	1	
4	Head Master, Training School, Sholapur.	..	..	..	1	
5	Assistant Masters, Training School, Sholapur.	..	..	..	2	

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	<i>1924-25—contd.</i>					
6	Head Master, Training School, Jalgaon.	..	..	..	1	
7	Assistant Masters, Training School, Jalgaon.	..	..	..	2	
8	Clerk, Deputy Educational Inspector, Bijapur.	..	..	..	1	
9	Head Clerk, Training College for Men, Dharwar.	..	..	..	1	
10	Clerk, Deputy Educational Inspector, Bombay.	..	..	..	1	
11	Head Master, Training School, Umbergaon.	..	..	..	1	
12	Assistant Masters, Training School, Umbergaon.	..	..	..	2	
	Total ..	..	..	..	15	
	<i>1925-26.</i>					
1	Inspector of Night Schools, Southern Division.	..	..	..	1	
2	Inspector of Night Schools, Central Division.	..	..	..	1	
3	Matron, Mahalaxmi Training College for Women, Ahmedabad.	..	..	..	1	
4	Assistant Master, Urdu Training School, Ahmedabad.	..	..	..	1	
	Total ..	..	..	..	4	
	<i>1926-27.</i>					
1	Lecturer in Mechanical Engineering, College of Engineering, Poona.	1	..	..	..
2	Demonstrator in Zoology, Gujarat College, Ahmedabad.	..	..	..	1	
3	Hostel Superintendent, Gujarat College, Ahmedabad.	..	..	..	1	

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	<i>1926-27—contd.</i>					
4	Special Assistant Deputy Educational Inspector for Depressed Classes, Poona, Satara and Sholapur.	..	..	..	1	
5	Assistant Master, High School, Karwar.	..	..	..	1	
6	Assistant Masters, N. J. High School, Karachi.	..	..	..	4	
7	Drawing Teacher, Anglo-Vernacular Girls' Middle School, Ahmednagar.	..	..	..	1	
8	Music and Sewing Teacher, Anglo-Vernacular Girls' Middle School, Ahmednagar.	..	..	..	1	
	Total ..	1	..	..	10	
	<i>1927-28.</i>					
1	Deputy Educational Inspector for Marathi Schools, Bombay.	1	..	..	..
2	Assistant Lady Superintendent and Head Mistress, Training College for Women and Anglo-Vernacular Girls' School, Dharwar.	1	..	..	..
3	Sanskrit Teacher, Decan College, Poona.	..	..	..	1	
4	Assistant Lecturer in Persian, Karnatak College, Dharwar.	..	..	..	1	
5	Assistant Master, High School, Sholapur.	..	..	..	1	
6	Assistant Masters, N. J. High School, Karachi.	..	..	..	5	
7	Assistant Master, High School, Nasik.	..	..	..	1	
8	Head Master, Training School, Ahmednagar.	..	..	..	1	
9	Assistant Masters, Training School, Ahmednagar.	..	..	..	2	
10	Head Master, Training School, Ratnagiri.	..	..	..	1	
11	Assistant Masters, Training School, Ratnagiri.	..	..	..	2	

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	<i>1927-28—contd.</i>					
12	Gymnast, Karnatak College, Dharwar.	..	..	..	1	
13	Drawing Teacher, Anglo-Vernacular Girls' School, Dharwar.	..	..	..	1	
	Total ..	2	..	..	17	
	<i>1928-29.</i>					
1	Assistant Master, N. J. High School, Karachi.	..	..	..	1	
2	Assistant Master, B. J. High School, Thana.	..	..	..	1	
3	Clerk, Deputy Educational Inspector, Urdu Schools, Southern Division.	..	..	..	1	
	Total ..	..	..	..	3	
	<i>1929-30.</i>					
1	Deputy Educational Inspector, Thar and Parkar.	1	..	..	..
2	Assistant Master, N. J. High School, Karachi.	..	..	..	1	
	Total ..	1	..	..	1	
	<i>1930-31.</i>					
1	Deputy Educational Inspector, Thana.	1	..	..	..
2	Deputy Educational Inspector, Kolaba.	1	..	..	..
3	Deputy Educational Inspector, Nasik.	1	..	..	..
4	Deputy Educational Inspector, Satara.	1	..	..	..
5	Deputy Educational Inspector, Ahmednagar.	1	..	..	..
6	Deputy Educational Inspector, East Khandesh.	1	..	..	..
7	Deputy Educational Inspector, West Khandesh.	1	..	..	..
8	Deputy Educational Inspector, Surat.	1	..	..	..

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	<i>1930-31—contd.</i>					
9	Deputy Educational Inspector, Panch Mahals.	1	..	..	..
10	Deputy Educational Inspector, Dharwar.	1	..	..	..
11	Deputy Educational Inspector, Belgaum.	1	..	..	..
12	Deputy Educational Inspector, Kanara.	1	..	..	..
13	Deputy Educational Inspector, Karachi.	1	..	..	..
14	Deputy Educational Inspector, Sukkur.	1	..	..	..
15	Deputy Educational Inspector, Nawabahah.	1	..	..	..
16	Deputy Educational Inspector, Upper Sind Frontier.	1	..	..	..
17	Assistant Principal, Elphinstone High School, Bombay.	1	..	..	..
18	Professor of Mathematics, Elphinstone College, Bombay.	1	..	..	..
19	Professor of Botany Royal Institute of Science, Bombay.	1	..	..	..
20	Lecturer in Plant Physiology, Royal Institute of Science, Bombay.	1	..	..	..
21	Head Master, Training School, Satara.	..	..	..	1	
22	Assistant Masters, Training School, Satara.	..	..	..	2	
23	Clerks, Inspector of Science Teaching, Bombay Presidency.	..	..	..	2	
	Total ..	20	..	..	5	
	<i>Abstract.</i>					
	1922-23 ..	..	1	..	72	
	1923-24 ..	2	..	..	51	
	1924-25 ..	..	..	..	15	
	1925-26 ..	..	..	..	4	
	1926-27 ..	1	..	..	10	
	1927-28 ..	2	..	..	17	
	1928-29 ..	..	..	..	3	
	1929-30 ..	1	..	..	1	
	1930-31 ..	20	..	..	5	
	Total' ..	26	1	..	178	

APPLICATION OF THE MUSSALMAN WAKF ACT TO THE DAWOODI
BOHRA COMMUNITY.

Mr. C. N. PATEL (Kaira District): Will the Honourable the Minister for Education be pleased to state whether in view of the debate on the resolution of Mir Mahomed Baloch at the last Session of the Legislative Council, Government still intend to adhere to their orders regarding the application of the Mussalman Wakf Act to the Dawoodi Bohra Community, issued by them in October 1931?

The Honourable Dewan Bahadur S. T. KAMBLI: Yes.

SUPERINTENDENTS OF EXCISE: TRANSFER OF DUTIES
TO COLLECTORS.

Mr. A. N. SURVE (Bombay City, North): Will the Honourable the Minister for Education be pleased to state—

- (a) the total annual cost of the post of a Superintendent of Excise;
- (b) what difficulties there are in the way of Government in handing over the work of that post to the Collector of the district concerned in those districts in which the work is light;
- (c) whether it is the intention of Government to transfer, as a measure of economy, the work of that post to the Collectors concerned, where it is possible?

The Honourable Dewan Bahadur S. T. KAMBLI: (a) The honourable member is referred to the reply* given to clause (b) of Mr. Patil's question on the subject.

(b) The honourable member is referred to the reply* given to clause (d) of Mr. Patil's question on the subject.

(c) No. Government do not consider that such transfer of the work of the Superintendents to Collectors would be a measure of real economy.

* Printed in the Debates of 2nd December 1932.

- (2) to what extent the land market fluctuated between the date of proposal and sanction and the date of proceedings before the tribunal ;
- (3) when the scheme will be carried out ;
- (4) what the further deduction in the prices of land will be ;
- (5) when plots Nos. 3 and 6 Sheet 1-14 were subdivided with the approval of Government ;
- (6) whether it is a fact that separate sanads were issued by Government for the several subdivided plots and for cultivation purposes ;
- (7) whether it is a fact that the owners left out 14,009 square yards for roads in the plans for subdivisions ;
- (8) whether under the town planning scheme there is any reconstitution of the subdivided plots ;
- (9) whether it is a fact that the whole town planning scheme ends with these plots as the eastern boundary and not a bit of the vast land lying to the east of plots Nos. 3 and 6, 1-14 is planned out or improved ;
- (10) whether the tribunal has assessed compensation ;
- (11) whether it is a fact that after the proposed scheme came into existence the Jamshed Quarter and Housing Societies have sprung up and the need for development of Garden Quarter has considerably disappeared ;
- (12) whether it is a fact that the several subdivided plots of Nos. 3 and 6, 1-14 have been sold away and the original holder is being made to pay Rs. 5,424 ?

The Honourable Sirdar Sir RUSTOM J. VAKIL : (1) The intention to make the Town Planning Scheme was declared by the Karachi Municipality on 8th June 1925.

The draft scheme was sanctioned by Government on 8th August 1929.

(2) There was a considerable drop in land values between the two dates, but the values of land, both undeveloped and developed in a Town Planning Scheme, have under section 17 of the Town Planning Act, 1915, to be estimated as at the date of declaration of the intention to prepare the scheme, viz. 8th June 1925.

(3) The final scheme is expected to be received by Government from the Arbitrator for sanction shortly. When the sanction of Government is given the execution of the scheme will commence in about 3 or 4 months.

(4) Presumably the Honourable Member refers to further depreciation in land values ; if so, it cannot be foretold.

(5) The subdivision of the two plots was approved by the Revenue authorities in 1926.

(6) Sanads for the subdivided portions have not yet been issued as they have not been applied for.

(7) Yes.

(8) Three out of 25 of the subdivided plots have been reconstituted under the Town Planning Scheme and 16 of them have been developed by the provision of a 100 feet through road as well as by subsidiary roads under the scheme.

- (9) No. The Town Planning Scheme extends up to the new Jail.
- (10) No. The assessment of compensation is outside the purview of the Tribunal of Arbitration.
- (11) No.
- (12) Only one out of the four original owners, who has retained for himself nearly half the area in the best possible situation on a proposed 100 feet road, has to pay the major portion of the revised contributions, which amount to Rs. 3,661 and not Rs. 5,424, as estimated in the draft scheme.

ROAD DEVELOPMENT FUND: EXPENDITURE ON ROADS.

Mr. J. HUMPHREY (Karachi Chamber of Commerce): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware that before the close of the financial year 1931-32, Rs. 37,10,000 had been received by the Government of Bombay from the Road Development Fund, but that only Rs. 5,12,000 were reported to have actually been spent up to the 30th September 1931;

(b) what steps are being taken to expedite the expenditure of these funds on the schemes for which the Central Standing Committee for Roads have authorised grants;

(c) when Government propose to reimburse the Rs. 16,00,000 which have been borrowed from this fund?

The Honourable Sirdar Sir RUSTOM J. VAKIL: (a) Yes; expenditure up to the 30th September 1931 was Rs. 5,25,000.

(b) Every effort is being made by the local Public Works Department officers to expedite the expenditure.

(c) No definite statement can be made as it depends upon the financial situation of Government.

REVENUE QUALIFYING EXAMINATION: STUDY LEAVE.

Mr. N. E. NAVLE (Ahmednagar District): Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether it is a fact that the candidates appearing for the Revenue Qualifying examination are allowed only two chances to pass the examination;

(b) whether Government are aware that the efficiency of the department improves and that there are less chances of mistakes being committed in the disposal of work when the candidates have passed the qualifying examination;

(c) whether it is a fact that necessary leave required by a candidate for preparing himself for the examination is often refused, even though such leave may be due to him;

(d) whether, as a result, candidates, though permitted to appear for the examination, are often compelled to take leave on medical certificates or without pay;

(e) if so, whether Government intend to issue orders to the Collectors to consider such applications for leave sympathetically ?

The Honourable Sir GHULAM HUSSAIN : (a) Yes, but a candidate is allowed to appear for the examination more than twice with the special sanction of the Commissioner.

(b) Yes.

(c) No. In the few cases in which leave was refused there were adequate reasons for doing so such as administrative inconvenience or financial stringency.

(d) It is only in rare cases that such candidates take leave without pay. Government are not aware of any cases in which such persons have taken leave on medical certificates.

(e) Government are satisfied that such applications are already being considered sympathetically and they do not propose to issue orders as suggested.

WAKF PROPERTY IN SURVEY No. 307, SITUATE IN ANKLESHWAR,
DISTRICT BROACH.

Khan Bahadur A. E. PATEL (Northern Division): Will the Honourable the Minister for Education be pleased to state—

(a) whether it is a fact that the whole of the original survey No. 307, measuring 3 acres and 18 gunthas, situate in Ankleshwar, district Broach, was wakf property and recorded as Dewasthan Inam ("Mubarak Pir's Vahivatdar") in Government records ;

(b) whether it is a fact that at the time of revision survey in 1912, the same survey number was divided into two parts, viz. survey No. 358/A, measuring 1 acre and 13 gunthas, and survey No. 358/B, measuring 2 acres and 5 gunthas ;

(c) whether it is a fact that survey No. 358/B, measuring 2 acres and 5 gunthas, was recorded as wakf property (Dewasthan Inam "Mubarak Pir's Vahivat"), whereas survey No. 358/A, measuring 1 acre and 13 gunthas, was cut off and separated from the original survey No. 307 and marked as Government property ; if so, what are the reasons therefor ;

(d) whether there are any objections from the Vahivatdar and Mussalman population of Ankleshwar against the change in the entry of survey No. 358/A and whether there was any Tumar in the matter since 1926 ;

(e) if so, what is the decision of Government in the matter ; if no decision has been arrived at, what are the reasons therefor, and when they expect to arrive at a final decision ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) No.

(b) and (c) The survey number in question was divided into two parts in the year 1901 in proportion to the claims of two sharers. One part of the survey number comprising the area of 2 acres and 5 gunthas was recognised as Dewasthan Inam on the representation of its owner, while

the other part with an area of 1 acre and 13 gunthas was treated as Government land as it was not proved to be Devasthan.

(d) No objections were received for change in the entry of survey No. 358/A before 1926. In the year 1926, however, the owner of survey No. 358/A applied to the Collector for turning it into Devasthan Inam on the analogy of survey No. 358/B.

(e) The enquiry is still in progress and necessary orders will be passed on completion of the enquiry.

RETRENCHMENT IN THE S.E.S. AND B.E.S.

Khan Bahadur A. E. PATEL (Northern Division): Will the Honourable Minister for Education be pleased to state—

(a) the number and names of the posts retrenched during 1930-31 and during the previous 8 years from—

- (i) S.E.S. ordinary,
- (ii) S.E.S. selection and special selection posts, and
- (iii) B.E.S. ?

The Honourable Dewan Bahadur S. T. KAMBH: A statement giving the information asked for is placed on the Council table.

A list showing names of posts retrenched.

No.	Name of post.	Total number of posts retrenched.				Remarks.
		B.E.S.	S.E.S. Special.	S.E.S. Selection grade.	S.E.S. Ordinary.	
1	2	3	4	5	6	7
	<i>1922-23.</i>					
1	Head Master, Elphinstone Middle School, Bombay.	..	1	..	..
2	Sub-Assistant Surgeon, Deccan College, Poona.	..	..	..	1	
3	Assistant Deputy Educational Inspector, Mulla Schools, Hyderabad.	..	..	..	1	
4	Assistant Deputy Educational Inspector, Mulla Schools, Larkana.	..	..	..	1	
5	Assistant Deputy Educational Inspector, Mulla Schools, Sukkur.	..	..	..	1	
6	Head Master, Training School, Naushahro Feroze.	..	..	..	1	

(c) whether it is a fact that Mr. Patil is a follower of Mr. G. D. Vartak, a prominent Congressman in the Thana District;

(d) whether Mr. Patil voted for Pratap, a Congressman, as the President of the Municipality?

The Honourable Sirdar Sir RUSTOM J. VAKIL: (a) Yes.

(b) The mistake—a clerical one—was committed by the Mamlatdar of Bassein. The Mamlatdar had full information regarding Mr. B. H. Patil.

(c) It is not known whether Mr. Patil is a follower of Mr. Vartak, but it is understood that he is a distant relative of the latter.

(d) Yes. Mr. Patil voted in favour of Mr. Pratap.

Mr. J. G. MORE: With regard to (d). Is this Mr. Pratap the same person to whom the Collector granted land on favourable rates?

The Honourable Sirdar Sir RUSTOM J. VAKIL: I am not aware of that.

Mr. J. G. MORE: Two days ago I received a reply that there was a concession of land.

Mr. N. E. NAVLE: When Mr. Patil was nominated to the municipality, was it not known that he was a Congressman?

The Honourable Sirdar Sir RUSTOM J. VAKIL: Where is it stated that he was a Congressman?

Mr. J. G. MORE: It is.

The Honourable Sirdar Sir RUSTOM J. VAKIL: Where? He is only distantly related to a Congressman; that does not warrant the inference that he himself is a Congressman.

Mr. N. E. NAVLE: The answer is there that he did vote in favour of a Congressman.

Moulvi Sir RAFI UDDIN AHMAD: The Congress itself has not been declared an unlawful body.

The Honourable Sirdar Sir RUSTOM J. VAKIL: It has not been.

Mr. G. M. KALBHOR: Is it a fact that the Commissioner of the Division recommended Mr. Raut for nomination to the municipality?

The Honourable Sirdar Sir RUSTOM J. VAKIL: The nominations for small municipalities do not come to Government; they are dealt with by the Commissioners independent of Government.

Mr. L. R. GOKHALE: Is it not a fact that in these local bodies there are many Congressmen, and that they have been sent there by the votes of the people?

The Honourable Sirdar Sir RUSTOM J. VAKIL: Yes.

UNSTARRED QUESTIONS AND ANSWERS.

DIRECTOR OF PUBLIC INSTRUCTION'S OFFICE: REORGANISATION.

Rao Saheb P. D. KULKARNI (Poona District): Will the Honourable the Minister for Education be pleased to state—

(a) the number of officers in the office of the Director of Agriculture, with the monthly salary of each;

(b) the number of clerks drawing pay below Rs. 150 per mensem and their proportion to officers in (a) ;

(c) the proportion of clerks drawing a pay below Rs. 150 per mensem to officers and Heads of Branches in the Director of Public Instruction's office drawing a pay of more than Rs. 150 per mensem ;

(d) whether the proportion in (b) and (c) above is the same ; if not, the reasons therefor ;

(e) whether Government are contemplating reorganisation in the superior staff at the office of the Director of Public Instruction ?

The Honourable Dewan Bahadur S. T. KAMBLI : (a) 2, viz. (i) Director of Agriculture on Rs. 2,250 per mensem in the scale of Rs. 2,000-50-2,250 and (ii) the Personal Assistant to the Director of Agriculture on Rs. 510 per mensem in the scale of Rs. 250-20-750 ;

(b) 29 ; the proportion of the number of clerks drawing pay below Rs. 150 per mensem to the officers mentioned in (a) above and two Heads of Branches who are in the clerical grades drawing pay of more than Rs. 150 per mensem taken together (but exclusive of two Price Inspectors and one Artist who also draw pay of more than Rs. 150 per mensem) is 29 : 4.

(c) 37 : 17.

(d) No ; because the character and amount of work done by the office of the Director of Agriculture and that of the Director of Public Instruction are not identical ;

(e) No.

ALLEGED PAUCITY OF MUSLIM REPRESENTATION IN THE BOMBAY SECRETARIAT.

Khan Bahadur A. E. PATEL (Northern Division) : Will the Honourable the Revenue and Finance Member be pleased to state—

(a) whether Government are aware of the paucity of Muslim representation in the Bombay Secretariat ;

(b) whether there are any Muslim officers holding the posts of Under Secretary or Secretary to Government in any of the departments of the Secretariat ;

(c) if there are any, what are their names and designations ;

(d) if there are none, whether Government intend to remedy this, even to a small extent, by appointing a Muslim Under Secretary ?

The Honourable Sir GHULAM HUSSAIN : (a) Yes.

(b) None.

(c) Does not arise.

(d) These appointments must be made by selection of the most suitable officer, and when a Muslim officer of the Indian Civil Service or Provincial Civil Service having the requisite qualifications is available, Government will appoint him.

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER).

(Clause by clause reading resumed.)

Clause 15—*(Penalty for disobeying other orders under this chapter).*

"Subject to the provisions of section 14, whoever disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of this Chapter or impedes the lawful exercise of any power referred to in this Chapter shall be punishable with imprisonment which may extend to six months, or with fine, or with both."

Mr. G. S. GANGOLI: Sir, before moving my amendment, I would like to know whether Government propose to insert the word "intentionally" in this case also.

The Honourable Mr. W. F. HUDSON: Yes.

Mr. G. S. GANGOLI: If that is moved first, my amendment will not be necessary.

The Honourable Mr. W. F. HUDSON: I am quite willing to move it, if that will facilitate discussion. I move—

In clause 15, between the words "whoever" and "disobeys" insert the word "intentionally".

Question put, and agreed to.

Mr. G. S. GANGOLI: So, I am not moving my first amendment. The second amendment is—

In clause 15, omit the words "or impedes the lawful exercise of any power referred to in this Chapter".

The clause now reads—

"Subject to the provisions of section 14, whoever disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of this Chapter or impedes....."

The word "intentionally" is not here, although it appears in the first part of the clause. Then, I do not know what is meant by "impedes the lawful exercise of any power referred to in this Chapter".

The Honourable Mr. W. F. HUDSON: Sir, I will explain to the honourable member quite well what it means.

Mr. G. DAVIS: Sir, as we have put in the word "intentionally" at the beginning, we do not have to repeat it everywhere. It will mean whoever intentionally disobeys, intentionally neglects to comply with, intentionally impedes. We do not have to repeat the word "intentionally".

Mr. G. S. GANGOLI: That being settled, I would like to know what the meaning of "impedes the lawful exercise of any power" is.

The Honourable Mr. W. F. HUDSON: If I send a police officer to get a motor car and the honourable member locks the door of the garage and stands in front of it, he intentionally impedes.

Mr. G. S. GANGOLI: I am not moving that also.

Dr. M. K. DIXIT (Surat District): Sir, I beg to—

The Honourable the PRESIDENT: I might explain here again, as I did yesterday, in order that there should be no misunderstanding and that the honourable members should follow. The honourable member Dr. Dixit's amendment is "Omit the last two lines and substitute 'simple imprisonment which may extend to one month or with fine not exceeding Rs. 50'." So, there is the question of simple and rigorous imprisonment. That is one. The other is the period, one month, and the third is the question of fine. So although the whole amendment is one it will be put in three parts and they will be put on different counts. The question of simple imprisonment will be taken by itself, then the question of the period of punishment and the duration, and the third will be the fine.

The honourable member Mr. Gangoli desires to amend the section by saying that there should be no fine at all. That would be a separate question apart from the question of the duration of punishment.

Dr. M. K. DIXIT: Sir, I beg to move:

Clause 15, omit the last two lines and substitute "simple imprisonment which may extend to one month or with fine not exceeding Rs. 50".

The Honourable the PRESIDENT: The honourable member is moving the first part referring to simple imprisonment?

Dr. M. K. DIXIT: As you like, Sir. I will move only for simple imprisonment. So, I say the imprisonment should be of a simple nature. I have very little to add to what has been said yesterday, but I do wish to maintain that in spite of the lesson that the Honourable the Home Member wants to teach to the young intelligentsia of this country, viz., the dignity of manual labour, I wish to say, Sir, that jail is the last place where that dignity of manual labour should be taught. There are many other educational institutions where this dignity of manual labour could easily be taught, and there must be, after all, some sense of proportion in meting out punishments to offenders of this nature. I therefore submit that this imprisonment should be of a simple nature rather than rigorous.

The Honourable the PRESIDENT: The amendment moved is:

Clause 15. After the word "with" and before the word "imprisonment" insert the word "simple".

Mr. V. N. JOG (Dharwar District): Sir, I have got in my name the same amendment. With regard to this I wish to observe that we have got section 14, which punishes the offenders under section 4 which are rather heinous offences, but with regard to the offence which is enacted by this section, you will be pleased to see that mostly they will be the offences coming under clause 7 or clause 10 at the most, because when we consider clause 5 and clause 6 there the access is stopped and according to section 13, if anybody tries to enter, even then all the authority which is necessary to stop this access can be taken by Government. Under section 13, "if any person disobeys or neglects to comply with an order made, direction given, or condition prescribed in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or

[Mr. V. N. Jog]

cause to be taken such action as it thinks necessary to give effect thereto". Similarly under that section they have a right to stop and if a man attempts to go there, all the means can be used to stop him from going there. Then the question arises, suppose a man fails to make a return, which under section 7 of this enactment he has to make of vehicles and means of transport owned by him or in his possession, is he to be punished heavily quite out of proportion to his guilt? Clauses 8 and 9 do not come into operation in this Council and under their provisions Government is empowered to intercept letters or telegrams, and nothing further is required. Similarly, when the man is ejected from a train. In short ultimately the punishment is confined to the offences under sections 7 and 10, under clause 15. If the person is not allowed to enter, then under section 13 all the means to stop his ingress can be taken. So, I submit, Sir, in such small ordinary offences, if a man is to be punished there should be some scope to punish him and hard labour is rather very oppressive, and therefore, I submit, any punishment in such cases should be simple. Even in the case of impeding lawful exercise of power referred to in this section, you have punishment of imprisonment. With regard to that, although my honourable friend Mr. Gangoli has not moved that amendment, I think the case of "impeding the lawful exercise" is already provided for in the Indian Penal Code because there is a provision in that Code under which whoever obstructs the exercise by a Government servant of the discharge of his duty can come in. So, I submit, Sir, that such small offences should not be visited with punishment like that of rigorous imprisonment. In view of the amendments to which I am coming later on, I think that even the period which has been mentioned there is too long. In this case, if all these amendments are taken together, the period will not be very long—at least long enough to teach the lesson of dignity of manual labour which the Honourable the Home Member wants to teach these persons—and I think it is not necessary in view of the circumstances that the punishment should be rigorous.

Mr. L. R. GOKHALE (Poona City): Sir, I have an amendment also to the same effect as regards simple imprisonment under section 15. There also the maximum punishment of two years is provided, while in this section it is six months only. That shows clearly that the nature of the offences, even from the point of view of those who have framed this Bill, is not so serious and one-fourth the punishment provided in clause 14 is provided in clause 15. In the Indian Penal Code also, I believe the punishment for one who impedes is only one month simple and a fine of two hundred rupees. That also shows clearly the nature of the offences that we are dealing with. What I propose is to have the same provision extended here, viz., instead of rigorous imprisonment, let it be simple imprisonment. As regards the question of fine, I will deal with it when we come to that amendment.

As regards the character or the nature of the punishment, I believe there can be no two opinions about simple imprisonment versus rigorous imprisonment, as to what the first is and as to what the second is. I was

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certainly pained to read in the papers that the Honourable the Home Member should have been pleased yesterday to describe this as an educative measure for the purpose of teaching the lesson of the dignity of manual labour to those who are taking part in the movement of civil disobedience for the purpose of serving their country, probably in a misguided way. We have been spending amounts of money over education and we have been trying to inculcate the value of manual labour and education in a number of ways, but I am sure during the last thirty years even the Honourable the Home Member has never had it occurred to him to introduce this method as a means of educating people in the value of manual labour and I am sure at any rate from his lips such an expression of the justification of this measure was hardly expected, and I for one—

The Honourable Mr. W. F. HUDSON : The honourable member did not hear what I said and he is now rather misrepresenting me.

Mr. L. R. GOKHALE : That is why I used the word " read ". I was absent yesterday and when I read about it I got the impression that he said that this measure had an educative value of that kind and that it would teach them the value of the dignity of manual labour. Really, Sir, I do feel that such an expression coming from the lips of a civilian of the standing of the Honourable the Home Member is certainly very painful to me and that is out of place in any legislative assembly. He may use any justification and say that these are heinous offences that ought to be punished in such and such a way—

The Honourable Mr. W. F. HUDSON : I did not say anything of the sort.

Mr. L. R. GOKHALE : If the Honourable the Home Member really believes that he is teaching the dignity of manual labour to these offenders—

Mr. G. L. WINTERBOTHAM : Sir, would it not be better if the honourable member informed himself as to what the Honourable the Home Member actually said before he continues his speech ?

Mr. L. R. GOKHALE : I have informed myself fully.

The Honourable Mr. W. F. HUDSON : I say, Sir, that the honourable member is entirely misrepresenting what I said—I am sure he is doing it unintentionally—but I suggest that he does not refer to a speech which was made in his absence.

Mr. L. R. GOKHALE : I would like to know then what is it that the Honourable the Home Member actually said ? If I am wrong, I will immediately correct myself. If I am favoured by the Honourable the Home Member with what he did say or what he meant to say, I shall be highly obliged. Anyway, Sir, I do accept that he may not have said exactly what I suggested just now but what he did say probably does not differ much from what I said. Whatever that may be, it is very clear that a reference to the intention of Government to teach the dignity of manual labour via the jail is certainly to my mind quite out of place in a legislative assembly like ours. We here are not going to punish people

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by making them learn the dignity of manual labour but by making them learn the discipline of Government by means of their penal laws, we are here to make people learn the lesson of discipline of the measures which the Government enacts and which the people are expected to obey. Furthermore, Sir, we have been speaking as if a great war is on. Since the commencement of this session, we have spent about ten or eleven days doing the business of the House and for nine days out of that period, we have been talking about a war mentality. I believe it would not be out of place to bear in mind that we are warring with people who honestly believe that they are fighting for a cause which in their opinion is righteous and justifiable from their point of view. Of course, they may be wrong in their point of view, but when we are dealing with such young men as have filled the jails, is it not justifiable, Sir, that we should use some sort of discretion? We know, Sir, that even when there is a regular war between two enemy nations and armies are employed on both sides, there is provision made for medical men to treat the wounded (including the prisoners of war) with some sort of indulgence. Here we are fighting against a subject race and the rulers are fully armed with their police forces and their armies while the other side is fighting with the weapons of non-co-operation. Their methods may be detrimental, but their methods are not violent. Considering all these circumstances, considering that we are fighting the so-called enemies, considering their purpose, considering what they are fighting for and considering our object in this House in legislating for them, I ask, would it be too much to say that instead of rigorous imprisonment it should be simple imprisonment? Even supposing that is not conceded by those who are in power, they at any rate, I should submit, should not add insult to injury. That is what I would submit on behalf of this side of the House in the interest of those who are fighting for a cause. I am not in favour of the movement as much as the other side. But that does not mean that we should not have any regard for them or have a soft corner for the purpose which they have in view. It is only from that point of view that I say this. Simple imprisonment and rigorous imprisonment—we know very well how these two forms of imprisonment differ in the jail; and many of these persons, I know, are people who have never known jail life before, who are not *badmashes*, or labourers, who are people——

Rao Bahadur R. S. ASVALE : Are the labourers *badmashes* ?

Mr. L. R. GOKHALE : I said " who are not labourers or *badmashes* ". I did not put them all in one line, though the law may for the time being. They are not labourers, they are not *badmashes*, they are not people of low birth. They are people who have been brought up in the best of traditions, in the best of political traditions also. They are educated people. Such people we have to confine to jail. In doing so, let us show some humanity and some reasonableness. It is only for this reason that I suggest that instead of rigorous imprisonment, it should be simple imprisonment, which will meet both justice and good conscience.

Sir REGINALD SPENCE: Might I ask the honourable member, does he consider that if a man of education, wealth and position commits a crime he should be punished less than an uneducated man who does not know what he is really doing? Does not the honourable member think that the educated man, who understands what he is doing, deserves greater punishment than the man who does not understand it?

Mr. L. R. GOKHALE: The question put to me by the honourable member Sir Reginald Spence appears to me to be a question of mentality. He says, are we going to consider that crime on its own merits or not? Of course we are. If the honourable member means to say that these men, who are seeking jail in their honest conviction of having certain grievances in the country redressed, are to be treated as criminals, then I say, by all means hang them if you can. But my point of view is that they have an honest feeling that the cause for which they are fighting is a just one, and it is not full of criminality. That is how I look at the question as a lawyer, as a citizen, as one interested in the public and in the country. As a lawyer I have to make a distinction between criminals and criminals if you at all call him a criminal. If there is a murderer, and if somebody comes forward with a suggestion that the murderer should not be prosecuted, I would immediately oppose it. But when we are dealing with the question of civil disobedience, or impeding certain action, is there no difference to be made, no distinction to be observed? Are there not two categories of offences? Are we to forget it? I do not think these persons are criminals in that sense of the word. No dictionary will probably help us to understand that one who is helping a sort of political movement, an unpatriotic movement, but patriotic from his point of view, is not such a criminal as a condemned man or a man to be sent to the gallows. Are they to be treated on the same level? We know the traditions of the British people, the traditions of other countries, and we know how different treatment is given to persons who are political offenders and to persons who are not political offenders; and you will find that even in the Regulation of 1827 and the previous Acts a political offender is treated in a different way. The honourable members opposite may treat them as criminals, but I do think they are not criminals in the sense in which the honourable members opposite say they are. For that reason, I say that they ought to be treated in a different way.

The Honourable Mr. W. F. HUDSON: Sir, I do not think the House will want me to repeat in detail what I said yesterday. I am sorry that my honourable friend Mr. Gokhale was absent yesterday, or he would not have thought that I said or suggested for a moment that we send these unfortunate young men to jail in the hope of educating them in manual labour. That was not what I said at all. What I said was, and that I still maintain, that it is much better for them, when they are in jail, to do a day's work rather than sit twiddling their thumbs, and as a corollary to this, if while they were doing that they learnt something of the dignity of manual labour, it was no bad thing. I cannot remember my exact words, but that was entirely the line of my argument. I was not suggesting for a moment that a jail should be turned into a technical

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school and people put there because technical education is sometimes neglected. That was not what I was suggesting for a moment. I must adhere to my position that, from the point of view of discipline, from the point of view of the unfortunate people themselves, it is much better that they should do a day's work rather than that they should do nothing.

This is the first time I have been told that it is an insult to ask a man to do a day's work. I cannot see where the insult lies. And when the honourable member points out, as he does quite rightly, as one of the honourable members did, that there is a distinction between these offences and the offences which are punished under the previous section, I would point out that the distinction in the punishments is this: in the one case the maximum is two years, and in the other case it is six months. I must oppose this amendment.

Question put, and negatived.

Dr. M. K. DIXIT (Surat District): Sir, I propose the following amendment:

In clause 15, for the words "six months" substitute the words "one month".

In moving this amendment, I have nothing more to add to what I said just now.

Question proposed.

The Honourable the PRESIDENT: There is an amendment in the name of the honourable member Mr. Jog, to reduce the period to three months. He may move it as an amendment to this amendment.

Mr. V. N. JOG: If this amendment is lost, then I think I have got the right to move my amendment. Why should I move it as an amendment to the amendment now?

The Honourable the PRESIDENT: To curtail time.

Mr. V. N. JOG: If the House is inclined to accept the amendment of my honourable friend Dr. Dixit, so far so good. But if the amendment fails, then the House may be inclined to accept mine, because the period is longer than in the present amendment.

The Honourable the PRESIDENT: Very well, he may move it separately later.

The Honourable Mr. W. F. HUDSON: I can only say that I am sorry I cannot accept this amendment. Six months is the maximum to deal with the worse cases. I need hardly say that it is not by any means the ordinary punishment which has been inflicted or which is likely to be inflicted. But we must maintain six months to cover the worst possible cases.

Question put, and negatived.

Mr. V. N. JOG (Dharwar District): Sir, I move the amendment of which I have given notice, as follows:

In clause 15, for the words "six months" substitute the words "three months".

I think three months would be quite sufficient, and the Honourable the Home Member may be inclined to accept it. If he says he is not

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going to reduce the period, I think three months will be sufficient even in the worst cases, because, after all, the offences are very trivial.

Question proposed.

The Honourable Mr. W. F. HUDSON: I regret, Sir, that for once I must differ from my honourable friend opposite, and for the reasons which I have already given, I am unable to accept any amendment to reduce the period.

Question put, and negatived.

Dr. M. K. DIXIT (Surat District): Sir, I beg to propose the following amendment:

In clause 15, for the words "with fine, or with both" substitute the words "with fine not exceeding Rs. 50".

I do not think I need make any speech in support of this amendment.

Question proposed.

Moulvi Sir RAFIUDDIN AHMAD: May I ask whether the question of the maximum amount of fine has not yet been decided?

The Honourable Mr. W. F. HUDSON: It has, for all practical purposes. We think it would come in better later in clause 26. The figure we arrived at in accordance with the suggestions made is Rs. 5,000.

Moulvi Sir RAFIUDDIN AHMAD: That maximum would not apply to all cases?

The Honourable Mr. W. F. HUDSON: It would apply to all cases.

The point about the fine is this. If we reduce the fine to a small figure, it makes it more likely that the offender will be sentenced to imprisonment, whereas many cases can be met by a substantial fine. I do not think it is any kindness to the people whom my honourable friend wishes to protect if we reduce the fine to Rs. 50, because then, almost invariably, the magistrate will inflict a sentence of imprisonment, whereas that will not be the case if he can inflict a substantial fine. There are a considerable number of cases in which a fine will be adequate, and, as I said yesterday, in a movement like this, where there is a great deal of money unquestionably, we must choose the most useful and the most effective deterrents, and a fine of Rs. 50 is not a deterrent at all.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I was under the impression that the fine itself was a punishment, and the Indian Penal Code and the Criminal Procedure Code put a limit on it, for certain reasons. I am really wonderstruck at seeing that the maximum amount which is now sought to be put in for a breach of the orders is an amount of Rs. 5,000, or rather an amount not exceeding Rs. 5,000.

The Honourable Mr. W. F. HUDSON: Yes, that is it.

Rao Bahadur G. K. CHITALE: That would be the phraseology for the magistrates who are supposed to exercise these powers. They, reading this debate, will naturally think that the maximum punishment of fine which they can inflict is intended as a deterrent, and therefore

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the larger the fine the better. I do not think any Act can be disfigured by provision being made for a fine of Rs. 5,000. I am not sure where we are drifting. No doubt, Government have a majority, and I am not surprised that my honourable friend Mr. Baloch thought that even a fine of Rs. 50,000 would be carried in this House. The Honourable the Leader of the House laughs at it, but I do myself feel that the honourable member was in right earnest when he proposed it. Sir, I do feel the position of helplessness on this side. As a matter of fact the schemes of the Acts which we have passed so far show that the punishments were in proportion to the nature or heinousness and the circumstances of the offences. It took my breath away when the Honourable the Home Member stated that for a breach of the kind mentioned in clause 15 the magistrate may—supposing I had committed the breach—go to the extent of fining me Rs. 5,000. I should think, Sir, this is an intolerable position, so intolerable that I would appeal to my honourable friends, also the European members, because, Sir, I feel that they are with us on this point, namely, let this penal Act and the punishments provided in it not certainly go beyond a certain limit. For a breach of an order, say, for not submitting a return of a motor car to the District Magistrate, in a House of 86 elected members, it is seriously meant that that offence merits a fine of Rs. 5,000! I can understand the mentality of those persons. For certain other things they may have a fine of that kind. But for trivial breaches the Honourable the Home Member insists that the higher the fine the greater will it prove a deterrent. That takes my breath away. Not only that, I also feel the humiliation of our position and our helplessness in respect of this Bill. I think we will be doing an injustice to our electorate to whom we are responsible. There are so many honourable members representing several electorates and I do not know whether they have got a mandate to maintain the fine at such a figure. I do not know whether the honourable member Khan Bahadur Abdul Latif thinks that for failure to send returns a man should be punished with a fine of Rs. 5,000. [Interruption.] Whatever the scheme of the Bill may be, it appears to me that it is absurd to fix the fine at such a level as to look ridiculous. I appeal to the Honourable the Home Member though he may not yield on substantial principles which are needed to make the movement not to start at all, let us not make ourselves ridiculous by saying that such a punishment is needed.

Mr. G. S. GANGOLI (Kanara District): Sir, in any enactment, in every section there is punishment of fine or imprisonment or both for a particular offence but here we find that in clause 15 for trivial offences like disobedience of the order, negligence to comply with the order or impeding the lawful exercise of any power there is punishment provided. Further, there is disparity in the punishment fixed under clause 14 and under clause 15. Clause 14 imposes a punishment two years imprisonment or fine or both, whereas clause 15 provides for a punishment of six months or fine or both. Even in the period of imprisonment there is difference. I think there must be some standard of fine. If anybody

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neglects to do a thing or disobeys to do anything according to the District Magistrate, for such a trivial offence the punishment of six months' imprisonment and fine of Rs. 5,000 is provided.

When the laws of the land are enough, there is no need for such a provision. When the Regulation of 1927 was pointed out, it was questioned whether this Regulation which applied to state prisoners should be made applicable to this case. So far as I know, I do not think there is any section which inflicts a punishment in that Regulation. On the other hand it is incumbent upon Government to maintain those prisoners and their dependents. Here, we have not got to make any such provisions; but we are going to inflict upon a man rigorous imprisonment for a trivial offence and mulcting him in a fine. As there is variation in the matter of the period of imprisonment between clause 14 and clause 15, so also there should be a difference in the amount of fine to be imposed.

Mr. V. N. JOG (Dharwar District): Sir, I submit that this section should have a limit to the fine. Otherwise, what will happen is this. The Honourable the Home Member wants a limit under clause 26. This clause says:

"The provisions of section 32 of the Code shall not operate to limit the power of a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine of any amount for an offence under this Act, and the provisions of the Code shall be deemed to have been amended accordingly."

Under this general clause Rs. 5,000 fine as proposed is to be put there. I submit where there is an offender who has taken part in the civil disobedience movement he will be visited with this heavy fine. Under section 14 that fine may be restricted to breaches of orders under section 4. We have also offence under sections 18 and 19 with regard to notified areas. For instance clause 19 says:

"Whoever wilfully fails or refuses to pay any arrears of a notified liability shall be punishable with imprisonment which may extend to one year or with fine or with both."

With regard to imprisonment there is again a difference. So, does the Honourable the Home Member intend to impose the fine even in a case where a person is unable to pay and so does not pay a portion of the notified area liability? The purpose of giving deterrent punishment can be very well met if this heavy fine is confined to clause 14. With regard to other offences, Rs. 50 might be low—I am talking of the amendment of Rs. 50—but you cannot have a uniform rate of Rs. 5,000 for all sorts of offences. It is rather ridiculous. There is an amendment of the honourable member Mr. J. B. Petit limiting the fine to Rs. 500. As has been pointed out by my honourable friend to the European members of this House, trivial offences are likely to be punished with heavy fines if a uniform limit is kept. Offences have been created by this legislation, namely, if a return is not made, if a person enters a particular public place these are made offences, punishable under the Act with fines. Are these trivial offences to be punished with heavy fines? It is rather unjust and ridiculous. The best course will be to confine the highest fine to the heinous offences and put in a limit to other sections to a certain extent; otherwise it is merely vindictiveness and making money.

Moulvi Sir RAFIUDDIN AHMAD (Central Division): Sir, I confess that I was rather surprised at the reply that I received from the Honourable the Home Member that the maximum fine of Rs. 5,000 could not be reduced in any case in this Bill. I may remind him that there is a moral law by which this Bill will be examined in the country and we have to face the music of the same. If we are going to insist that a law should be free from the taint of all injustice this reasonable amendment must be accepted. Some reduction must be made in lighter trivial offences, so that the fine may bear some proportion to the imprisonment. Rs. 5,000 or transportation for life and Rs. 5,000 fine or imprisonment for one month looks incongruous. I appeal to my honourable friend the Home Member to see whether it is not advisable to reduce this fine to some reasonable figure.

Mr. MAHOMED SULEMAN CASSUM MITHA: Sir, I would like to acquaint the House that in Bombay the so-called Congress have imposed fines ranging from Rs. 5,000 to Rs. 10,000 for breaking their so-called mandates.

An Honourable MEMBER: For not giving return?

Mr. MAHOMED SULEMAN CASSUM MITHA: For no offence.

In my opinion, Sir, Government's proposal to impose fines to the extent of Rs. 5,000 is very reasonable. The Honourable the Home Member has only asked for maximum fines to the extent of Rs. 5,000; that does not necessarily mean Rs. 5,000 in all cases. The Magistrate can impose fine up to that amount. Sir, fines of Rs. 50 or Rs. 500 will have no material effect so far as Bombay is concerned and thus the aim of the Bill will not be achieved. In Bombay I can quote many instances where people were fined Rs. 5,000 or more by the Congress. Sir, I am surprised that the honourable members of the opposition benches should oppose this provision, because, after all, fines recovered will go into the treasury of Government and they will be doing their duty to their constituency in supporting this, because this means less tax to their constituencies and, after all, they are here to safeguard the interests of their constituency, who do not believe in civil disobedience movement, otherwise they would not have been here.

Mr. G. L. WINTERBOTHAM (Bombay Chamber of Commerce): Sir, I cannot refrain from answering the question put to this side of the House by my honourable friend from Ahmednagar. He asked whether it is reasonable that a fine of Rs. 5,000 should be fixed for trivial offences. It seems to me that the question is based on a misunderstanding. The Act is not fixing the fine but it is fixing the maximum fine. The actual fine itself, as I understand the law, which is very little, will be assessed by the magistrate in accordance with the seriousness of the offence. If the fine is excessive, there is appeal to the sessions court and from the sessions court to the High Court for revision. There is no objection in my view to laying down Rs. 5,000 as the maximum, because, after all, the discretion as to the amount of the fine is with the magistrate trying the case.

Mr. J. B. PETIT : I have got an amendment to this clause. It runs thus :

"After the word 'fine' add the words 'not exceeding Rs. 500'."

I would like to move this as an amendment to the amendment. It will save the time of the House.

The Honourable the PRESIDENT : The honourable member may move it as a separate amendment.

Mr. J. B. PETIT : May I do so later on ?

The Honourable the PRESIDENT : Yes.

Mr. J. B. PETIT : Very well, Sir.

The Honourable Mr. W. F. HUDSON : I think some honourable members have forgotten that this principle which they regard as objectionable is, after all, the principle which prevails in the Indian Penal Code. There are offences in which imprisonment of seven years is given or fine or both. There are offences for which three months imprisonment or fine or both are provided. No limit is laid down. It is obvious that the legislature recognises the creation of differences between various offences—in one case a long term imprisonment and in another case a short term imprisonment. The only word in the Code is fine. It is obvious it is not necessary either on the ground of logic or of law that there should be a distinction in the fine, following the distinction in sentences of imprisonment; that argument therefore falls.

Mr. G. S. GANGOLI : It depends upon the magistrate.

The Honourable Mr. W. F. HUDSON : It is perfectly true that the Criminal Procedure Code places certain restrictions on the powers of the magistrates. That is quite a different thing. But it places no restrictions on the powers of the High Court or the Sessions Court in regard to imposition of fines. The High Court or the Sessions Court can fine a man even a lakh of rupees, if it thinks it necessary. This particular power we propose to give only to the First Class Magistrates. We propose to give them powers to fine a man up to Rs. 5,000. That, Sir, is the maximum amount. I am sure the honourable members do not think that that fine is going to be inflicted in every possible case, however trivial it may be. I will ask the honourable members to believe that the magistrates are reasonable persons [*An Honourable Member* : "Not all".] We must assume that the magistrates are reasonable persons. If in any case they exceed their powers that will come to the notice of the Appellate courts, and if necessary, be rectified. Then, Sir, there is another point and it is this. The provisions of this section have been in force for the past 11 months, and there has been no limit prescribed. I would like the honourable members to point out to me a single case in which an excessive fine has been inflicted under section 15. I have heard of no such case. There might have been one or two cases under section 14 in which the honourable members may think the fine is excessive, but I cannot recall to my mind a single case under section 15, and I shall be glad to hear if there is any case. For these reasons, I regret, I am unable to accept this amendment. But I may tell the honourable members that we may depend upon the good sense of the magistrates properly to exercise their powers.

Dr. M. K. DIXIT (Surat District): While moving this amendment I did not say a word about it, but now several members have advanced arguments which require to be met. The honourable member Mr. Mitha referred to the fine levied on certain people in Bombay by the so-called Congressmen. We do not know whether they are really Congressmen or not, but in the name of the Congress they have fined some people up to Rs. 10,000 and that too not for trivial offence but for no offence. If men in the name of the Congress do something that is wrong, are we as legislators justified in doing a wrong which is as bad as theirs? As I said, two wrongs will not make one right. Therefore we must see that we have some sense of proportion in prescribing the punishment for trivial offences. I think it is very reasonable that a limit should be prescribed by the legislature so that the magistrates may not inflict excessive fines. When you prescribe the punishment that is the maximum punishment to be given and certainly the magistrates have the discretion to see that they do not exceed the maximum limit but that they will give the punishment according to the seriousness of the offence. While we are talking about the maximum fine which the magistrate is not bound to give, Sir, under the Criminal Procedure Code, each magistrate according to his rank and position has a certain limit put down and he cannot exceed that limit. If we only restrict the amount of punishment or the amount of fine that could be given by a magistrate according to the powers that he enjoys, there will be nothing wrong in doing so. The first class magistrates are to try these cases, and they are being given powers which are far in excess of what is prescribed by the Criminal Procedure Code. Under the Criminal Procedure Code their maximum limit is Rs. 1,000. Of course, no limit is fixed for the High Court and the Sessions Court. But as these cases are going to be tried by the first class magistrates and if under the ordinary law they have no power of exceeding the limit of Rs. 1,000, I do not understand why we should give them this liberty of exceeding that limit. With these words I commend my amendment to the House.

Question put, and negatived.

Mr. L. R. GOKHALE (Poona City): Sir, I beg to move that:

"In clause 15, after the word 'fine' in line 8, add the words 'which may extend to Rs. 200'."

Sir, under the Indian Penal Code there are provisions laying down various amounts of fines. For instance, under certain sections the fines are limited to Rs. 250, under others to Rs. 500 and under some others to Rs. 1,000. It is not a new principle that the Opposition is requesting the Honourable the Home Member to follow. The Indian Penal Code has accepted this gradation of fines. There are four ways: unlimited fines, fines limited to Rs. 1,000, fines limited to Rs. 500 and fines limited to Rs. 250. Now, what the Opposition wants is that in this Act there should be a gradation of the amount of fine, and then, of course, the country will be grateful if the maximum limit of Rs. 5,000 is put in. But that is not all that will satisfy the requirements of the situation. No doubt magistrates are reasonable, and all officers are said to be reasonable. But one magistrate has gone to the length of punishing

[Mr. L. R. Gokhale]

a certain gentleman with a fine of Rs. 20,000. That is an unerring magistrate. Another unerring officer reduced it to a smaller amount. Perhaps in the higher court they would have reduced it still further. That shows clearly that mentalities of magistrates differ and that magistrates have various mentalities and in order to save the people from the whims of these magistrates the legislature lays down some limit. I have therefore suggested that Rs. 200 should be the maximum amount of fine to be inflicted. I find that Mr. Petit has limited the amount to Rs. 500 in his amendment. But the principle involved is the same. I am not so much particular about the amount as I am about the principle that there should be some limit. It must not be left to the whim of the magistrate to fine any amount, however trivial the offence may be. With these words I move my amendment.

Question proposed.

Sardar BHASAHEB RAISINHJI (THAKOR OF KERWADA) (Gujarat Sardars and Inamdars): Sir, I think that there must be some gradation about fine in proportion to the offence committed. The Honourable the Home Member said that in all sections the term of imprisonment is mentioned but no mention is made of the fine. But I would draw the attention of the Honourable the Home Member, and I am sure my lawyer friends in this House will make it clear, that though there is no limit in some of the sections of the Indian Penal Code, but in such cases it is laid down that particular offences are to be tried by particular magistrates, and the limit of the power to fine of a particular class of magistrate is mentioned there. So in that case it is not necessary to mention the limit of the fine. But, here, I do feel that there should be some proviso by which the fine would be inflicted in proportion to the nature of the offence, and I am sure the learned Legal Remembrancer and the Honourable the Home Member will find some way out of this difficulty, because we all feel that the limit of fine should be fixed in proportion to the nature and seriousness of the crime.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I want to add two or three more points to what I said last time. This will be the last appeal to the Honourable the Home Member, at least from me. The Honourable the Home Member believes that the conditions at Bombay prevail everywhere. What reason is there to believe that way? What logic is there that because Bombay people were fined by somebody outside, this limit of Rs. 5,000 is necessary, therefore, that limit should be maintained throughout the presidency from Jacobabad down to the south of Kanara. What logic is there? Are we really legislating or are we showing our wisdom to the rest of the world? May I make a present of one or two concrete cases to the Honourable the Home Member? In the case of Gulabchand I have got copies of arguments that were addressed to the City Magistrate as to why a sentence should not be passed. In the first place be it remembered that the Congressmen who are really civil resisters do not take any part in the proceedings, and therefore, my learned friends will remember that there is no question of appealing to the High Court.

[Rao Bahadur G. K. Chitale]

in such a case. That you must take note of. Then in the case of Gulabchand, the Government Pleader who appeared for the prosecution stated to the magistrate that his instructions from the district magistrate were that a fine of rupees one lakh should be imposed. Well, the poor fellow, the magistrate, who was also a Rao Saheb, thought that he was in a fix, and naturally from Rs. one lakh to Rs. 50,000, and from Rs. 50,000 to Rs. 25,000 and from Rs. 25,000 to Rs. 20,000 he came down. I am not sure whether in similar cases there are similar instructions issued. I will point out two cases of similar nature where the amounts of fine imposed in each varied out of all proportion. Soorji Vallabhdas who had disobeyed an order which was served on him here and who was tried in Bombay was given a fine of only Rs. 1,000, while Bhulabhai Desai, who did not come over to Bombay but was tried at Nasik for the same offence—because the orders were similar—was fined Rs. 10,000.

Mr. V. F. TARAPOREWALA : The honourable member is not right. Soorji Vallabhdas was also tried at Nasik.

Rao Bahadur G. K. CHITALE : I speak subject to correction, but I believe that the order was served on Soorji Vallabhdas here and that he was tried and sentenced here. However, that is not the question. Soorji Vallabhdas is a well-known figure to the commercial members of this House. While he could get off with a fine of Rs. 1,000, what logic of facts there could be that for disobeying a similar order Bhulabhai Desai should be fined Rs. 10,000 ? Is it the whim of the magistrate ? Is that the British justice that is being meted out to us people, helpless as we are at present ? So far as law is concerned, it does not look to the status of a man. It does not respect any person. It has only to look to the seriousness of the crime.

These are the instances which I thought I should place before the House. I have tried to do my duty and I now leave it to the Honourable the Home Member.

The Honourable Mr. W. F. HUDSON : Sir, I would like, in the first place, to remind the House of the provisions of the Indian Penal Code, which I am sure all our magistrates bear in mind.

“Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.”

That shows the principle, which, I am sure, our magistrates will bear in mind. Sir, it may seem a little weak in view of what I have said just now that I should now be going to propose a certain concession.

Rao Bahadur R. R. KALE : Is that section applicable to the case of civil disobedience people ?

The Honourable Mr. W. F. HUDSON : I confess, Sir, that I still think that we should have been quite safe in leaving this to our very experienced magistrates, but in view of the appeals which have been made to me from various sides of the House chiefly, as far as I could see, on what I would call strictly logical grounds—though I do not admit the logic of it—I am prepared to confine the extra powers which we are going to give to the magistrates to section 14. That will leave them with their ordinary powers in regard to section 15. That is to say, I am not of course going

[Mr. W. F. Hudson]

to accept these proposals to reduce the fine to Rs. 50 or Rs. 200, or anything of that sort, but we will give the first class magistrates precisely the same powers as they now exercise, in regard to section 15. That will mean that no amendments will be accepted in regard to this clause, but when we come to clause 26, and we fix the limit, that will be applied only to section 14. I hope the House will realise that this is a concession which I am making here rather against my better judgment, but I do realise that the House considers that a distinction should be made between the two classes of offence, and if that is so, I am prepared on this occasion to bow to their superior wisdom.

Amendment, by leave, withdrawn.

Mr. J. B. PETIT (Bombay Millowners' Association): Sir, I am going to move my amendment. I am not at all convinced, Sir, that the concession that the Honourable the Home Member has made, is likely to bring about any very material difference in the position. After all, Sir, when we consider the speeches that have been delivered for and against the different amendments to these two clauses, the one fact that forces itself upon our minds, is that it is the intention and desire of the Government, that activities of this public character should be put down to the utmost possible extent, and that even though these activities may happen to be perfectly legal and constitutional, they should be dealt with in a particular manner. We have seen, Sir, how without a maximum limit, magistrates are likely to run away with their discretion and to inflict widely varying fines, which have ranged between Rs. 500 on the one side and Rs. 20,000 on the other, for similar or very nearly similar offences. It is, therefore, Sir, that it is quite clear to my mind that unless a reasonable limit is prescribed under these clauses, the magistrates are likely to go on inflicting punishments of this unusual and extravagant character, just as it may suit their caprice for the moment. I am second to none in my admiration of our magistrates for the care and judgment which they ordinarily employ in the discharge of their responsible duties. But we cannot at the same time deny the fact that under existing circumstances, magistrates have more often than not allowed themselves to be led away by the exciting conditions which at present surround our daily life; and that they have in a majority of cases,—it may be by accident,—agreed with the Government and have taken the same extravagant view of the situation that the Government have done. That may be a mere chance or coincidence, but the fact is there and cannot be denied. In order to provide ourselves against the effect of such judgments and to safeguard the rights of the public, or whatever may remain of them after the passing of this enactment, all these different amendments have been proposed. My amendment belongs to the same category; and I accordingly move that:

"In clause 15 after the word 'fine', add the words 'not exceeding Rs. 500'."

I do feel, Sir, that the imposition of a maximum limit will have a steady effect upon the magistrates, who try cases of this type, because somehow—

The Honourable Mr. W. F. HUDSON: I do not think, Sir, that the honourable member understands that a maximum limit is being imposed in every case.

Mr. J. B. PETIT: I know that a maximum limit of Rs. 5,000 is being fixed by my honourable friend the Home Member; but I do feel that, having regard to the nature of the offences that are punishable—

The Honourable Mr. W. F. HUDSON: Sir, we are discussing clause 15. Under that, as I have already stated, the maximum will be Rs. 1,000. What the Honourable Member means by "maximum limit" I cannot understand. Here is one: we impose a limit of Rs. 1,000.

Mr. J. B. PETIT: I thought that the honourable member a little while ago said that he was for a maximum limit of Rs. 5,000 in all cases.

The Honourable Mr. W. F. HUDSON: If the honourable member would come a little nearer, he would hear me better. Perhaps my voice does not reach so far as that. But may I explain to the honourable member once again that what we propose to do, is to impose by this Bill a limit of Rs. 5,000 for offences under section 14 and not to remove the ordinary limit on the powers of our first class magistrates in the case of offences under section 15! In other words, the Criminal Procedure Code will operate in the case of section 15 and if the honourable member will look at the proper section of the Criminal Procedure Code he will see that the limit of fine which a first class magistrate can impose is Rs. 1,000. I am sorry that I did not make that clear, but I think the rest of the House understood it all right.

Mr. J. B. PETIT: I am sorry, Sir, that I did not at first understand the point. Now, however, that the matter has been made clear, I know exactly what it is. But I still feel that a limit of Rs. 500 ought to be quite fair and sufficient, having regard to the cases which we have been discussing. For instance, if a person is called upon under this chapter to give information about the number of motor-cars he possesses and fails to do so, I still feel, in spite of what my honourable friend, the Home Member, has told us, that a fine of Rs. 1,000 for an offence like that, would be much too heavy. Even Rs. 500 is very heavy, but I am quite willing to go up to that maximum limit. I am emphatically of opinion that a fine of Rs. 1,000 should not be inflicted for an offence of this character. But if that is the maximum amount fixed, I am quite sure that under existing circumstances, magistrates will be inclined to go to the utmost possible limit. It is therefore that I feel most strongly that in the statute itself, a lower maximum should be fixed. I feel that Rs. 500 and not Rs. 1,000 will be the proper limit.

Coming to the argument that my honourable friend Mr. Mitha advanced with such gusto in favour of the Government's point of view, I think it is necessary to examine it a little bit and see for ourselves what it is exactly that he meant to convey. He told us that the Congress itself had imposed upon him a fine of Rs. 10,000 for no offence at all.

An Honourable MEMBER: Not upon himself.

Mr. J. B. PETIT : Very well, upon some one else, and that therefore by inference it was reasonable to fix a maximum limit of Rs. 5,000 in this case. First of all, I would like to know what authority the Congress had to impose a fine upon any one. Secondly, I would like to know why the person concerned paid the fine ; and who exactly it was that made him do so ? If the man willingly paid it and did not care to seek the protection of the law, or did not go to the Government or even to the Honourable the Home Member, whom my honourable friend Mr. Mitha is so anxious to support with such arguments, he is himself to blame for it. It was open to him or his friend not to pay it ; he could and should have refused to do so, and challenged the right of the Congress to impose a fine on anybody for any reason whatsoever. My honourable friend Mr. Mitha should not have made a grievance of such an incident in this House, much less advanced it as an argument in favour of the Honourable the Home Member's proposal. The instance of a person who goes out of his way to bow to the decision of a body which has no right to impose fines, has no application to the case before us. I think arguments of this type should not have been seriously advanced on the floor of this House. Because the honourable member (Mr. Mitha) or his friend tamely allowed himself to be thus fined, is no reason why he should come forward now and ask the House to support the Honourable the Home Member in imposing an extravagant limit. I am perfectly certain that the House will know what value to attach to such arguments.

Having regard to all these considerations and the reasons that have been advanced by the non-official members of this House in favour of limiting the fine, and having particular regard to the trifling nature of many of the offences concerned, which, under ordinary circumstances, would go almost unnoticed, I do not think that a case has been made out for fixing a limit higher than Rs. 500. I am therefore of opinion that my amendment to fix a maximum limit of Rs. 500 is quite appropriate and proper ; and should be accepted by the House.

Question put, and negatived.

Clause 15, as amended, ordered to stand part of the Bill.

Clause 16 (*Declaration of Powers*) :

(1) The Governor in Council may invest the District Magistrate with the powers of the Governor in Council under sub-section (1) of section 4.

(2) The Governor in Council may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this Chapter.

(3) The District Magistrate may, by order in writing, authorise any officer to exercise any of the powers of the District Magistrate under this Chapter in a specified area or in connection with a specified emergency.

Mr. G. S. GANGOLI : Sir, before moving my amendment may I request the Government members to move their amendments, if any, to clause 16 ?

The Honourable the PRESIDENT : How does that affect the honourable member's amendment ?

Mr. G. S. GANGOLI : It affects the nature of my amendment.

The Honourable Mr. W. F. HUDSON : Sir, we have an amendment to omit sub-clause (3).

The Honourable the PRESIDENT: Then, the honourable member (Mr. Gangoli) does not move his ?

Mr. G. S. GANGOLI: I have formally to move it to get more explanation about the principle underlying this clause.

The Honourable the PRESIDENT: What was the object of the honourable member in asking the Honourable the Home Member to move his amendment ?

Mr. G. S. GANGOLI: They also concede the principle that delegation is not advisable. When Government have accepted amendments to clauses 3 and 4 that Government should consider the written statements, then where is the point in delegating the powers of the Governor in Council to District Magistrates ? If that delegation is made, then there would be no one above the District Magistrate to examine the explanation given by the person concerned, and no one else would consider it.

There will be no charm in giving an explanation because there will be nobody to consider it.

The Honourable the PRESIDENT: My question is simply this. I do not understand why the honourable member asked the Honourable the Home Member to move his amendment first and leave sub-clause (3). What is the connection of that with the amendment, that he is going to move ?

Mr. G. S. GANGOLI: If sub-clause (3) is going to be deleted, then I am not going to move my amendment.

The Honourable the PRESIDENT: I thought so. Is it that that he proposes ?

Mr. G. S. GANGOLI: Not that.

The Honourable Mr. W. F. HUDSON: I have agreed to omit it *in toto*, but I do not know the form in which I should move it. If any one moves an amendment to delete it, I will accept it.

Mr. J. G. MORE: I beg to move :

Delete sub-clause (3) of clause 16.

Question put, and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clause 17 (*Power to declare notified areas and notified liabilities*) :

(1) The Governor in Council may, by notification in the *Bombay Government Gazette* declare that any district or area shall be a notified area for the purposes of this Chapter:

(2) The Governor in Council may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

Rao Bahadur R. R. KALE (Bombay University): Sir, as regards clause 17, I have two amendments which are in fact part and parcel of one and the same amendment. They constitute one amendment because the section says :

"The Governor in Council may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government,"

[Rao Bahadur R. R. Kale]

There we stop and I want to omit the words " or to any local authority or rent of agricultural land ". These words are to be omitted. The second is " or any sum recoverable as arrears of " such amount, that is to say, anything due to Government. I want to omit also " or anything recoverable as arrears of or along with such rent ", and instead of that I want to put it this way " or anything recoverable as arrears of such amount namely, the amount of land revenue or tax payable to Government ". The point is that whatever dues are payable to Government or arrears of dues which are recoverable as arrears of such amount, that is to say, the amount payable to Government—

The Honourable the PRESIDENT : How would the second amendment read ?

Rao Bahadur R. R. KALE : The second amendment would read like this, " due or amount payable to Government or anything recoverable as arrears of such amount ". You have to delete the words " of or along with such rent " in " or anything recoverable as arrears of or along with such rent ", so that it would read " or anything recoverable of arrears of such amount " i.e. of such amount meaning the amount of land revenue or tax, cess etc. I want to omit " or along with such rent ".

The point is that here Government are taking special powers for the purpose of recovering land revenue or any tax or cess due to Government. That is first, and it also proceeds to invest local authorities like municipalities or local boards or it enables, I do not know exactly who else, I suppose land-holders—

The Honourable Sir GHULAM HUSSAIN : Yes, superior holders.

Rao Bahadur R. R. KALE : Superior holders also to recover their rent. My point is that the clause should be confined to the land revenue or arrears of any tax etc. or any other cess due to or payable to Government only, and also arrears of such tax. I want to confine the latter....

The Honourable the PRESIDENT : That is to say, no help should be rendered to local authorities or to any private individual.

Rao Bahadur R. R. KALE : That is the object, namely, that this special procedure may govern the recovery of land revenue so far as Government due is concerned but not extend to the recovery by a local authority or by private individuals.

Mr. G. DAVIS : Sir, perhaps it will be more proper for me to explain this. The idea is that the provisions of clause 21 should not be taken to recover these sums by way of rent. I think sub-section (2) only relates to notification of a notified liability. Then section 18 punishes the instigator, there is nothing here about recovery. Section 19 relates to wilful failure or refusal to pay. Then we go on to section 20 which lays down a special rule of procedure, after which we get to section 21 and I think that relates to recovery. I think that is the section which relates to recovery. I was only pointing out to the honourable member for his information. I do not want to interrupt his arguments at all.

Rao Bahadur R. R. KALE: Quite right. What the honourable member the Legal Remembrancer means is that the power to collect is given in section 21. Is that so? The power in section 17 is the power to extend by notification the obligation. Sir, I mean to say all that I want is that the power should not be given to other persons. If that is not to be given to other persons, what is the meaning of retaining in a notification—

Mr. G. DAVIS: It is only section 18 that relates to instigation. People may instigate others not to pay a notified liability. They may instigate others not to pay dues or cesses to municipalities. If it was a notified liability, they would be prosecuted under section 18, but if it was not, they could not be prosecuted. Then we exclude 19 and go on to 20 which is merely technical. Then section 21 relates to the power of recovery. If you want to exclude recovery and not to exclude punishment for abetment, I think it will be only under section 21.

Rao Bahadur R. R. KALE: For the present, Sir, I move the amendment, and I should like to see whether we should have the power only to exclude persons from whom arrears are due and leave it open to punish those who instigate.

The Honourable Mr. W. F. HUDSON: That is all I want. I want to punish instigators in all cases, whether they instigate non-payment of Government taxes or of municipal taxes or of rent to superior holders. Those are the people we want to get at and that is our intention, but if there is any legal difficulty, I have no doubt that our legal advisers will find a way round. That is the object of the whole chapter, to punish instigation of non-payment of dues of all these kinds. When it comes to collection that is a different thing.

The Honourable the PRESIDENT: Private superior holders?

The Honourable Mr. W. F. HUDSON: Yes, Sir, certainly, private superior holders in this sense that any one who instigates people not to pay to superior holders, we want should be punished, certainly.

Rao Bahadur R. R. KALE: It is rather a very dangerous weapon, I mean to say, in the hands of private individuals.

The Honourable Mr. W. F. HUDSON: Instigation is a dangerous weapon.

Rao Bahadur R. R. KALE: Supposing, Sir, the ryots are in a distressed condition. So far as I am aware, excepting Bardoli and a few other places in Gujarat, the only place where this campaign of no-rent has been in practice was Kanara and I understood from the honourable member from Kanara that it is on account more or less of the people having nothing to pay. That was stated in his arguments, not that the people have been instigated or anything of the kind. As a matter of fact, the condition of his district is such that people are not in a position to pay. Apart from that, the difficulties are these namely, that private persons may come to demand their dues, I mean the landlords. Then the people, the tenants would go to seek advice as to whether they

[Rao Bahadur R. R. Kale]

should pay the rent if they have not got the money or the crop has failed or because of other various reasons, and it is very difficult to say where the advice would end and instigation would begin. It is a very large power, I mean to say—

Mr. G. DAVIS : I should like to make a suggestion for the consideration of the honourable member. Clause 21 says "Any person to whom an arrear of a notified liability is due—". Supposing, instead of saying "any person", we said "any local authority", would it not meet the case : the idea being that we should prevent a local authority suffering from a refusal on a large scale of the payment of its dues.

Rao Bahadur R. R. KALE : Then it will read "Any local authority to whom an arrear of a notified liability", etc.

Mr. G. DAVIS : I am only explaining. If we leave clause 17 as it is with clause 18, and exclude clause 21 for the time being, that would merely give Government the power to issue a notification specifying the notified liabilities, and under clause 18 to punish any one who instigated the refusal to pay. When we come to clause 21, that relates to authority to recover, and if in that clause for "any person" we put in "any local authority", it would only give a local authority the power to apply to the Collector to assist them to recover their dues, and would exclude a superior holder. If we said "a local authority", it would not cover a superior holder. It seems only fair, when there is a wide movement to instigate tenants to refuse to pay their rents, the person who incites them should be punishable under clause 18. That would be the case, if we leave clause 17 as it stands intact, if we exclude clause 19 and in clause 21 put in "any local authority" instead of "any person". The only person who can ask the Collector to assist him to recover a notified liability would be a "local authority".

Mr. P. R. CHIKODI : Is any negotiation taking place to amend this clause ? If that is so, let the House be heard.

The Honourable the PRESIDENT : The honourable member the Remembrancer of Legal Affairs is trying to meet the request of the honourable member from Satara (Rao Bahadur Kale).

Rao Bahadur R. R. KALE : I may say that I have explained my object of the amendment.

The Honourable the PRESIDENT : The House has understood it. Is the honourable member moving it ?

Rao Bahadur R. R. KALE : As I said in the beginning, unless the amendment is moved, no explanation can be given. I rose to move the amendment.

The Honourable the PRESIDENT : The explanation given by the Remembrancer of Legal Affairs is that he proposes to make a slight alteration in clause 21, leaving clause 17 intact as it is. If that satisfies the honourable member, then he may not move the amendment. If he thinks that it is safer to move his amendment, he may do so.

Rao Bahadur R. R. KALE : I was going to move my amendment. Otherwise, I would not have had any right to speak.

The Honourable the PRESIDENT : It is not put to the House.

Mr. G. DAVIS : I merely put it forward as a suggestion to the honourable member to curtail the discussion. That is all. If they look at it favourably, then I would ask the Honourable the Home Member to move it as a regular amendment.

Rao Bahadur R. R. KALE : I mean, I have moved my amendment. Of course it is not put to the House. That is true. The amendment is moved, and it is for me to withdraw it if the House gives leave. The matter stands there. I do not wish to proceed further, but all the same, I mean to say, I have to give my reasons for the amendment. The Remembrancer of Legal Affairs was only giving an explanation.

The Honourable the PRESIDENT : Has the honourable member finished ?

Rao Bahadur R. R. KALE : I have finished.

Question proposed :

" In sub-clause (2) of clause 17, delete the words ' or to any local authority or rent of agricultural land '. For the words ' or along with such rent ' substitute the words ' such amount '."

Sardar BHASAHEB RAISINHJI (THAKOR OF KERWADA) (Gujarat Sardars and Inamdars) : Do I understand, Sir, that the Remembrancer of Legal Affairs proposes a modification of this clause by making certain alterations in clause 21 ? That is to say, so far as the recovery of rent due is concerned from the agricultural lands, the Collector will retain the power ?

Mr. G. DAVIS : May I just explain ? There are two aspects of the matter. The first aspect is the instigation for non-payment. We have certain taxes, such as land revenue, or any cess, rate, or other due declared as notified liabilities. When you get your notified liability, you have to look at it in two ways. If any one instigates a third party not to pay a notified liability, he can be punished under clause 18. That is if we leave clause 17 as it stands. Now clause 21 relates to the recovery of a notified liability, and the words as used in the clause are " Any person ". " Any person " would include a statutory person such as a local authority or a landlord. He might apply to the Collector for recovery of his dues, and the Collector would then recover them. It is not a penal clause at all. It gives him the power to recover. But some honourable members fear that this particular power might be abused, that the superior holder might ask the Collector to recover his dues, and the tenants might be punished. It was considered whether instead of " person " we should put " local authority ". Then the position would be that any one who instigates non-payment of rent which was declared a notified liability, due to the honourable member or to any other superior holder, could be punished under clause 18, for instigating others not to pay. But when it comes to recovery, he has to recover it by means of the powers under the Land Revenue Code or whatever other powers he has.

The Honourable Mr. W. F. HUDSON: The only point is that we are not giving the superior holder any special powers under this Act. He can move the authorities to stop people instigating his tenants not to pay, but he cannot get any special powers for recovery. He will have to make use of the powers which he has always possessed under the Land Revenue Code.

Sardar BHASAHEB RAISINHJI: If that is so, Sir, I am in favour of regaining the whole thing as it is, for the simple reason that these are exceptional circumstances which are to be met by exceptional legislation. I am sure the House will agree with me that these powers are only to be exercised when the conditions obtaining are such that the ordinary law will have no effect. If the landlords are entitled to assistance from the Government and the Revenue authorities, and if such assistance is to be given only under the provisions of the Land Revenue Code, it will not be sufficient to enable the landlords to recover their dues. Sir, this power has been in existence for so many months under the Ordinance. I am sure the House will realise that there has not been a single instance where this power has been misused, or where the landlords have gone to the Collector to take undue advantage of that power. As a matter of fact, these are special circumstances. It is not the tenants by themselves who do it, but it is outside influence, the agitation which comes into being, which affects the zamindars. There must be some idea prevailing in this House that the landlords charge excessive rents, and so they should not be given support by legislation. But I am sure those officers who have served in Gujarat, and particularly those who are connected with talukdari estates, know, I may inform the House, that our rents are fixed in accordance with the survey rates fixed by the Government, and we are not allowed, under section 84A of the Land Revenue Code, to make any enhancement of it. There is no question of rackrenting. There have been cases—and I am sure my honourable friend the Collector of Kaira who is in the House will bear me out—where these people, because the landlords will not fall in with the wishes of the Congress leaders, though they may not oppose them, in order to bring them into difficulties, instigate the tenants to create great mischief. Of course, my honourable friend Mr. Mahomed Suleman Cassum Mitha said that there was a fine imposed by the Congress, and the landlords have been placed in such circumstances that they would pay the penalty by losing their rent. In the same way, in the talukdari area, because the landlords by their temperament are not going to fall in with the wishes of the Congressmen, they always have an eye upon them to ruin them. I can quote the instance of one talukdar who was virtually ruined, simply because he filled up his nomination paper and got himself elected to the Legislative Assembly. That is a case which my honourable friend the Minister knows thoroughly well. If the Commissioner, Northern Division, had been here, he would have corroborated me entirely that, simply because the talukdar stood as a candidate to fill up a vacancy which had occurred as a consequence of resignation of a Congressman, they created such an agitation against him that, for the last three years, he has been suffering heavy losses,

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amounting to lakhs of rupees. Do you mean to say that these people should not be protected? Government are going to extend protection to the small shopkeepers by stopping picketing, that is a very small interest. Government have extended protection to the cotton dealers by the Cotton Contracts Act and other Acts. So also, I think the landlords who, because of their not siding with the Congress, are harassed by agitation, should be given sufficient protection. Sir, there is another instance of a man who has been absolutely ruined. I am sure my honourable friend Mr. Master will bear me out when I say—

The Honourable Sir GHULAM HUSSAIN: May I interrupt the honourable member? Clause 17 has nothing to do with recovery.

Sardar BHASAIHEB RAISINHJI: But in these cases, I think we are entitled to protection. What I want to point out is that the ordinary procedure of law by which recovery is made by the Collector by way of helping the landlord will not have any effect because of the conditions obtaining on account of the agitation. When Government, with all their mighty powers, have failed to realise their revenues, what can the landlords do?

The Honourable the PRESIDENT: May I intervene for a minute? I do not know whether the discussion is drifting into something quite apart from the question under discussion. As far as I have understood it—I should like the Remembrancer of Legal Affairs to follow me—clause 17 refers to notified liabilities, the liability to Government, to local authorities and to private landlords.

The Honourable Mr. W. F. HUDSON: Yes, and to superior holders.

The Honourable the PRESIDENT: That is clause 17. Then, clause 18 is a further progress of clause 17. Would the alterations suggested by the honourable member the Legal Remembrancer mean that a private holder would not get assistance to realise the rent?

The Honourable Sir GHULAM HUSSAIN: It is under clause 21.

The Honourable the PRESIDENT: The honourable member's remarks would in that case be more to the point when clause 21 comes up.

Sardar BHASAIHEB RAISINHJI (THAKOR OF KERWADA): I will reserve my remarks till then.

Rao Bahadur R. R. KALE: In view of the information given, I wish to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. J. G. MORE (Sholapur District): Sir, I beg to move:

"In sub-clause (2) of clause 17, delete 'or rent of agricultural land, or anything recoverable as arrears of or along with such rent'."

Before I proceed to pass my remarks, it is very desirable that we should understand the full meaning of this section and sections 19 and 21. Under clause 17 (1), a notified area is to be declared first, then under sub-clause (2) the notified area liabilities are to be declared. Under sub-clause (2) the relations between the superior landholder and inferior

[Mr. J. G. More]

landholder come in and I want to omit that phraseology. What the Government mean is that if the liability is declared, they can proceed under sub-section 21 (1). The Collector shall realise the notified liability from a tenant or tenants. That is to say, Government are coming to the help of the landlords and not to the help of the tenants. If Government wish to prevent subversion of Government I do not think that they should undertake to help the landlords to collect the rents or arrears of rent from the tenants. There are sufficient provisions under which the Collector can proceed or the landlord can proceed to recover the dues from the tenants. I do not think that if Government refrain from recovering the dues for the landlords the emergency will be such as to subvert the Government. I think it is quite unfair that Government should come to the help of the landlords and they should not come to the help of the tenants. If Government intend to help landlords there will be great discontent among the tenants. If there be discontent, I am afraid Government will be driving them to an undesirable end and not to the end to which they want to draw them. I am afraid this will cause great dissatisfaction.

The Honourable the PRESIDENT: The honourable member is again misunderstanding the whole thing. Sub-clause 17 (2) simply declares certain liabilities as notified. Then section 18 punishes the instigators who instigate the non-payment of notified liabilities. There is no question of recovery in clause 17. The question of recovery comes under section 21. I understand that the word "local authority" will be substituted for the word "person". Under clause 18 instigators will be dealt with and in clause 21 the local authority will be given assistance to recover the dues and not the superior holders.

The Honourable Mr. W. F. HUDSON: We have not actually come to that point as regards clause 21. Government are rather waiting to know the sense of the House. We consider that clause 17 is preliminary to clause 18. After we hear the general sense of the House as regards superior holders, we shall make up our minds with regard to clause 21. If the honourable member withdraws his amendment, he will in no way commit himself or the House. After we hear honourable members, it is extremely possible we may modify clause 20. Clause 17 is a necessary preliminary to clause 18. It is impossible for me to accept the amendment as it limits the scope of clause 18.

Mr. P. R. CHIKODI rose.

The Honourable the PRESIDENT: The honourable member Mr. More has not finished his speech.

Mr. J. G. MORE: Some honourable members suggest that section 19 is going to be deleted.

The Honourable Mr. W. F. HUDSON: We are deleting clause 19.

Honourable MEMBERS: Hear, hear.

Mr. J. G. MORE: Then I do not wish to press my amendment.

Mr. N. E. NAVLE: I have great doubts about the wording of section 17. The wording is "rent of agricultural land, or anything recoverable as arrears of such rent, shall be a notified liability". In section 18 the wording is "whoever instigates" is punishable. Suppose a landlord has got 10 tenants and one tenant, call him A, tells the other tenants "let us not pay land revenue". Is A punishable under section 18? If that is so, it will create a very serious situation. If simply on the application of a landlord that A is instigating B, A is punishable, it will be a serious matter. Further, instigation is not defined anywhere. What is instigation?

Mr. G. DAVIS: If a man does not pay himself and goes and advises others not to pay, it is instigation.

Mr. N. E. NAVLE: This Bill is to be restricted so far as emergency is concerned. A saying to B not to pay is not a case of emergency.

Mr. G. DAVIS: After this Act comes into operation, if Government finds that an emergency exists and the state of things is so serious in a particular area that the rents and dues should be notified, then Government issue a notification declaring that particular area a notified area. Then, this section comes into operation.

The Honourable Mr. W. F. HUDSON: At present this law against instigation is in force in only one district in the whole presidency. That shows that Government are not going to use it except in case of emergency.

Mr. N. E. NAVLE: I express my thanks for the explanation offered by the Honourable the Home Member and request Government not to put this section into operation against tenants. Agitators may be punished under clause 18. I presume Government will take care to see that poor agriculturists are not harassed.

Mr. G. S. GANGOLI (Kanara District): I have myself tabled a similar amendment, and I wish to move it.

Sir, from what I have gathered from the discussions that have taken place it seems to me that Government are not in a mood to help the landlord as against the tenant. The power that is sought to be given by this section does in fact exist under two other things, namely, the Land Revenue Code and Record of Rights. Under the Land Revenue Code there are authorised areas and unauthorised areas and whenever anything is a notified liability even the smallest amount will be included in that amount. Even if section 20 or section 21 will not go to the help of the landlord in recovering unauthorised rents, all this will be taken as a notified liability and the poor tenant will be harassed. If the Government's intention is not to help the landlord as against the tenant—

The Honourable Mr. W. F. HUDSON: It is not a question as between landlord and tenant. But we do intend to protect the landlord from the attacks of instigators exactly as we protect ourselves. That is only fair. There is no question as between landlord and tenant. I am sorry the honourable member should waste the time of the House.

Mr. G. S. GANGOLI : I am not going to move my amendment.

Clause 17 ordered to stand part of the Bill.

Clause 18 (*Punishment for unlawful instigation to the non-payment of notified liability*) :

Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Mr. G. S. GANGOLI (Kanara District) : Sir, I wish to move that :

"In clause 18, after the word 'whoever' and before the word 'by' add the word unlawful."

The section is very elastic. If a man is to be convicted at all let him be convicted for some unlawful act.

The Honourable Mr. W. F. HUDSON : That is the whole object of this section. We were advised that these instigations could not be covered by any other law. It seems to me unnecessary to add the word "unlawful".

Mr. G. S. GANGOLI : I do not move my amendment.

Mr. G. S. GANGOLI (Kanara District) : Sir, I wish to move that :

"Add to clause 18 the following proviso :

"Provided however no steps taken by or help rendered to a person in approaching the authorities for the redress of his grievance or to apprise of his inability to pay on economic distress shall be cognisable under this chapter."

Sir, if it is not an offence, it cannot really be provided for. From what is going on in this House I can understand that, because section 19 is to be deleted or Government do not press for that, my non-Brahmin friends, who suppose that they are helping the cause of the agriculturists, are content. Yet they do not seem to realise the import of sections 17, 18, 20 and 21. And they have the further assurance that section 19 will be applied only to one district—

The Honourable Mr. W. F. HUDSON : No, I never gave that assurance. I said that in the past it was applied to one district only.

Mr. G. S. GANGOLI : I have got some questions and answers here to show how the existing Ordinance is worked in the taluka of Yellapur. Taluka Yellapur is not a notified area in the sense that there is any no-tax campaign there, although Kanara district happens to be a notified area. Kalche is a village in the Yellapur taluka which pays Rs. 4,000 as annual assessment. It is the biggest village in that taluka, which is affected by malaria and other forest grievances. That village is so very unfortunate that within 5 miles of it there is no road even, and the peculiar circumstances are that not even a superior officer visits that village. Further, if the price of one thousand cocoanuts is Rs. 30 in the taluka place, in this village the price is only Rs. 3-8-0 because the cost of transport comes to Rs. 26-8-0. I will now show how this Ordinance

[Mr. G. S. Gangoli]

is applied there. On the 23rd of June, out of the total assessment of Rs. 4,000, only Rs. 411 were in arrears. That amount was to be paid by 15 agriculturists, not for the lands in that village, but for lands held by them elsewhere also. For that four children of a gentleman named Samba were clapped in jail.

The Honourable Sir GHULAM HUSSAIN : The honourable member is referring to the Questions and Answers. He is not speaking on the amendment at all.

The Honourable the PRESIDENT : What the honourable member means to say, I presume, is that those who have *bona fide* grievances if helped by persons in approaching Government for redress should not be held guilty of an offence; and to illustrate that such attempts on the part of agriculturists have been taken and construed as an offence, he is citing some examples.

Mr. G. S. GANGOLI : Most of these villagers are illiterate. Under this section, if any stranger friend writes an application to the local authorities on behalf of the poor ryot, he will be hauled up. Government think that there is no-tax campaign going on there. But I may assure the House that it was not a no-tax campaign at its inception. These are all local troubles. We are agitating for the last 3 or 4 years, and thousands of applications were made to the local authorities. But we have received no consideration at all. Every application was rejected. I know of several instances where for the non-payment of the revenue the ryot's houses and his walls were dug by subordinate officers, cattle, corrugated sheets of iron and zinc sheets covering the house were removed and sold as moveables. Everything was attached. I know of another instance where a baby was being given a bath on the third or fourth day of its birth. There was a copper pot of boiling water. The revenue officers attached that copper pot, threw the water on the ground and took away the pot leaving the innocent baby and the mother there. What would they have lost if they waited till the bath was over? What did they gain by throwing the water? This is how the ignorant ryots are treated. Even to-day in the Unstarred Questions and Answers List is mentioned a property which is administered by Government itself. Let me inform the House that the assessment of the minor's estate is Rs. 560, that the actual cost of managing the estate is Rs. 220 and though the minor is not paid a single pie out of the estate the income is nil. So the minor is not paid and Rs. 220 is to be paid out of his gold or other ornaments for the management of the estate, and the Government must get assessment of Rs. 560 every year. Is this not poverty? Is this not inability to pay? This is an estate under the management of Government. How are similar ryots to maintain themselves?

The Honourable the PRESIDENT : The honourable member may now return to the amendment.

Mr. G. S. GANGOLI : If poverty is a crime and people in distress are not to be helped at all by Government, then I have nothing to say. If that unfortunate district of Kanara has got to be represented by one

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unfortunate member and if the non-Brahmins are satisfied by deleting section 19 and the ryots of Kanara are to be neglected because one member cannot form a majority and bargain, then by all means legislate. I am content.

Question proposed.

(After recess)

Mr. N. E. NAVLE (Ahmednagar District): Here again, I have got some *bona fide* doubts as to the application of this clause to steps taken in a *bona fide* manner to get redress of legitimate grievances. Take the case of a Government Resolution issued by Government as to the method of arriving at the anna valuation of crops. On the anna valuation depends the suspensions and remissions to be given to a particular village. For that purpose Government appoint the village panchas. There is a provision in the Government Resolution that the panchas, if dissatisfied with the decision of the mamlatdar, can approach the Collector. If some people, the agriculturists, the khatodars, in a *bona fide* manner want to approach the higher authorities in the matter of fixing the anna valuation of their village, they should not be considered to be doing anything wrong.

The Honourable Sir GHULAM HUSSAIN: Read the marginal notes.

Mr. N. E. NAVLE: If Government say that these cases will not be covered by this clause—

The Honourable Mr. W. F. HUDSON: Of course, we shall say that. If that is what the honourable member wants, I can give him every possible assurance.

Mr. N. E. NAVLE: If such an assurance is given, I will not support the amendment.

The Honourable Mr. W. F. HUDSON: I need hardly point out that my honourable friend to the left (the Honourable Sir Ghulam Hussain) is the Revenue Member. Having during the whole of his life been in sympathy with the agriculturists, is he likely to apply it in such cases?

Mr. L. R. GOKHALE (Poona City): Sir, the purpose of this amendment is that when *bona fide* attempts are made to get redress of grievances, steps should not be taken under this clause. Will it not be possible to add a proviso to that effect? The honourable members who are sitting on the Government benches are not there to administer the law. We never doubt the *bona fides* of those who sit in the House and also of the Government members. The difficulty is that the actual administration of the law is not carried out by them and, therefore, in the law itself there should be no ambiguity or room for the misuse of the powers given. My honourable friend Mr. Gangoli has given an instance where the hot-water tub meant for bathing a child was removed in recovering land revenue. I am sure if honourable members of the Government benches were there they would have stopped the officer removing that hot-water tub. When the Land Revenue Code was enacted nobody ever thought

[Mr. L. R. Gokhale]

of such a harsh treatment. I am only suggesting that, if possible, a provision should be made to exclude *bona fide* attempts to get redress of grievances. As the clause now stands, there is no exception. The wording is very wide.

"Whoever by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability....."

Here, there is no question of intention. A magistrate may find that a man has actually instigated a person not to pay: whatever the motives may be, whatever the reasons may be, will they protect a person from the operation of this clause? I put it to the honourable members of the House. If a man honestly wrote to the authorities and made a representation for suspension, pleading inability, even that may be covered by this clause. There is no saving provision in the clause. And that is the reason why some indication should be given in the law itself.

There is one more point. Even if a person does not make an application himself, but only writes an application for another who posts it to the Government members, even he may be hauled up, because he may be said to have instigated the man to write it. Now, is it too much to ask Government to exclude the possibility of such hard cases being taken up by the local magistrates? Assurances will not be law. What will be in the statute book will be clause 18 without any proviso. I think it is a case where safeguards are absolutely necessary. In a place like India where many people hardly know to read and write and where courts are 50 or 100 miles distant, it is absolutely essential that *bona fide* attempts to get redress of grievances should be allowed. From that point of view this amendment or any other amendment to exclude attempts to get redress from the authorities should be allowed. I am willing to suggest an amendment to the amendment if Government will be pleased to accept it. Instead of the proposed proviso, the proviso may run as follows:

"Provided that no attempt made in good faith to make a representation to the authorities will be punishable."

OR

"Provided that no steps taken in good faith to approach the authorities for the redress of grievances or representations made in good faith to protect the interests of persons making the same will be liable to be punished."

If Government can suggest any better wording I will consider it. With these words I propose an amendment to the amendment.

The Honourable the PRESIDENT: The question of an amendment to the amendment would arise only if there is any possibility of Government accepting an amendment in any form to exclude *bona fide* persons to approach the authorities.

The Honourable Mr. W. F. HUDSON: That is not instigation in any sense. The court will not hold that instigation: that is the safeguard.

Mr. L. R. GOKHALE : There is no word "instigate"

The Honourable Mr. W. F. HUDSON : Will the honourable member be so kind as to read the marginal note and the clause? He says "instigate" does not appear.

Mr. L. R. GOKHALE : "Instigate" is there. A person may be instigating another to do a good act also : "instigate" does not mean "instigating" to do bad acts. Whoever helps may be held culpable. "Whoever...instigates, expressly or by implication"—I see the spirit of it. But "instigates" means puts pressure or makes one do a thing. What else does it mean? I do not see that "instigates" means necessarily "does something unlawful." The word "instigate" has also the meaning I have given.

Mr. M. M. KARBHARI (Thana and Bombay Suburban Districts) : Sir, as sub-clause (2) of clause 17 stands, I believe the honourable House will be well advised to understand to what extent they can give their consent to this section if any provision for any lawful agitation is not to be made in it. We are aware, Sir, that there is a very great and acute distress in the villages, that nearly 80 per cent., if not more, of them are highly indebted and that during the last four years prices of agricultural produce have gone down tremendously so that the agriculturists have not been in a position to pay assessment from the earnings they have derived from their holdings. Not only that but whatever assessment they have paid has been paid either by borrowing or by mortgaging or by selling away their valuables, their ornaments that they have saved all these years by their thrifty and economical living. There is another factor also that has got to be clearly understood by this honourable House and it is this : as the provincial Government stands, its chief source of revenue is agriculture and it is but natural for the lower subordinate officers to see that this land revenue is recovered as early as possible and as much as possible. Then we must understand another position also that though Government do give suspensions and remissions, at the same time the lower subordinate officers have got to recover the revenue though much against their will. As the presidency finances are at present constituted and the method of recovery is there, the Collector and his subordinate officers have got to see that the revenue is recovered in proper time, whether there is or is not any distress. Under the circumstances, if the agriculturists were to organise themselves and agitate to get redress from Government, the Collector by reporting otherwise to Government would have that area converted into a notified area because it is to the interest of the Collector to recover such revenue and once the area is declared as a notified area, it would be absolutely impossible for the agriculturists to gather together and agitate constitutionally to ask for any redress from Government. Sir, let us understand that the agricultural population of this country has always been loyal to Government, have always all the years round paid their assessment to Government and he would be a bold man who would ever go to them and ask them not to pay revenue if they are in a position to pay that revenue. It is only when the distress becomes acute and when they cannot pay the revenue, when they can hardly subsist on their earnings, it is then that

[Mr. M. M. Karbhari]

an outsider can reach them and organise them and induce them to say "We cannot pay the revenue." If you really want to save this agricultural population, who are the bulwark and the backbone of Government, every attention must be paid to them. In the absence of a better land revenue system being introduced on economic lines, what we at present are doing is to simply carry out the old method that has been handed over to us from centuries. So long as agriculture is not made an economic holding, so long will the distress continue amongst these people and if by this Act Government are pleased to declare this a notified area, they stop that poor agriculturist from constitutional agitation and from bringing their grievances to the notice of Government. Therefore, I would suggest that Government should be well advised to make provision in this direction that when a real economic condition exists, if the distress is there and if the Government also admit that the position of the agriculturist has become very bad and that it is every day going from bad to worse, then they must not, if the agriculturists are by constitutional agitation bringing their distressed condition to the notice of Government, make such an action illegal. I therefore support the amendment and request Government to introduce a very healthy provision which will leave ample ground to the agriculturists to bring their distressed circumstances to the notice of Government.

Mr. B. S. KAMAT : Sir, I gather that although the honourable member the Legal Remembrancer recognises the danger which has been pointed out by my honourable friend Mr. Gangoli lurking in this connection, yet he thinks that the word "instigates" would be a sufficient protection for *bona fide* workers, and that protection is implicit in the word "instigates." Although there is some force in that argument, I do think, Sir, that instead of depending on implicit things, it is much better in the interests of *bona fide* workers to make this clause perfectly explicit, and I suggest that this could be done without a great deal of difficulty if some such words are introduced in this clause, namely, a man who instigates not to pay "on political grounds" or to defer payment on political grounds. In the statement of objects and reasons of this Bill, it has been stated that clauses 17 to 21 of this Bill are intended for those who refuse to pay land revenue on political grounds. What is stated in the statement of objects and reasons is no law. Yet, if that is the real background of the whole thing, I do not see why Government should be rather shy in introducing in the clause itself some such words namely, a man who refuses to pay or who instigates not to pay on political grounds; further, if these words cannot be had in a legal enactment, I would suggest as an alternative some such words as a man who instigates not to pay "as a part of an organised movement" or as a part of a concerted movement. Some such words can be introduced in this clause in order to make it absolutely safe for those who are working in a *bona fide* manner, for instance, in the case of those who have to advise *rayats* that there is a legitimate case for approaching Government, say, for land revenue suspension. I suggest therefore that some such words "either on

[Mr. B. S. Kamat]

political grounds" or "as a part of an organised or concerted movement" may be inserted in the clause itself.

Mr. P. R. CHIKODI (Belgaum District): Sir, it seems to me that there is a ground for considering favourably the amendment proposed by my honourable friend from Kanara. This amendment, as moved by my honourable friend from Kanara, is, if I may say so, the result of his experience in that district. In the years 1929, 1930 and 1931, I know as a matter of fact there was acute economic or financial distress in Kanara and I also know that that distress was exploited by the Congress into a no-tax campaign and therefore there existed two things, the economic distress as well as the no-rent campaign, and Government at that time had to be approached and I myself had approached Government and got some concessions from them by representing that the economic distress was genuine. Now in times like the present it is just possible that the local officers, the subordinate officers, might for reasons of their own take undue advantage of this clause as it is. In order that no mistake of that kind may be committed, it is necessary that a proviso should be inserted so that any representation of legitimate grievances or economic distress should not be construed as unlawful instigation as contemplated in the clause as it now stands. There were representations made in the year 1931 and Government themselves had to go to the rescue of the agriculturists of the Kanara district by large remissions in a large portion of the Kanara district, but there were representations made at the same time that although the case was represented purely on grounds of economic distress, still they were hauled up for being instigators of no-rent campaign. In order that there should be no room for such treatment, it is necessary, I say, Sir, that any representation to Government for redress of legitimate grievances of economic conditions should not be construed as unlawful instigation. That may be put in the way in which Government would like to put it, but that is the suggestion which I want to make and which is at the bottom of the amendment brought by my honourable friend Mr. Gangoli and therefore I support it.

Mr. J. G. MORE (Sholapur District): Sir, I feel inclined to oppose the amendment now proposed by my honourable friend from Kanara. Of course, if we were to accept this amendment, then we would be confining it to the activities which merely concern approaching the authorities and seeking redress and only those activities will be exempted from the clause as it stands. But suppose, Sir, that I want to intervene between landlords and tenants in order to settle the matter amicably, that action of mine would not be covered by the present amendment.

The Honourable the PRESIDENT: That point of view has been explained by practically every honourable member and the case has been sufficiently put before the honourable mover of the Bill and I do not know why speeches need be multiplied to press the point.

The Honourable Mr. W. F. HUDSON : I am quite willing to reply, but I am waiting to hear what the honourable member Mr. Jog is going to say.

Mr. V. N. JOG : Sir, the amendment appears to me to be rather halting---

The Honourable the PRESIDENT : I simply wanted to stop further discussion, as the point has been sufficiently discussed and made clear.

Mr. J. G. MORE : I was going to propose an amendment to the amendment, namely :

Add the following proviso : " Provided further that no steps taken or help rendered to a person or persons ".....

I want the words " or persons " to be added, and to delete the words " in approaching the authorities " and the rest to remain.

The Honourable the PRESIDENT : The word " person " includes " persons " because the singular includes the plural. That makes it still more difficult for the honourable members to accept.

Mr. J. G. MORE : This amendment should not be accepted as it stands. It is too narrow in its scope.

The Honourable the PRESIDENT : The honourable member has every right to move an amendment to the amendment. But the question is whether any amendment is going to be accepted. If the Honourable the Home Member comes forward to meet the wishes of the opposition, then there is some chance.

Mr. J. G. MORE : It is better to rely upon the assurances given by the Government.

Mr. V. N. JOG : I do not know whether to meet possible cases where--

The Honourable the PRESIDENT : Is the honourable member moving an amendment ?

Mr. V. N. JOG : Yes, Sir, instead of the proviso, I wish to add an explanation to this clause as follows :

" Any steps taken in a constitutional manner to apprise the Government, local authority, or a landlord of the inability of the payers to discharge their liability on account of great distress shall not constitute an offence."

The Honourable the PRESIDENT : That is a new motion.

Mr. V. N. JOG : That is not a new motion. I want that it shall not be considered as an instigation to do the things mentioned in the explanation I propose to add.

The Honourable the PRESIDENT : That is not an amendment to the amendment.

Mr. L. R. GOKHALE : The honourable member can move that as a proviso in place of the proviso now proposed.

Mr. V. N. JOG : So, Sir, I move the amendment.

The Honourable the PRESIDENT : That is not an amendment to the amendment.

Mr. V. N. JOG : Instead of " explanation," I will say " proviso ".

The Honourable the PRESIDENT : What is it ? I do not understand the honourable member. There is the amendment of the honourable member Mr. Gangoli. Is there any amendment to that ?

Mr. V. N. JOG : I oppose the amendment. It refers only to cases of Government. I am proposing Government, local authority and landlord.

The Honourable the PRESIDENT : What is the amendment ?

Mr. V. N. JOG : I propose to add the following proviso, in place of the proviso proposed :

" Any steps taken in a constitutional manner to apprise the Government, local authority, or a landlord of the inability of the payers to discharge their liability on account of great distress shall not constitute an offence."

The Honourable the PRESIDENT : That is not an amendment to the amendment. He is proposing something quite new. I call upon the Honourable the Home Member to reply.

The Honourable Mr. W. F. HUDSON : Mr. President, I do not think any one in this House who knows me well can accuse me of lacking in sympathy for the agriculturists. I have spent thirty years of my life as a revenue officer, and for quite a considerable period I was a zamindar on a much larger scale than any one in this House, even larger than my honourable friend Khan Bahadur Khuhro or my honourable friend Wadero Nabibuksh Bhutto, because I managed at least 750 estates. Those were not wealthy estates ; they were all *ex-hypothesi* bankrupt estates. So what I do not know about the difficulties of the agriculturists is not worth knowing. I do not like to make odious comparisons, but I should say I have forgotten more about it than my honourable friend from Kanara ever knew. Therefore, I do not think any one can accuse me of lack of sympathy with the agriculturists. It would have given me very great satisfaction to accept the suggested amendment of my honourable friend Mr. Kamat, but for one fact which he doubtless lost sight of, or perhaps, as he is not a Gujarati, he does not realise,—how easy it is to convert the word " political " into " economic." Sir, the people who instigate a no-tax campaign are not such fools as not to realise what a splendid cry it is with the public to say " the poor agriculturists cannot pay." The object of the agitation is to paralyse Government, and it certainly was so in Gujarat. I think there can be no question as to that. The most important no-tax campaign was carried on in Bardoli, and although, at the beginning it was said that the people were not to pay their taxes because there was an infamous Government, finding that that did not win the sympathies of reasonable men, it was converted into an economic campaign—the poor, miserable agriculturists of Bardoli cannot pay their land revenue. Now, Sir, the proof of the incorrectness of that argument is this, that as soon as we had stopped unlawful instigation, the poor peasants of Bardoli managed to pay not only their revenue with perfect ease, but the arrears of the two previous years, and that of course I do admit is a very severe tax, because, generally, when people do not pay their revenue, they spend the money on something else. But we

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had no difficulty whatever, when once we had put down unlawful instigation, in collecting lakhs of rupees from Bardoli taluka. Therefore, with very great regret, I cannot accept my honourable friend Mr. Kamat's suggestion, although, if we could depend on the *bona fides* of people who deal with these matters, I should be only too glad to do so. Sir, I am not prepared to accept the suggestion, because I think unquestionably it would place the courts in very great difficulty. I do want the House to understand that this is not a matter which is going to be decided by revenue officers, by kulkarnis or other subordinate officers of any kind. This is a matter which is coming before a court, and the court will be in a position to consider such words in the Bill as unlawful instigation and will decide the punishment for unlawful instigation. The Collector is not going to punish. The court is going to punish, and when the accused says "I was only representing to the Collector that so and so could not pay his assessment, or rent, or whatever it is", of course the court will say that that is not unlawful instigation. There is a great difference between constitutional representation to the Collector and unlawful instigation; and however much we split hairs in this House, every practical man knows the difference.

Having said that much, I am prepared to make one change in the Bill as it stands, which I hope to some extent will meet the wishes of my honourable friends opposite. We have no desire whatever that prosecutions should be initiated against instigators on insufficient grounds, and although in the Bill we have put in the words "except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of sub-inspector", I am prepared to redraft it as follows:

"No Court shall take cognizance of any offence punishable under section 18, except upon a complaint in writing made by the Collector, or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf."

That will ensure that nothing rash is done by the subordinates, and that any complaint of unlawful instigation is made by one of the superior officers of Government. I hope, Sir, that that will to some extent meet the objections of my honourable friends. I am not prepared to go any further.

Mr. G. S. GANGOLI (Kanara District): Sir, I must really admit that it meets my case to some extent, as the Honourable the Home Member hopes, but I have got my own facts and figures, and I shall show him only one instance. In the first place, the marginal notes to clauses in a Bill do not form part of the Act itself. In the marginal note to the clause the word "unlawful" occurs, and I want only to insert the word "unlawful" in the body of the clause. My first amendment was like that, that in the marginal note the word "unlawful" appears, but not in the body of the clause, and I wanted to insert that word in the body of the clause.

Then, Sir, only the day before yesterday, I asked a question, and a reply was given, and that is the thing that I want to refer to.

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The question was about the recovery of arrears of land revenue in the village of Kalche.

Mr. G. DAVIS: If I may interrupt the honourable member, the words "unlawful instigation" in the marginal note to clause 18 merely mean that the instigation is made unlawful by this Act. The marginal note is "Punishment for unlawful instigation to the non-payment of notified liability". Before a thing is unlawful, it has to be made unlawful by some law, and the only law that makes this particular instigation unlawful is the present law.

Mr. G. S. GANGOLI: If that is the intention, as it finds a place also in the marginal note, why not insert it in the body of the clause?

The Honourable the PRESIDENT: The honourable member has not followed the explanation. The marginal note is really the head note for that clause, and it shows that the punishment would come in when it is unlawful instigation, and instigation is not unlawful unless it is made unlawful in the body of the Bill by a clause. Clause 18 is now proceeding to make it unlawful by stating that such and such action would be instigation, and instigation coming under that would be unlawful. The word "unlawful" need not and cannot be repeated in the body of the clause.

Mr. G. S. GANGOLI: Whatever that be, I am only quoting this instance. In the 4th List of Starred Questions and Answers, I asked a question about the recovery of arrears of land revenue in the village of Kalche. In reply to part (f) of the question, it is stated that Samba and the other accused were released on probation after conviction on the 24th.

The Honourable the PRESIDENT: The honourable member, in his reply, has to reply to the points made, and not to further supplement his first speech.

Mr. G. S. GANGOLI: Exactly, Sir. I am replying. It is proposed to be amended in such form that responsible persons will be dealing with the situation. In reply to my question it was stated that, though the Collector was encamping near the place, Samba and the other accused were released on probation after conviction on the 24th. A copy of the judgment was on the Secretary's table. I got the judgment, and I find that Samba is not at all an accused in the case. Not being an accused, he is kept in custody for non-payment of land revenue.

The Honourable the PRESIDENT: The honourable member is merely quoting an instance. So many instances have already been quoted. Has he got anything more to say?

Mr. G. S. GANGOLI: No, Sir. I would urge my amendment.

Question put, and negatived.

Clause 18 ordered to stand part of the Bill.

Mr. V. N. JOG: Sir, I propose the following amendment to clause 19, "Delete clause 19".

The Honourable the PRESIDENT: I have ruled many times that that is not an amendment.

Mr. V. N. JOG: It has been done once.

The Honourable the PRESIDENT: No. That was a sub-clause. The honourable member cannot move the deletion of a clause at the second reading. I have pointed that out. He can oppose the clause if he likes.

Mr. G. S. GANGOLI: I oppose the clause.

The Honourable Mr. W. F. HUDSON: Sir, I withdraw clause 19.

Clause 20 (*Special rule of procedure*):

"No Court shall take cognizance of any offence punishable under section 19 except upon a complaint in writing made either by the Collector or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf and no Court shall take cognizance of any offence punishable under any other provision of this Chapter except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of Sub-Inspector."

The Honourable Mr. W. F. HUDSON: I move that clause 20 be amended as follows:

"Substitute the figure '18' for the figure '19' and omit all the words after the word 'behalf'."

The clause as amended will read as follows:

"No Court shall take cognizance of any offence punishable under section 18 except upon a complaint in writing made either by the Collector or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf."

Question proposed.

Mr. L. R. GOKHALE: Under section 20, the first part of it provides: "No Court shall take cognizance of any offence punishable under section 19 except upon a complaint in writing made either by the Collector or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf". The second part goes. What becomes of the offences in other provisions?

The Honourable Mr. W. F. HUDSON: Which offences?

Mr. L. R. GOKHALE: It means no offences left out.

The Honourable Mr. W. F. HUDSON: That is so.

Question put, and agreed to.

Clause 20 as amended ordered to stand part of the Bill.

Clause 21 (*Power to collect an arrear of a notified liability as an arrear of land revenue*):

(1) Any person to whom an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land revenue, in accordance with the law applicable to the recovery of arrears of land revenue in the area concerned.

(2) Nothing in this section shall prevent any person to whom an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) Any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with law from the person on whose behalf the Collector has realised it."

Mr. G. S. GANGOLI: I understand that an amendment is to be moved by the Home Member substituting the word "local authority" for the word "person".

The Honourable Mr. W. F. HUDSON: Do I understand the honourable member to say that he is going to withdraw his amendment if I put in the word "local authority"?

Mr. G. S. GANGOLI: Yes.

The Honourable Mr. W. F. HUDSON: Government have every wish to support the superior holders in regard to their legal rights. We have now come to a definite conclusion that we are giving them the essential support when we are prepared to prosecute people who instigate the inferior holders not to pay their assessment. For the rest it seems that it is the general sense of the House that it is more desirable to leave the remainder of the remedies to ordinary law. So, I move:

"In clause 21, in sub-clause (1) substitute the words 'local authority' for the word 'person' and the word 'which' for the word 'whom'.

In sub-clause (2) substitute the words 'local authority' for the word 'person' and the word 'which' for the word 'whom'.

In sub-clause (3) for the word 'person' where it occurs for the second time, substitute the words 'local authority'."

Question proposed.

Mr. P. R. CHIKODI (Belgaum District): Sir, I rise to oppose the amendment which the Honourable the Home Member has put before the House. It is extremely strange, not only strange, it is extremely mortifying, that Government should now attempt to set one class against another. It has deliberately done so, in order to secure the support of this House to this Bill. It is very mortifying to see that undignified position of Government. What is the position today? There are three sets of persons whose rents have to be recovered: one is the dues to the Government, the second is the dues to the local authority and the third is the dues to superior land-holders. What is the position of the country today? It has been described times out of number by the Honourable the Home Member himself that the Congress is at war with Government. When it embarked upon war against Government, the Honourable the Home Member and other Members of Government and the District Magistrates approached the Deshpandes and Desais and similar land-holders, and sought their help against the civil disobedience movement. Every one of the land-holders who have vested interests offered such assistance as they could to the District Magistrates. I now ask Government whether it is fair to drop them as rotten potatoes?

An Honourable MEMBER: Masses?

Mr. P. R. CHIKODI: If it were a question of protecting the tenants, I would be the first person to defend the interests of the tenants. This is not a measure taken in the interests of the tenants, but simply with a view to set one class against another, they have thrown the land-holders whom they approached times out of number for help to the winds. This is a treachery played by the Bombay Government.

The Honourable the PRESIDENT: Order, order. The word "treachery" is unparliamentary.

Mr. P. R. CHIKODI : Against Government !

The Honourable the PRESIDENT : Government also is a body of members of the House. The honourable member should withdraw that expression.

Mr. P. R. CHIKODI : If that is so, I will withdraw the word. I said that this was not a dignified thing for Government to drop the landholders now. In fairness they should drop the whole clause and leave it at that. I consider this as a sort of bad bargaining. Therefore, I oppose the amendment.

Dewan Bahadur D. R. PATIL (East Khandesh District) : Sir, I rise to support the amendment. The high sounding words and the thundering voice of my honourable friend Mr. Chikodi did not appeal to me in the least. I do not understand his mentality. I know, Sir, that he was a gentleman who voted for the first reading of this Bill. Now he has come to his senses. [Laughter.] I do not know why he wants to oppose this reasonable amendment. I must thank the Honourable the Home Member that he has accepted my suggestion for the deletion of clause 19 and in the interest of the loyal agriculturists he has been good enough to delete that clause. It was not fair on the part of my honourable friend Mr. Chikodi to say that Government have bargained with anybody, that with the majority of the non-Brahmin party they would be able to carry any question.

The Honourable the PRESIDENT : No such insinuations were made.

Dewan Bahadur D. R. PATIL : That is what he meant by implication.

Mr. P. R. CHIKODI : No, no.

Dewan Bahadur D. R. PATIL : Whatever that may be, Mr. Chikodi was not justified in the least when he said that Government have bargained with anybody. This is far from true.

The Honourable the PRESIDENT : Will the honourable member save the time of the House ? I am anxious to get on with this Bill.

Dewan Bahadur D. R. PATIL : Very well, Sir, I am really surprised that any motive should be attributed to Government by Mr. Chikodi. Be that as it may, it is perfectly clear that clause 19 has been omitted only to safeguard the interests of the agriculturists. I am highly obliged to the Honourable the Home Member for deleting the clause in the interest of the agriculturists.

Mr. L. R. GOKHALE (Poona City) : Sir, we had a fine breeze after a long spell. We had been very serious all these 10 days. However, I take objection to the explanation given by Dewan Bahadur Patil that it was the vote of the non-Brahmin Party that was caught up by Government. That was not suggested by Mr. Chikodi. Why should the Dewan Bahadur wear the cap ? Does it suit him ?

The Honourable the PRESIDENT : I thought the honourable member got up to make some peaceful speech. But he is adding fuel to the fire.

Mr. L. R. GOKHALE : The point of Mr. Chikodi was that in taking away the protection of the landlords—

Dewan Bahadur D. R. PATIL : On a point of information, Sir. (To Mr. L. R. Gokhale) Have you taken any brief for Mr. Chikodi ?

Mr. L. R. GOKHALE : I have taken a brief for you first.

Dewan Bahadur D. R. PATIL : I do not want you to take any brief for me.

The Honourable the PRESIDENT : The honourable members will not indulge in personal remarks.

Mr. L. R. GOKHALE : What I want to point out is that the object of the whole Act was that protection should be given to the Government, to the local authorities, to the landlords, big and small. That was the frame of the Act. Of course, upon that basis, I am sure, people must have voted for the first reading of the Bill. But now, out of the three clauses two clauses have been retained and the third clause has been partially removed. Protection given to the landlords is now taken away, and that means less favour is shown to them. From my point of view protection ought not to have been given to any class at all. The principle itself of having notified areas and compelling the poor agriculturists to pay the dues is not very sound and from that point of view I accept the amendment of the Honourable the Home Member. He said that he thought it best to exclude the landlords from the clause and thereby to help the agriculturists. But I do not think it is either giving protection to one class or taking away the protection of another class. It only means that a particular oppressive measure that was being extended in the case of the landlords is not now being so extended. Beyond that there is nothing. That is the only point. In my opinion, no measure should be oppressive. I admit that in many cases the landlords have been oppressed by the tenants, but that does not mean that the remedy lies with the legislature. There are other remedies for that. With these remarks, I support the amendment.

Sardar BHASAHEB RAISINHJI (THAKOR or KERWADA) (Gujarat Sardars and Inamdars) : I am sorry, Sir, for the tussle that we have witnessed here in this House. I think it was due to the sudden change on the part of Government. I have already given my reasons in favour of the retention of this clause. I do maintain that it is not fair on the part of Government to withdraw the protection to landlords which they have taken for themselves. So far as the Gujarat talukas are concerned, the lands have been surveyed, the assessment has been fixed, and over and above that section 84A of the Land Revenue Code is imposed on them. In these circumstances, how are they going to harass the people ? Besides that I do not like to say anything which would appear in the spirit of bartering or asking anything in return of services rendered by the landlords and zamindars to Government, but I submit that the landlords do need some protection, as, because they do not fall in with the wishes of the Congress they are likely to be affected seriously. Under section 84A of the Land Revenue Code, a landlord can only enhance the assessment up to a fixed standard. After that he cannot enhance the assessment. Therefore, I fail to see how the landlords are going to oppress the tenants. Besides, there is a further safeguard. It is not

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the landlords and zamindars who are going to exercise these powers. They will merely apply to the Collector, and it is the Collector who will exercise the powers only on being satisfied that the case represented is a true one. In that case, we believe and I think Government also believe that section 88 of the Land Revenue Code which is good enough in the normal times is not strong enough now. I think it is proper that Government should extend protection to the landlords. I will give one case of the Thakor of Sanand. It so happened that there was a vacancy in the Legislative Assembly. He stood as a candidate and he was returned. The result is that for the last three or four years he is losing his revenue. His only fault was that he did what was most legitimate for any one to do. He is losing his revenue and yet he has to pay in full the Government assessment. How is he to pay? I know, Sir, that most of the landlords are indebted. The landlords of Gujarat have rendered valuable services to Government. They have held loyalty meetings all over Gujarat. For this display of loyalty on their part, the Congress have become their enemies and they would pounce upon them at the earliest possible moment. What I feel most is that after securing the sympathy and favour and support of the landlords in many matters, it is very fine that they should be thrown overboard by Government in this way! I appeal to the Honourable the Home Member to give us protection. There should be no fear that if such protection is extended to the landlords it would be misused. The landlords are not going to exercise the powers. The Collector will carefully scrutinize every case and then only he would give his help to the landlords. In Bombay Government are going to extend protection to the poor class of traders. Why is it that picketing is made an offence? Simply because trade should not suffer.

I, therefore, appeal to the Honourable the Home Member to consider and try to help us as much as they can. With these remarks I oppose the amendment.

Rao Bahadur R. R. KALE (Bombay University): I only wish to show one or two things in response to the remarks made by the last speaker. I am myself an Inamdar and landlord, but I do feel that there is a great difference between assessment or taxes and rent. I am against giving any exceptional measure for the purpose of recovering the rent which may be due under a kabulayat or any other agreement. It is certainly an oppressive measure to be placed in the hands of the landlords and it is for that reason that I support this amendment, and I do feel that the other honourable members would also support this amendment. There is no question of giving any protection or withdrawing any protection. It is merely a question of withdrawing an instrument which is really going to be oppressive.

Mr. J. S. KADRI (Northern Division): Sir, in the Statement of Objects and Reasons, it is pointed out that clause 16 of the present Bill repeats the provisions of Chapter V, sections 54 and 55 of the Special Powers Ordinance. Now it is proposed to modify clause 21 of the Bill in

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the interest of the local authorities and to the exclusion of other persons concerned. Sir, the landlords and zamindars are responsible to Government for payment of their dues. Government have under this Bill proposed to acquire special power to recover the arrears of their land revenue as a notified liability.

The Honourable Sir GHULAM HUSSAIN : The honourable member is wrong. We have not taken any power under this Bill to recover any land revenue.

Mr. J. S. KADRI : What I mean to say is that the Government have secured themselves against the loss of their own land revenue but refuse to afford special protection to landlords against the no-rent campaign of their tenants. If the Congress will stir up agitation with a view to deprive the landlords and zamindars of their right to recover rent from their tenants, the landlords will become the butt of the tenants' boycott. I think it is very undesirable on the part of Government to deprive the landlords and zamindars of the protection which they would badly need in recovering their dues from their tenants under such circumstances. If Government are prepared to extend special protection to the local authorities to recover their dues but not to extend the same to the landlords who equally need it, I think they are making a very unjust and invidious distinction between the landlords and the local authorities. Why then extend this protection to the local authorities even? If you want to withdraw the protection from the landlords, withdraw it wholesale by deleting the clause altogether, but if the clause is to be retained, then let the protection be extended as well to the landlords, who have been ever loyal and faithful to Government. In return for their loyalty, they expect to be protected by Government against the conspiracy of their tenants under the influence of the civil disobedience movement. I am afraid, Government will be alienating the sympathy and loyalty of zamindars, if they deprive them of the protection which they need in times of emergency, a protection which is vouchsafed to them under this clause and which already exists under the present Ordinance. I would urge that the clause may be left as it is or it may be done away with altogether. In this matter, no invidious distinction should be made between the zamindar and the local authority. That is my point.

The Honourable Mr. W. F. HUDSON : Sir, I am very sorry indeed that Government should have had to disappoint some of its friends, my honourable friend Mr. Chikodi and my honourable friend the Thakor Saheb of Kerwada, but whatever we do we must disappoint somebody. And in this case, Sir, I think there is considerable justification. The honourable member the Thakor Saheb says that we are not giving the landlords protection. I deny that *in toto*. We give them the best form of protection : we are going relentlessly to prosecute, and, I hope, obtain convictions against, people who instigate their tenants not to pay their dues. The honourable member will have the fullest support, I am perfectly

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certain, of his local Collector in pursuing any such persons. And if he says that that is not protection, I do not think that he understands what the word 'protection' means. What he wants, Sir,—and I perfectly understand it—is that the Collector should be his rent-collecting agency. And that also is a perfectly natural ambition. But, Sir, I suggest that when once we have removed the cause of this non-payment, when once we have put the objectionable agitators under lock and key, it will be quite easy for a good landlord like the Thakor Saheb himself to come to a reasonable agreement with his tenants. And if he cannot do so, he will be in exactly the same position as he was two years ago; he will have the remedies which have been enforced for the last forty or fifty years. I am quite sure that the Collector will give such assistance as is possible. Under these circumstances, therefore, I do not think myself that it lies in the mouth of any of the honourable members who are in the fortunate position of being superior holders to say that Government have let them down in this matter. It is quite true that it was in the Bill, but surely no one will argue that after discussion in this House Government may not change its mind. I have changed my mind a good many times in the last ten days at the request of, or in view of the arguments of, the honourable members opposite. And I think, Sir, this is a case which in the long run no one will regret.

Question put, and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22 (*Jurisdiction*):

"No Court other than a court of a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act."

Mr. J. B. PETIT (Bombay Millowners' Association): Sir, I have got two amendments. One is:

For the words "of a Presidency Magistrate" substitute the words "of the Chief Presidency Magistrate."

And the other is:

For the words "Magistrate of the first class" substitute the words "the District Magistrate."

On the supposition, Sir, that the higher the judicial authority, the greater the security to the subject,—

The Honourable the PRESIDENT: Let us first take the first amendment, namely, the one relating to the Chief Presidency Magistrate.

Mr. J. B. PETIT: Very well, Sir, I move that:

In clause 22, for the words "of a Presidency Magistrate" substitute the words "of the Chief Presidency Magistrate."

I think, Sir, that for various reasons, it will be more desirable to leave it to the Chief Presidency Magistrate than to any other Presidency Magistrate. For one thing, it will inspire more confidence in the public; and certainly promote greater uniformity in the sentences. Secondly, Sir, it is also very desirable that cases of this kind should be heard and decided, if possible, by one magistrate only. It is for these reasons that I have moved this amendment, and I hope the House will accept it.

Question proposed.

Rao Bahadur R. S. ASVALE (Bombay City, North) : Mr. President, I rise to oppose the amendment. My only reason is that the cases under this legislation will be not one or two, but thousands, and it will be impossible for the Chief Presidency Magistrate to try all the cases. Therefore, Sir, the clause should be left as it is. All the presidency magistrates should have the power to try these cases. The amendment should therefore be opposed.

The Honourable Mr. W. F. HUDSON : Sir, I hope that the honourable member Rao Bahadur Asavale is wrong in saying that there will be thousands of cases under this Act. I hope very much that there will be very few cases, but we cannot anticipate anything of the sort. I am not going to agree to the time of the Chief Presidency Magistrate being entirely allocated to cases, some of which are of minor importance, nor am I prepared to subscribe to the view that the other presidency magistrates do not enjoy the confidence of the public to the same extent as the Chief Presidency Magistrate. [Applause.]

Mr. J. B. PETIT : Sir, I move the amendment as a matter of principle. If the House is satisfied with the clause as it stands, I have nothing to say.

The Honourable the PRESIDENT : Is the honourable member withdrawing the amendment ?

Mr. J. B. PETIT : Yes, Sir, I am.

Amendment, by leave, withdrawn.

The Honourable the PRESIDENT : Does the honourable member propose his second amendment ?

Mr. J. B. PETIT : No, Sir.

Clause 22 ordered to stand part of the Bill.

Clause 23 (*Offences under the Act to be cognizable and non-bailable*) :

"Notwithstanding anything contained in the Code, any offence punishable under this Act shall be cognizable and non-bailable."

Mr. V. N. JOG (Dharwar District) : Sir, I beg to move :

In clause 23, omit the words "notwithstanding anything contained in the Code." Insert the letters "non" before "cognizable" and delete the letters "non" before "bailable."

There are three amendments.

The Honourable the PRESIDENT : I want one by one. "Notwithstanding anything contained in the Code" : what is the significance of omitting that ?

Mr. V. N. JOG : Sir, I have tabled all these amendments together. If they are all taken together, the significance will be understood. They may, therefore, be taken together.

The Honourable the PRESIDENT : They may be proposed together.

Mr. A. MASTER : Sir, does not this amendment constitute a direct negation ? Is it, therefore, in order ?

The Honourable the PRESIDENT : He is not proposing the deletion of the clause. He is only proposing an amendment. It may be that if the amendment is carried, it will change the main features of the clause.

[The President]

What is not allowed is an amendment to delete the whole clause. But amendments in any other form are allowed.

Mr. A. MASTER: I mean to say, if an amendment is an entire negation, is that in order?

The Honourable the PRESIDENT: Yes. Had I held that to be an amendment of principle, it would have been different: it should have been moved at the first reading. I think it was agreed that we should leave certain clauses as matters of detail and not matters of principle. When moving amendments on matters of detail, an amendment to delete a whole clause is not allowed, but an amendment to alter a clause to any extent is allowed.

Mr. V. N. JOG: The reason why I move this amendment is this. Under the Criminal Procedure Code, the definition of the word "cognizable" is given:

"A cognizable offence——

The Honourable the PRESIDENT: Is that a very difficult term?

Mr. V. N. JOG: No, Sir. But there might be non-lawyers who may not understand it.

Moulvi Sir RAFIUDDIN AHMAD: "Non-lawyers?"

Mr. V. N. JOG: Why should I be interrupted?

Dr. M. K. DIXIT: We want to be enlightend. Please read it.

Mr. V. N. JOG:

"'Cognizable offence' means an offence for and 'cognizable case' means a case in which a police officer, within or without the presidency-towns may in accordance with the second schedule or under any law for the time being in force, arrest without warrant."

A police officer can arrest without warrant. That is the meaning of the word "cognizable." As to "bailable" I will not dilate on it.

The Honourable the PRESIDENT: That is not defined; is it?
[Laughter.]

Mr. V. N. JOG: It is also defined. Why I explained the meaning of the word cognizable is because under this enactment we have created various offences, offences under chapter II, breaches under clause 4 and clauses 5 to 10, and also breaches under clause 18 relating to notified liability. There are so many offences which have been created by this enactment. Just I put it to the other side, again take the same illustration. Suppose I do not give a return of vehicles I possess. Does the Government wish that a police officer can arrest me without warrant? By this expression "Notwithstanding anything contained in the Code, any offence punishable under this Act shall be cognizable and non-bailable", a police officer can arrest me without warrant and such an offence would be again non-bailable, and the police and the magistrates even have no power to release on bail; and, therefore, I would suggest that this cognizability and non-bailability may be confined, as Government are pleased to confine

[Mr. V. N. Jog]

the question of heavy fine, to the offences under clause 4. Then I think I may be willing to accept that and I may add, if the Chair permits, "except offences under clause 4 or punishable under clause 14", because the offences under clause 4 are punishable under clause 14. Otherwise small offences, ordinary offences, can be made cognizable and non-bailable. I will take another illustration. Now the Honourable the Home Member has been pleased to delete clause 19, and then in the case of clause 18, which is an offence of instigation not to pay notified liability, he has been pleased to say that no cognizance of these offences can be taken by any court unless the Collector or the Assistant or the Deputy Collector authorises or is authorised by the Collector in writing in this behalf i.e. unless upon a complaint by these officers in writing. So, the position would be rather inconsistent. Without a complaint from the Collector no court shall take cognizance, but at the same time—I am taking only by way of illustration—suppose a man commits an act under clause 18; though the court cannot take cognizance of the offence except upon a complaint in writing, if a police officer knows that such an offence has been committed, he can arrest him without warrant and if he arrests him, being a non-bailable offence, he cannot be released on bail. That would be the situation that would be created, because of the words "Notwithstanding anything contained in the Code" as all these matters have been provided in the Criminal Procedure Code, definitions, schedules and sections 496 and 497. That is the difficulty which I am feeling with regard to this. So, the other offences which would come under the clauses of that chapter shall become cognizable, that is, under the definition, a man could be arrested without warrant, and if such an offence is committed and a complaint is lodged, that offence becomes non-bailable. Now, in this connection, the scheme of the Criminal Procedure Code may be looked into. I will just refer to two sections 496 and 497. In section 497 there is a provision empowering the magistrates to grant bail even in non-bailable offences. The section reads:

"When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or transportation for life."

The Honourable Mr. W. F. HUDSON: That will apply.

The Honourable the PRESIDENT: Will it apply in spite of the expression in the clause "Notwithstanding anything contained in the Code"?

Mr. V. N. JOG: If those words are there, it will not apply because for every offence he is to be in custody——

The Honourable the PRESIDENT: That is the honourable member's difficulty.

Mr. V. N. JOG: Every offence under this would be non-bailable.

The Honourable Mr. W. F. HUDSON: This section of the Code deals with non-bailable offences and so will apply.

Mr. V. N. JOG: What is bailable and non-bailable is given in schedule II at the end of the Criminal Procedure Code.

The Honourable the PRESIDENT: "Notwithstanding", because some of the offences would normally be non-bailable, but the provision in regard to non-bailable offences will apply. It applies to all non-bailable offences.

Mr. V. N. JOG: If those words are there, "Notwithstanding anything contained in the Code"?

The Honourable Mr. W. F. HUDSON: There is no offence punishable with death or transportation for life in this Bill.

Mr. V. N. JOG: Any offence punishable shall be cognizable and non-bailable. There are four kinds of offences which have been created by this measure.

The Honourable Mr. W. F. HUDSON: I am afraid I cannot solve the honourable member's difficulty, but I think I am right in this particular matter, and I think the honourable members opposite who understand will agree with me.

Mr. V. N. JOG: I cannot follow that.

The Honourable Mr. W. F. HUDSON: We are not dealing with non-cognizable offences, we are dealing with cognizable offences.

Mr. V. N. JOG: So, I submit, Sir, that there is only this Code which provides what offence is bailable and what offence is non-bailable in the schedule and if this is taken away, then it would mean "any offence punishable under this Act shall be cognizable and non-bailable". So, as long as enquiry takes place, he may have a good cause to show that he has committed no offence either under section 4 or under other provisions such as non-payment of a notified liability or even non-fulfilment of any of the requisitions which may have been required from him.

The Honourable the PRESIDENT: It is, after all, an alternative amendment that the honourable member is aiming at. If the words in the first line are omitted, then he would not be inclined to move the following two amendments?

Mr. V. N. JOG: Even then it would be like this. Let us say that they are omitted, then the section will stand like this: "Any offence punishable under this Act shall be cognizable and non-bailable". There would therefore be a conflict between the Criminal Procedure Code and this Act. By this Act every offence created by this Act is non-bailable while in the Criminal Procedure Code, Schedule II, these offences are not mentioned at all; so, practically every offence which has been constituted by this Act is non-bailable. Therefore, I submit that some distinction must be drawn with regard to non-bailability and cognizability with regard to the gravity of the offences, and therefore, I submit, Sir, that as I have stated, if the Government wishes that the heinous offences should be non-bailable and cognizable, under section 3 they have a provision that for these offences a person can be arrested without a warrant. So, I submit, Sir, that except the offences under clause 4,

[Mr. V. N. Jog]

which are grave and heinous, other offences should be made non-cognizable and bailable; as even under the Criminal Procedure Code with regard to non-bailable offence when there are no reasonable grounds to believe that an offence has been committed, a person can be released on bail except in the matter of offences like murder, and even in the gravest offences bail is granted. When this section is there, not only the police but even the courts cannot release a man, a magistrate cannot release him, and therefore I submit, Sir, that this amendment will be accepted by the House, as otherwise there will be great hardship upon the defaulters.

The Honourable the PRESIDENT: The amendment moved by the honourable member is this:

Omit the words "Notwithstanding anything contained in the Code" and insert the word "non" before "cognizable" and remove the word "non" before "bailable." And add "except offences punishable under section 14."

Question proposed.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, the point made by the Honourable the Home Member is not free from doubt. The scheme of the Criminal Procedure Code is that there are certain well known defined offences and the punishment in various cases varies. There are then certain columns which make those offences either cognizable or non-cognizable and bailable or non-bailable. There is the section 497 which reads:

"When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or transportation for life."

The point, Sir, is that whenever an offence is either bailable or non-cognizable, if the offence is bailable the police is bound to let the offender go on such bail as he can give. For instance, the police will have no power, that is the first distinction that I will draw. In the case of a bailable offence under the Penal Code and as provided for in the Criminal Procedure Code, if the police accuses a person of any offence which is bailable, the police are bound to let him go if sufficient bail is coming forward and in cases where the offences are non-bailable the police cannot discharge them on bail but when the accused is brought before a magistrate, the accused can as a matter of fact move for bail before the magistrate and if the magistrate is satisfied that he can grant bail, unless the offences are such which are punishable with transportation for life or death. Now, construing the section as it is, "Notwithstanding anything contained in the Code" means this that first the power of the police to let out people on bail is taken away and secondly, I am not quite sure whether in such cases "Notwithstanding anything contained in the Code the offences shall be non-bailable" will not be construed by all magistrates to mean that they have the power to let go a man and apply section 497. The point is whether the magistrates, if you use that kind of phraseology, will be entitled to apply this section 497.....

The Honourable Mr. W. F. HUDSON: I should think very many of the magistrates would not take that view.

Mr. G. DAVIS: Under section 29 it says "The provisions of the Code or of any other law for the time being in force".....

The Honourable the PRESIDENT: It also says "in so far as they are not inconsistent with the provisions of this Act."

Mr. G. DAVIS: I may explain why we put in "Notwithstanding anything contained in the Code." If the honourable member refers to the schedule, he will find offences against other laws. This is an offence against other laws. Then at the bottom we see "if punishable with imprisonment for one year and upwards, but less than 3 years....shall not arrest without warrant", and then "Summons" and then "Bailable". If we did not put in "Notwithstanding anything contained in the Code", this would be a bailable offence and cognizable. If we look further, we see "if punishable with imprisonment for less than one year, or with fine only.....Shall not arrest without warrant..... Summons....Bailable....Ditto"; that would apply to offences under section 15. So, if we did not put in this special provision "Notwithstanding....", these particular provisions would apply. Putting in "Notwithstanding" excludes these provisions. That is the idea.

Rao Bahadur G. K. CHITALE: I suggest that the section should be more elastic and should be understood quite correctly and easily. I know there are first-class magistrates, they read first "nothing done under this Act shall be so and so" and they say "there is no power, I am sorry". That is the mischief we want to cut out. The position, Sir, was understood also in the Legislative Assembly. There also the same power as under this section was provided for, but in the select committee, when that difficulty was pointed out, some of the offences which in their opinions were not considered to be very serious were made by an amendment to be bailable for that very reason. That you will find in the report of the select committee, a copy of which we have, wherein they saw that it was possible that the right construction may not be put by magistrates and therefore they took away from the purview of the other section and put in only the section of intimidation, section 506 and section 188 as the only sections——

The Honourable Mr. W. F. HUDSON: I am going to do the same thing or very much the same.

Rao Bahadur G. K. CHITALE: If you are going to do the same thing, there is no more argument.

The Honourable Mr. W. F. HUDSON: I am prepared to say that offences under sections 14 and 18 shall be non-bailable and the rest would be bailable.

Mr. V. N. JOG: What about the word "notwithstanding"?

The Honourable Mr. W. F. HUDSON: That will remain.

Mr. V. N. JOG: That means he cannot be released even by the courts.

The Honourable Mr. W. F. HUDSON: The clause may read:

"Notwithstanding anything contained in the Code, any offence punishable under this Act shall be cognizable, and offences under sections 14 and 18 shall be non-bailable".

I do not know whether that is the correct wording, but that is the intention.

Rao Bahadur G. K. CHITALE: We understand it.

Rao Bahadur R. R. KALE: It is only offence which is made non-bailable in the Bill in the Legislative Assembly, which is being discussed.

The Honourable Mr. W. F. HUDSON: I should not attempt to compare this Bill with the Bill in the Assembly, and I should not attempt to compare the offences with which we are dealing with the offences with which the Assembly is dealing. I am not prepared to go further than that in this matter, and if there were 15 such offences, it would make no difference. I would like to explain to the House that these are the two offences which should be made non-bailable, because these are very slippery customers that we have to deal with, and we know perfectly well that if they are given bail, in a great many cases we shall have all the trouble and expense of finding them out again. That is the one reason why we want these offences to be made non-bailable.

Mr. V. N. JOG: What is the amendment?

The Honourable the PRESIDENT: The amendment is as follows:

In clause 23, in the last line, before the word "non-bailable" insert the words "any offence punishable under section 14 or 18 shall be."

Mr. V. N. JOG (Dharwar District): I have only one doubt. I think the Honourable the Home Member and one of my honourable friends on this side seem to be under the impression that the provisions of the Criminal Procedure Code will not be touched, even if the word "non-bailable" is used. There I think my honourable friends are wrong. My honourable friend may shake his head—I am referring to an honourable member on this side. The impression goes, it seems, somewhere that in a non-bailable offence the magistrate can release on bail. No doubt, under section 497 of the Criminal Procedure Code, it can be done if the offence is non-bailable. In the very words of that section the power is given. I will read that section. It says:

"When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court, he may be released on bail....."

So, the power is given there.

The Honourable the PRESIDENT: That, we have followed.

The Honourable Mr. W. F. HUDSON: I have already argued this twice. I really cannot understand why the honourable member wants me to do it a third time.

Mr. V. N. JOG: If the offence is made non-bailable, even the court cannot release the person on bail.

The Honourable the PRESIDENT: I have placed before the House the honourable member's amendment. The question is whether it is

[The President]

an amendment to an amendment, or whether it is an independent amendment.

Mr. V. N. JOG : With regard to clause 18, I cannot accept the offence to be non-bailable ; and that even the court should not release the person on bail.

The Honourable Mr. W. F. HUDSON : I have nothing further to say : Amendment " Omit the words ' Notwithstanding anything contained in the Code ' ; insert the word ' non ' before the word ' cognizable ' ; and omit the word ' non ' before the word ' bailable ' " put, and negatived.

Amendment " Before the word ' non-bailable ' at the end of the clause insert the words ' any offence punishable under section 14 or 18 shall be ' " put, and agreed to.

Clause 23, as amended; ordered to stand part of the Bill.

Clause 24 (*Procedure for trial of offences*) :

Notwithstanding anything contained in the Code, a Presidency Magistrate or a Magistrate of the First Class, in the trial of an offence under this Act, may, in his discretion, follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Rao Bahadur R. R. KALE (Bombay University) : Sir, I am opposing the whole clause, and for this reason. It seems to me that the trial is by a first class magistrate, but so far as the procedure is concerned, the discretion is given to him to follow the procedure for summary trial in cases, in which an appeal lies, under Chapter XXII. My submission is, under section 264 of the Criminal Procedure Code, where an appeal lies, the only record the magistrate is bound to keep is a record of the judgment embodying the substance of the evidence. My submission is that there should be a record of the evidence, not merely a substance of the evidence. It is only for this purpose that this clause 24 is introduced. Now, Sir, a summary procedure may be allowed in cases of offences punishable with less than one year's imprisonment. Clause 46 of the Ordinance provides that where the offence is punishable with imprisonment for less than 2 years, the summary procedure is to be followed.

Mr. G. DAVIS : May I point out to the honourable member that in the ordinance a summary court is specially created ? A summary court is a magistrate's court. Surely, the honourable member does not want to prevent a summary court—a first class magistrate or Presidency Magistrate—from conducting trial in a summary way.

Rao Bahadur R. R. KALE : The point is that, instead of a summary court, you have an ordinary magistrate. I do not say that that is a different court. But at the same time the procedure to be adopted for the trial of the case is summary. The recording of the evidence there is summary. The summary court is authorised to have a summary trial procedure only in cases of lesser offences. Here you are allowing the procedure of a summary trial for all offences, serious as well as not serious. Therefore, I submit, Sir, as the number of these cases is not great, for the superior courts or the Government officers to be able to judge all the proceedings of the magistrate, there should be evidence

[Rao Bahadur R. R. Kale]

recorded according to the procedure laid down for the trial of summons cases or warrant cases, as the case may be, and therefore I oppose clause 24, which, in my opinion, is rather unnecessary, because I am sure that no magistrate, when there is discretion given to him to follow a summary procedure will not follow a summary procedure. Therefore, it appears to me that we should have a record; and the record is not very great in such cases. They are not big cases; they are very small trials, and the statement of the witness, or of the complainant or of the accused should be there.

The Honourable the PRESIDENT: The question is that Clause 24 do stand part of the Bill.

Question put, and agreed to.

Dr. M. K. DIXIT: (*After a pause.*) I claim a division.

The Honourable the PRESIDENT: The honourable member is too late. The honourable member Rao Saheb Kulkarni had the same difficulty yesterday.

Clause 25 (*Power of court to disallow adjournments*) ordered to stand part of the Bill.

Clause 26 (*Power of Magistrate to pass a sentence of fine*):

"The provisions of section 32 of the Code shall not operate to limit the power of a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine of any amount for an offence under this Act, and the provisions of the Code shall be deemed to have been amended accordingly."

The Honourable Mr. W. F. HUDSON: Sir, I move that the following clause be substituted for clause 26:

"Notwithstanding anything contained in section 32 of the Code, a Presidency Magistrate or a Magistrate of the First Class may pass a sentence of fine which may extend to five thousand rupees for an offence punishable under section 14, and the provisions of the Code shall be deemed to have been amended accordingly."

Clause 26, as substituted, ordered to stand part of the Bill.

Honourable MEMBERS: It is 7 o'clock, Sir.

The Honourable the PRESIDENT: I propose to sit on till we come to the end of the clauses.

Honourable MEMBERS: No, no.

The Honourable Mr. W. F. HUDSON: We do not want to detain the House unnecessarily. From the progress that we have made so far, there is unfortunately no guarantee that we will be able to finish it to-morrow within any reasonable time, if we adjourn now. It is essential we should go on at least for half an hour and even longer. We should finish the clauses and I will take up the third reading to-morrow.

The Honourable the PRESIDENT: The House should leave it to the Chair to decide.

Clause 27 (*Powers of courts to deal with refractory accused*) ordered to stand part of the Bill.

Clause 28 (*Special rule of evidence*):

"Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial of an offence under this Act if such person is dead or cannot be found or is incapable of giving evidence, and the court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused."

Rao Bahadur R. S. ASAVALE (Bombay City, North): Sir, I move the following amendment:

"In clause 28, in line 6, the words 'or cannot be found' and in line 8 the word 'disappearance' be omitted."

My object is this. When a person gives a statement before a magistrate but is not to be found or when he disappears while the case against the accused person is going on, such statement should not be recorded as evidence of such person in the interest of the accused. The difficulty is whether that statement of the man who has disappeared or who cannot be found is really the statement of the same person. As this is doubtful, such statement cannot be taken as correct. If the police takes the statement of a person, they must find him out or make a statement that they are unable to trace him and that he has absconded, in the interest of the accused person. Particularly, when such statements are against the interests of the accused, they should not be admitted. That is my opinion.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, such statements will be allowed when the court is of the opinion that such disappearance has been caused in the interest of the accused. The honourable member (Rao Bahadur Asavale) must understand that we have to put these checks really for the protection of the witnesses. Only this morning I read in the newspaper that in a big case a witness was done to death, simply in order that his statement should not be recorded. Though many people may not go so far as that, they may confine him wrongfully until the trial is over. In the interest of such persons, we introduce this provision.

Rao Bahadur R. S. ASAVALE: In view of the explanation given by the Honourable the Home Member, I beg to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. L. R. GOKHALE (Poona City): Sir, I propose the following verbal amendment:

"In clause 28, in line 7, substitute the words 'finds on evidence' for the words 'is of opinion'."

The opinion of the court will not be based on evidence. The court will say "I am of opinion." In order to avoid that position, I propose that the opinion should be based upon legal evidence.

Question proposed.

The Honourable Mr. W. F. HUDSON: The honourable member can rely on the competence and intelligence of the courts. It is not possible to accept this amendment, because it demands the proving of a negative. The proving of a negative is a most difficult thing. It

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cannot be possible for the police to put up substantial evidence that so and so died. But the court will not entertain such evidence unless it is satisfied that it is sufficient. We cannot have trials inside trials.

Question put, and negatived.

Clause 28 ordered to stand part of the Bill.

Clause 29 (*Application of ordinary law*):

"The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act."

Rao Bahadur R. R. KALE (Bombay University): Sir, I have an amendment which is verbal, that is to say,

"for the words 'inconsistent with' substitute the words 'overridden by'."

Although the amendment is somewhat verbal the idea underlying is important from the point of view which I will explain when I come to clause 30. There is a distinction between a provision not being inconsistent with and a provision being overridden by another section. There are in this Act certain provisions which no doubt override the provisions of the Criminal Procedure Code, and in that case I submit that the provisions of the ordinary Criminal Procedure Code will apply except when they are not overridden by the special provisions of this Act.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, I shall be very glad to accept any verbal amendment as suggested by the legal authority on the opposite side, but my legal advisers who had a good deal to do with the drafting of this Bill assure me that "not inconsistent with" is the expression which is invariably used in all Acts, and therefore it seems we should stick to the old phrase rather than introduce a new phrase.

Question put, and negatived.

Clause 29 ordered to stand part of the Bill.

Clause 30 (*Jurisdiction barred*):

"Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act."

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move:

"In clause 30, after the word 'done' add the words 'in good faith, the burden of proving which shall rest on him'."

The clause, as it stands, runs thus:

"Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done....."

My amendment comes in here. The reason is that if this amendment is accepted it will be a kind of safeguard against the improper or unreasonable use made by the official concerned. He will think more cautiously before he acts if this amendment is accepted. Sir, you will see that in the very next line Government have themselves made a

[Mr. A. N. Surve]

similar provision, but that is in regard to the acts which were intended to be done. Well, if Government want to put in this safeguard in respect of acts which are not done but which are merely intended to be done, then I think that there is all the more reason why my amendment should be accepted. With this object, I have moved this amendment. Before I resume my seat, Sir, I have to make an acknowledgment and that is, this amendment required the sanction of the Governor-General and it was very kindly obtained for me by the Home Department of our Government at a very short notice.

Question proposed.

Mr. G. DAVIS: Sir, it is quite impossible that we can accept this amendment. My honourable friend will realise that if his amendment were accepted, when an officer acts in the exercise of his duty it would be necessary that he must go to court and prove that the public duty that he did was done in good faith. The words suggested by the honourable member cover anything, even "intended to be done," but I think reading it rightly he wants to put the burden of proving that anything done in the course of duty was done in good faith on the Government officer concerned. It is a contravention of a general principle of law and no Government officer would be safe in taking any action. He will have to bring witnesses to prove that he acted in good faith. It is quite impossible that we can accept this amendment.

Question put, and negatived.

Mr. G. S. GANGOLI (Kanara District): Sir, I beg to move that:

"At the end of clause 30, add 'Provided that an appeal shall also lie in each case to the Local Government'."

My only appeal, Sir, is that as no court can question any proceeding or order made under this Act, there is no remedy left to the accused. If the executive does anything harmful to an innocent man, will not even Government hear his grievances? I only say that an appeal shall lie to the local Government.

Question proposed.

The Honourable Mr. W. F. HUDSON: Sir, I am not sure whether I shall be on this bench when this Act comes into operation, but I do not wish to saddle my successors with the duty of hearing appeals on hundreds and hundreds of orders or proceedings which may emerge from this Act. The honourable member knows perfectly well that if anybody chooses to write a petition to Government it receives the attention of Government in due course, but to provide for an appeal under this Act is—the honourable member will excuse me—an absurd suggestion.

Mr. L. R. GOKHALE (Poona City): Sir, I think this is a very reasonable demand. There should be some such provision in this Act.

The Honourable Mr. W. F. HUDSON: If you do that you will have to double these benches. You will require five Home Members.

Mr. L. R. GOKHALE: Extra expenses may be met from the fines. The idea of the amendment is that there should be a remedy by way of an

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application to the Governor in Council. I do not think all people will prefer an appeal under this particular section because the provision is there. Only in few cases where the first appeal is not properly heard or made advice will be given to appeal to the Governor in Council after all the remedies are finished. So, my suggestion is that there should be some additional remedy left to the accused. Under this section no order is appealable. [*Honourable Members*: "We cannot hear."] Never mind, we are all tired now. So, I submit that when there is an order like that it should be open to revision by the Governor in Council, and I hope the Government will be pleased to accept this amendment, so that where there is no regular appeal, there will be some remedy left to the accused. At any rate every order which is not appealable should be at least appealable to the Governor in Council. For that reason I support this amendment.

Mr. G. S. GANGOLI (Kanara District): Sir, should there be no check at all on the executive? I only say that an appeal may lie to the local Government. Should that also be denied? Should not the Government [*An Honourable Member*: "We have no confidence in Government."]]

The Honourable Mr. W. F. HUDSON: If you have no confidence in Government, what is the use of appealing to it?

Mr. G. S. GANGOLI: Sir, the Act says that a person can be arrested without warrant, he can be sentenced without trial, no appeal would lie against his conviction, and yet an appeal to the Government is to be barred!

The Honourable Mr. W. F. HUDSON: No one is being sentenced without trial.

Question put, and negatived.

Rao Bahadur R. R. KALE (Bombay University): Sir, I wish to add the words 'legality of the' before the word 'proceeding' in the amendment that stands in my name. [*Interruption.*]

The Honourable the PRESIDENT: Order, order. There are very few clauses and I would like honourable members to attend to the amendments discussed.

Rao Bahadur R. R. KALE: Sir, I beg to move my amendment with the small change I have indicated.

In clause 30, add a new proviso:

"Provided that the legality of the proceeding or order mentioned in the section can be called in question by a magistrate trying a case under this Act or by the superior courts in their appellate or revisional jurisdiction."

My reasons for moving this amendment are these. We find that clauses 29 and 30 are the clauses which correspond to sections 52 and 53 of the Ordinance. But there is another section in the Ordinance, section 46, which says specifically that appeals shall lie in certain cases. In this Bill there is no such express provision that appeals will lie against orders which are passed. It may be said that clause 29 says that the provisions of the Code or of any other law may be applicable, and therefore appeals allowable under the Criminal Procedure Code will be allowed.

[Rao Bahadur R. R. Kale]

But then there are the words 'in so far as they are not inconsistent with the provisions of this Act' in clause 29. Now clause 30 says that an order shall not be called in question by any court; that provision is inconsistent with the provisions of the Criminal Procedure Code which allows an appeal. In my humble opinion, this provision "no proceeding or order taken.....shall be called in question" must apply to other courts. That is to say, when a suit or other proceeding is taken to another court then this order shall not be called in question. If you refer to the statement of objects and reasons, you will find that that is so. In paragraph 12, which relates to clause 30, it is stated:—

"This provision will prevent orders passed under such provisions as clause 3 or 4 from being challenged in any court, except when the legality of those orders comes into question in a proceeding instituted for their breach."

My point is, whenever a man disobeys an order, that order is an executive order—

Moulvi Sir RAFIUDDIN AHMAD: Sir, I want to know what the honourable member is reading from?

The Honourable the PRESIDENT: If the honourable member had listened to what he was saying he would have found out that he is reading from the statement of objects and reasons.

Moulvi Sir RAFIUDDIN AHMAD: My complaint is this. When I say 'Speak loud' they say: "What is the use now? The time is over."

The Honourable the PRESIDENT: The honourable member has been speaking loud enough.

Moulvi Sir RAFIUDDIN AHMAD: We cannot hear.

Rao Bahadur R. R. KALE: I hope my honourable friend has a copy of the Bill.

Moulvi Sir RAFIUDDIN AHMAD: Quite so, but we would like also to hear what is going on.

Rao Bahadur R. R. KALE: I can understand; perhaps he cannot read. So his ears will be open, at least if not his eyes. My point is that in the statement of objects and reasons, it is expressly stated that the legality of these orders can be called into question when there is a proceeding instituted for their breach. Whenever a breach has taken place of an order passed under this Act and the matter goes to a court of law, there is a trial and there you can question the legality. Very well, if that is so, clause 30 says "no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act shall be called in question by any court".

Mr. G. DAVIS: May I draw the honourable member's attention to section 14?

Rao Bahadur R. R. KALE: Yes.

Mr. G. DAVIS: The words are "in accordance with the provisions of section 4". Before the offence can be punishable at all, it must be shown

[Mr. G. Davis]

that an order made in accordance with the provisions of section 4 has been disobeyed and in every case before a court can convict under section 14, it will have to satisfy itself that the order was made in accordance with the provisions of section 4.

Rao Bahadur R. R. KALE: I have not followed the honourable member the Legal Remembrancer's remarks.

The Honourable the PRESIDENT: I think he agrees that the legality of the question could be inquired into.

Mr. G. DAVIS: It would depend upon the interpretation of the section. The honourable member extends the question of legality to include whether the executive Government has or has not rightly exercised its discretion there. We cannot possibly accept that. The High Court has jurisdiction over courts subordinate to it, but not over this executive Government.

Rao Bahadur R. R. KALE: Quite right, Sir. I am therefore not asking for any appeal or any questioning by the High Court of the executive orders as such, but my question is whether any order made for instance by a court after trying a man for disobeying any order under this section can be called in question, as stated in the statement of objects and reasons. I admit that it is stated that the legality can be questioned, in the statement of objects and reasons, but there is nothing in the section to say so. If that was said so in section 30, I would have no complaint, but a mere statement in the statement of objects and reasons—that has been repeatedly said and of course the honourable member the Legal Remembrancer knows it—is of no use for interpreting the Act. The Act will stand by the section as it is and therefore I say a corresponding provision to "except when the legality of those orders comes into question in a proceeding instituted for their breach" might be put in the section itself. At present it merely states "except as provided in this Act." If the words "except when the legality of those orders come into question in a proceeding instituted for their breach" are also added to the section, I would have no complaint and my purpose would be served, but if and so long as those words are not appearing in the section itself, I do confess that there will be a difficulty, namely, there will be questions of the legality of the orders which may be passed in trials and also when the matter is before a court in appeal or in revision and in that case this will be interpreted as a bar. Therefore, I want an express provision by which a remedy by way of an appeal or revision may be provided for.

Secondly, Sir, my point is that even the provision, so far as the superintending powers of the High Court over judicial orders goes, is *ultra vires*, namely, to say that the order cannot be questioned. This is a provision which I submit is contrary to the inherent powers of the High Court which they possess by virtue of section 107 of the Government of India Act. It has been interpreted recently that under section 107 of the Government of India Act, the High Court possesses power of superintendence, that is to say, of revision not of executive orders but of judicial orders. Supposing there is a trial by a magistrate and there is an order, if that order goes in revision to the High Court, then they

[Rao Bahadur R. R. Kale]

can see whether the order is legal or not as was done in the case of Gulabchand. My point is therefore that this provision, section 30, not only gives no express power for appeal but it also, by saying that it shall not be questioned in any court, overrides section 107 of the Government of India Act which it is not competent to this local Government to do because the sanction of the Governor-General in Council will not apply to this provision, the sanction of the Governor-General in Council may apply to section 80A, clause (2).

Mr. G. DAVIS: May I point out, Sir, that really section 107 of the Government of India Act does not come into it at all? Hitherto, the High Court had to go into the question of section 107 because appeals to them were barred. Now we give appeals first to the Sessions Judge and then to the High Court in revision under the Criminal Procedure Code. So, we are not touching section 107, nor will the High Court function under section 107 of the Government of India Act, but they will function under the Criminal Procedure Code.

Rao Bahadur R. R. KALE: My point is, when you say that the legality of an order cannot be questioned in any court, do you or do you not override the powers of the High Court as given by section 107? It is *ultra vires*. I know the High Court will regard that provision as so much waste paper. I know that, because you have no jurisdiction to say that the High Court has no jurisdiction to question an order. Why should we make a provision which is really *ultra vires* of this legislature? So far as the High Court is concerned, it is our duty to see whether we—

Mr. G. DAVIS: The High Court itself admitted that its power can be taken away, that their jurisdiction to consider executive orders can be taken away, and the Chief Justice himself in his judgment has said so.

Rao Bahadur R. R. KALE: I should like to know where. It has been acknowledged that under section 107 of the Government of India Act it can only be taken away by Parliament. It can only be done by an Act of Parliament.

Mr. G. DAVIS: I shall give the honourable member the case in which the Chief Justice has said so.

Rao Bahadur R. R. KALE: I do not want any interruptions. The Remembrancer of Legal Affairs keeps on interrupting me every minute.

Mr. G. DAVIS *rose*.

Rao Bahadur R. R. KALE: I beg to be excused. I am not yielding, because these interruptions certainly are not, I mean to say, in consonance—

Mr. G. DAVIS *rose*.

Rao Bahadur R. R. KALE: I do not yield.

Mr. G. DAVIS: I was not going to interrupt the honourable member. I was merely giving him the authority that he asked for.

Rao Bahadur R. R. KALE : That the honourable member may do later on. I would not be in a position to follow it when I am speaking. My point is that section 107 is a section enacted by Parliament, and the local legislature cannot make any provision which affects the powers of the High Court. When you say "no court" it includes the High Court. When this clause says "no court", my point is that it includes the High Court also. If there were a clause saying that nothing in the section shall affect the inherent jurisdiction of the High Court, then it would be all right. You have no such saving clause, and you are going to enact a provision which is not *intra vires* of the local legislature. My point is that we should not proceed to enact something which is not *intra vires* of the local legislature. So, that is another point. But my further contention is that the right of appeal, the right to question the legality of an order must be there. The right must be there, as is shown in the Statement of Objects and Reasons. I quoted a statement from the Statement of Objects and Reasons. It is admitted there that the legality of these orders can be questioned in proceedings instituted for a breach of the orders. My point is that the legality should be open to be questioned in proceedings instituted as well as in appeal or revision as the case may be.

Question proposed.

Mr. J. B. PETIT : I beg to move that the House do now adjourn.

The Honourable Sir GHULAM HUSSAIN : No, no. We object to it strongly.

Mr. V. F. TARAPOREWALA : Sir, the question raised by my honourable friend Rao Bahadur Kale has already been decided by the Full Bench of the Bombay High Court in the Phansalkar case. There were two questions before the High Court. One was whether the jurisdiction of the High Court to hear a revision application from a decision of a Magistrate or a District Judge who had specially tried the case could be barred by any provision of an Act of the Government of India. That was the first point they considered. Honourable members may be knowing that Ordinance No. II of 1932 was under consideration in that case. The new ordinance is merely a reproduction of the previous ordinances. There are two provisions in the Ordinance—the first provision under section 52, according to which all legal proceedings, excepting as provided in the Ordinance, were barred. It was argued that the jurisdiction of the High Court to hear any appeals from the decisions of the other courts was barred, because there was a specific provision to that effect in section 52 and it was held by the Full Bench that, by reason of section 107 of the Government of India Act, which could not be amended or modified by the Indian legislature, the High Court's powers of superintendence to revise and cancel or modify any order of a criminal court subordinate to the High Court could not be taken away by the Indian legislature. That was the first point decided. You will see, Sir, that by this Act we are not taking away the jurisdiction of the High Court. We are preserving the jurisdiction of the High Court under the Criminal Procedure Code with regard to judicial trials which may take place under this Act.

[Mr. V. F. Taraporewala]

The second point raised is as regards the reasonableness of the order made by the Collector. In that case it was made under section 4, which is the same as clause 4 here. The question was whether the magistrate at the trial and the High Court in revision could go into the reasonableness of the order. I will just read the observation of the Chief Justice in which the two other Judges concurred. The Chief Justice said :

“ Under section 59 (clause 30 here is a reproduction of section 59)..... ”

Rao Bahadur R. R. KALE : Section 53 of the new Ordinance.

Mr. V. F. TARAPOREWALA : Section 59 of Ordinance II of 1932.

Mr. President, the Honourable the Chief Justice said :

“ Under section 59 of the Ordinance, No. II of 1932, which provides that no proceedings or order purporting to be taken or made therein shall be called in question by any court, the Magistrate was bound to treat the order as properly made.”

The Full Bench of the High Court further held that under that section the magistrate could go into the question whether the order made was within the provision of that section. The High Court can only proceed upon such material the magistrate is entitled to take into consideration and they could not take any other material into consideration. Therefore the jurisdiction of the High Court is not taken away. The executive order cannot be called into question, unless the officer who purports to make the order proceeds beyond the powers conferred on him under the Ordinance. If he does not keep himself within the four corners of the Act, then the High Court can consider it as being *ultra vires* of the Act and disregard it. If it is not a legal order there is no offence and there is no disobedience. The legislature can take away the jurisdiction of the High Court with regard to any executive order, as held by the Full Bench of the High Court. The jurisdiction is taken away ; all you have to see is that the order made is under the Act in question.

Therefore, Sir, the whole contention of my honourable friend Rao Bahadur Kale is based on a misconception of the law. There is no question that this power can very properly be exercised, and with regard to executive orders the jurisdiction of the courts can be taken away ; and I will just tell my honourable friend one case—I do not know whether he knows it. The question arose with regard to the provisions of the Bombay Summary Settlement Act and Mr. Justice West in 8 Bom. H. Ct. Rep. A. C. J. p. 195 decided that where an executive order is made which does not come within the purview of the judicial courts it is open to the legislature to enact that an executive order shall not be liable to be called in question in any Court of law. If the legislature enacts that it shall not be so liable, the legislature does not take away any jurisdiction of the judicial courts because the judicial courts have no jurisdiction in the first instance with regard to executive orders, and it was further observed by Mr. Justice West that if the jurisdiction of the subordinate courts can be taken away, the jurisdiction of the High Court could equally be taken away because it can only exercise in revision or in appeal the power to consider only such materials as can be taken into consideration by the subordinate court. I submit,

[Mr. V. F. Taraporewala]

Sir, that this amendment is entirely misconceived and it will nullify the whole object of this provision which is to take the executive orders out of the purview of the judicial courts and not to allow judicial courts to go into the question whether the order is reasonable or not. I, therefore, submit that the amendment should be rejected.

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Sir, the point that I am making—

The Honourable the PRESIDENT : I hope the honourable member will be very brief. The whole point is now narrowed down. The question is the propriety, reasonableness on one side and legality on the other. It has been said that the legality can be questioned, but the propriety and reasonableness of an executive order cannot be questioned.

Rao Bahadur G. K. CHITALE : The point that I am making with due deference to the Advocate-General is that orders under section 4 (a), (b) and (c) do not cause us much anxiety because they are definite and there is no doubt about that. As regards (d), however, where it is stated that the order shall be that a person shall conduct himself in such manner or abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order, the only portion that causes us some trouble is as regards "shall conduct himself in such manner." It is a very vague clause. The Legal Remembrancer is in the habit of laughing, but I put it to him in all seriousness whether an order the effect of which is that a particular person shall fall at the feet of the sub-inspector of police at a particular police station would be an order the legality of which can or cannot be questioned. Let the Advocate-General not laugh even at that, because it is stated that the exercise of an executive order comes within the purview of the judicial courts and the question whether it is legal or illegal may be considered in the particular circumstances of a case. For instance, Sir, I may point out that the crawling order which was issued in the Punjab—which suited very well those circumstances—was never considered by any judge either in India or in England. If properly looked into, it could have been proved in a court to be an illegal order. After all, they are human beings; they may have a vindictive sense. Very often they may not have, but it is just possible to argue that the vindictive exercise of a certain power is illegal. That contention does get support from the very ruling on which the honourable member the Advocate-General (Mr. V. F. Taraporewala) wants to rely. Apart from any other considerations, suppose that an order of that nature is passed. Then, in that case, there is no protection under clause 30, as their Lordships will hold that, after all, the executive are the best judges as to what orders are necessary. They may say "They made it in their executive capacity, and therefore we will not consider it." That is the only difficulty : I am placing that before the House in all humility. I see that honourable members opposite shake their heads. But that is not the proper treatment to give to this House. They may hold themselves to be wiser than ourselves, but we think we are wiser. I do not like that

[Rao Bahadur G. K. Chitale]

way. If that is the mood, then I will go on quoting cases not only from 8 *Bombay Law Reporter* but others also, but we are nowhere. The question raised by a layman in this House is this: is it or is it not conceivable that a particular order may on the face of it be vindictive? If vindictiveness is proved, then that order becomes illegal. Anything that is done maliciously must be considered to be illegal. Therefore, this amendment proposes that the legality of a particular order should be questionable in a court of law. In fact, I should think that the legality of an order can always be questioned. Even if you put in that provision, if I can satisfy the High Court that there is vindictiveness in a particular order, they will consider it illegal. As a matter of fact, my view is that it is perfectly permissible for the High Court to go into the legality of an order. But in order that there may be no doubt left in the minds of magistrates, it is necessary to make it clear that the legality can be questioned. The rest of it may be allowed to go as an executive order.

Rao Bahadur R. R. KALE (Bombay University): Sir, in replying, may I ask the honourable member the Legal Remembrancer or the honourable member the Advocate-General whether the High Court has not in the case of Mr. Gulabchand stated that reasonableness can come within legality? If that is so, is it the intention of Government to prevent the reasonableness of an order from being gone into, and is that why they do not want this amendment? That is the only point.

Mr. V. F. TARAPOREWALA: No, Sir. I can answer this question. It was the Divisional Bench of the High Court which considered Mr. Gulabchand's case. They held that the order was absolutely valid and that there was no disobedience of the order by Mr. Gulabchand and they acquitted Mr. Gulabchand. And that was on this ground only. He was prohibited from entering Sholapur taluka; he came to the Sholapur railway station; the District Magistrate, unfortunately out of consideration for Gulabchand, wrote him a note saying "You have not understood my order. My order is still in force. If you come to Sholapur you will be breaking the order. Therefore, come and see me in my bungalow." On this Mr. Gulabchand went from the railway station to the bungalow. There he was asked by the District Magistrate to go to Karmala or Hyderabad, but he refused and said that he was going to stay in Sholapur. He was arrested on the spot. It was held by the High Court that so long as Gulabchand was in the District Magistrate's bungalow, he was in the permitted area, as the Magistrate had asked him to go to the bungalow, and that therefore there was no disobedience. The legality of the order was never questioned. The whole order was held to be valid.

Rao Bahadur R. R. KALE: I do not want, Sir, to take more time of the House. I am only saying that the legality of the order may be open to question in the High Court. What answer is there to what I said in my opening remarks? No reply has been given to that.

[Rao Bahadur R. R. Kale]

I take this stand because it is stated in the statement of objects and reasons under clause 30 that "This provision will prevent orders passed under such provisions as clause 3 or 4 from being challenged in any court, except when the legality of those orders comes into question in a proceeding instituted for their breach". That is my only answer, and I only want this statement in the statement of objects and reasons to be incorporated in the section 30 and I shall be satisfied if that is done.

Mr. V. F. TARAPOREWALA: The question of legality is with reference to the order being *ultra vires*.

Rao Bahadur R. R. KALE: I have nothing further to say, Sir. Are you prepared to put that into the section? If you are, that will satisfy me.

The Honourable the PRESIDENT: I should like the honourable member the Advocate-General to tell me whether the words "or purporting to be taken or made or deemed to have been so taken or made" do at all take or have the effect of taking the executive order beyond the four corners of clause 4.

Mr. V. F. TARAPOREWALA: No, Sir, because in the case before the High Court the very words were there in the ordinance "purporting to be taken or made...." and it was not questioned that if the order was *ultra vires* and went beyond the scope of the section of the ordinance it was illegal and *ultra vires*.

The Honourable the PRESIDENT: I put the amendment to the House.

Question put. The House divided: Ayes, 9; Noes, 45.

Division No. 21.

Ayes.

ACHREKAR, Mr. A. B.
BAKHALE, Mr. R. R.
CHITALE, Rao Bahadur G. K.
GANGOLI, Mr. G. S.
GOKHALE, Mr. L. R.

KALE, Rao Bahadur R. R.
SURVE, Mr. A. N.
SURVE, Mr. V. A.
VAISHAMPAYAN, Dr. V. G.

Tellers for the Ayes: Dr. V. G. VAISHAMPAYAN and Mr. G. S. GANGOLI.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN,
*Khan Bahadur
ADVANI, Mr. P. B.
AMINUDDIN, Mr. SAYID
ARBUTHNOT, Mr. C. W. E.
BANGI, Mr. A. K. J.
BIRADAR, Sardar MARAHOBALI KHAN
BOLE, Rao Bahadur S. K.
BRANDER, Mr. J. P.
CLAYTON, Mr. H. B.
COLLACO, Dr. J. A.
COOPER, Khan Bahadur D. B.
DAVIS, Mr. G.
DESAI, Rao Sahab B. G.

DHURANDHAR, Mr. J. R.
GENNINGS, Mr. J. F.
GHULAM HUSSAIN, the Honourable Sir
GREAVES, Mr. J. B.
HAMPTON, Mr. H. V.
HUDSON, the Honourable Mr. W. F.
HUMPHREY, Mr. JOHN
JAM JAN MAHOMED KHAN, Khan Bahadur
JONES, Major W. ELLIS
KADRI, Mr. J. S.
KALEGOR, Mr. G. M.
KAMBELI, the Honourable Dewan Bahadur
S. T.
MASTER, Mr. A.

Noes—contd. .

MAXWELL, Mr. R. M.	SEVAL, Mr. A. E.
MEHREBAKSH, Mr. S.	SOLANKI, Dr. P. G.
MITHA, Mr. MAHOMED SULEMAN CASSIM	SPENCE, Sir REGINALD
MODAK, Rev. R. S.	TARAPOREWALA, Mr. V. F.
NAVLE, Mr. N. E.	THAKOR OF KERWADA, Sardar BHASABH
NAWAB SHAH BOKKH SHAH YAB JUNG	RAISINGHI
BAHADUR	TOLANI, Mr. S. S.
PATIL, Mr. N. N.	TURNER, Mr. C. W. A.
PRATER, Mr. S. H.	VAKIL, the Honourable Sirdar Sir RUSTOM
RAFIUDDIN AHMAD, Moulvi Sir	JEHANGIR
ROOSE, Mr. F. O. J.	WINTERBOTHAM, Mr. G. L.

Tellers for the Noes: REV. B. S. MODAK and Dr. J. A. COLLACO.

Clause 30 ordered to stand part of the Bill.

The Honourable the PRESIDENT: I think we shall stop here. We meet to-morrow at 10 o'clock, and we shall go on until we finish all the work, and that, I hope, will be by about 1 o'clock if the House will help me.

The House is now adjourned to 10 a.m. to-morrow, Saturday, the 3rd December 1932.

Saturday, the 3rd December 1932.

The Council re-assembled at the Council Hall, Bombay, at 10 a.m., on Saturday, the 3rd December 1932, the Honourable the President, Sir ALI MAHOMED KHAN DEHLAVI, Kt., Bar-at-Law, presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur

ACHREKAR, Mr. A. B.

ADVANI, Mr. P. B.

AMINUDDIN, Mr. SAIYID

ARBUTHNOT, Mr. C. W. E.

ASAVALE, Rao Bahadur R. S.

BAKHALB, Mr. R. R. .

BANGI, Mr. A. K. J.

BIRADAR, SARDAR MAHABOOBALI KHAN

BOLE, Rao Bahadur S. K.

BRANDER, Mr. J. P.

BULLOCKE, Mr. A. GREVILLE

CHIKODI, Mr. P. R.

CHITALE, Rao Bahadur G. K.

CLAYTON, Mr. H. B.

COLLACO, Dr. J. A.

COOPER, Khan Bahadur D. B.

DAVIS, Mr. G.

DESAI, Rao Saheb B. G.

DESAI, Mr. H. R.

DHALUMAL LILARAM, Mr.

DHURANDHAR, Mr. J. R.

DIXIT, Dr. M. K.

GANGOLI, Mr. G. S.

GENNINGS, Mr. J. F.

GHULAM HUSSAIN, the Honourable Sir

GOKHALE, Mr. L. R.

GOVER RORA, Mr.

HAMPTON, Mr. H. V.

HUDSON, the Honourable Mr. W. F.

HUMPHREY, Mr. JOHN

JAN MAHOMED KHAN, Khan Bahadur

JITEKAR, Mr. HAJI IBRAHIM

JOG, Mr. V. N.

JONES, Major W. ELLIS

KADRI, Mr. J. S.

KALBHOR, Mr. G. M.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.
 KAMBLI, the Honourable Dewan Bahadur S. T.
 KARBHARI, Mr. M. M.
 KULKARNI, Rao Saheb P. D.
 MASTER, Mr. A.
 MATCHESWALLA, Mr. G. E.
 MAXWELL, Mr. R. M.
 MEHERBAKSH, Mr. S.
 MITHA, Mr. MAHOMED SULEMAN CASSUM
 MODAK, Rev. R. S.
 MORE, Mr. J. G.
 NAIK, Rao Bahadur B. R.
 NAMDEORAO BUDHAJIRAO, Mr.
 NAVLE, Mr. N. E.
 NAWAB SHAH ROOKH SHAH YAR JUNG BAHADUR
 OWEN, Mr. A. C.
 PARULEKAR, Rao Bahadur L. V.
 PATEL, Khan Bahadur A. E.
 PATIL, Dewan Bahadur D. R.
 PATIL, Mr. N. N.
 PATIL, Mr. V. N.
 PATIL, Rao Saheb V. S.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 PRATER, Mr. S. H.
 RAFIUDDIN AHMAD, Moulvi Sir
 RAHIMTOOLA, Mr. HOSENALLY M.
 RESALDAR, Mr. A. K.
 ROOSE, Mr. F. O. J.
 SERVAL, Mr. A. E.
 SHAIKH ABDUL AZIZ, Mr.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. B.
 SINDHA, Mr. MADHAVSANG JORBHAI
 SOLANKI, Dr. P. G.
 SPENCE, Sir REGINALD
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 TARAPOREWALA, Mr. V. F.
 THAKOR OF KERWADA, Sardar BHASAHEB RAISINGHI
 TOLANI, Mr. S. S.
 TURNER, Mr. C. W. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.
 VAKIL, the Honourable Sirdar Sir RUSTOM JEHANGIR
 VANDEKAR, Rao Bahadur R. V.
 WINTERBOTHAM, Mr. G. L.

BILL No. XXVII OF 1932 (A BILL TO CONFER SPECIAL POWERS ON GOVERNMENT AND ITS OFFICERS FOR THE PURPOSE OF MAINTAINING LAW AND ORDER).

(Clause by clause reading resumed.)

Clause 31 (*Operation of other penal laws not barred*) ordered to stand part of the Bill.

Clause 32 (*Validity of things done under Ordinance*) ordered to stand part of the Bill.

Clause 33 (*Right of appeal and pending appeals in cases relating to offences under Ordinance*) ordered to stand part of the Bill.

Clause 34 (*Continuation of pending trials for offences under Ordinance*) ordered to stand part of the Bill.

The preamble ordered to stand part of the Bill.

The Honourable Mr. W. F. HUDSON: Mr. President, I move that Bill No. XXVII of 1932 be read a third time and passed into law. I am sure it will be a satisfaction

to the whole House that I do not propose to make a third-reading speech. But, before I sit down, I should like to say one or two things, if I may.

In the first place, I would express my very sincere acknowledgments to my honourable friends on almost all sides of the House, who have so consistently and steadfastly supported Government during the last 11 days. No one recognises better than I do what an intolerable strain has at times been placed upon them and what inconvenience they have been put to in such continuous and regular attendance in the House. I hope they will accept the very grateful acknowledgments of Government for their assistance throughout. I should like, if I may, also to acknowledge the tact and moderation with which my honourable friend opposite, the Leader of the Opposition, has conducted the battle on behalf of the other side. I think I may say, Sir, that the Opposition have every right to feel that they have put up a stout fight against rather overwhelming numbers. What they have lacked in votes they have made up in speeches, and I think they may go away with the pleasant conviction that they have made a considerable impression on the Bill as it was originally presented to the House. It is not on my behalf but in his own interest as Leader of the Opposition that I venture to hope that one of these days my honourable friend will be able to inspire a greater spirit of discipline among his followers. He must envy me in that respect. But there can be no reason why the Government party should have a monopoly of discipline. It is of course a difficulty in all popular assemblies, but I feel that, either on this side or on that, no one should make a speech or challenge a division, except with the consent and approval of the leader.

Now, there is one thing I wish to say in moving the third reading. One argument that impressed me most in the course of the debate is that we are saddling our successors with an unpleasant burden. But when the new Government comes in they can discard this measure if they think it is objectionable to retain it on the statute book. If

[Mr. W. F. Hudson]

there is any trouble—and who can foresee that there will be no trouble?—they will be very glad to have this weapon already forged for them; and at any moment it is possible for them to disregard it. It would be an invidious task for a popular Government to pass an Act of this kind, but I consider we are handing over to our successors one of the best possible legacies. I move the third reading.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, I have to place before you one difficulty which I feel. Very rarely in this House the preamble of a Bill is amended but this time at the very first reading it was amended and the second reading of the Bill proceeded on the amended preamble.

The amendment made to the preamble is that the words "purpose of maintaining law and order" in the second and third lines are substituted by the words "maintenance of the public security in case of emergency."

It appears to me that the meaning of the words "maintenance of the public security in case of emergency" would be that we authorise the Governor in Council to do two things, viz., first, to decide whether a state of emergency has arisen or exists and, second, to maintain public security, when and if an emergency arose.

If I am right so far, then a need arises to find out whether we are within or without the limits placed upon us by the Government of India Act, so far as regards the power of deciding whether a state of emergency has arisen or exists which this Bill seeks to give to the Governor in Council as for instance in clause 1 (4) which empowers him to extend the operation of the Bill by a notification in the *Bombay Government Gazette*.

Under section 80A of the Government of India Act we have power to make laws for the peace and good government, but that power is subject to the provisions of the said Act, one of which is specifically laid down in section 80A (4) in these terms—"the Local Legislature of any province has not power to make any law affecting any Act of Parliament."

Therefore the question arises whether in investing the Governor in Council with the power of deciding whether a state of emergency has arisen or exists, we are affecting any Act of Parliament, and this will have to be answered before we can proceed with the further consideration of this Bill.

Now the Government of India Act makes a provision about emergency in section 72. It reads as follows: "The Governor-General may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof". Under that Act the Governor in Council or the Governor of a province is not invested with similar power, from which fact an inference may be drawn that it was not the intention of the British Parliament to give that power to provincial governments. It is therefore my submission that in authorising the Governor in Council to decide whether a state of emergency has arisen or exists we are doing what it was not the intention or purpose of the British Parliament, and we are affecting an Act of Parliament which we cannot do under section 80A (4) when we give power to the

[Mr. A. N. Surve]

Governor in Council to decide whether a state of emergency has arisen or exists as contemplated in clause 1 (4) read with the words newly introduced in the preamble.

I therefore request you, Sir, to give your ruling on this point—whether the power of declaring an emergency given to the Governor in Council under clause 1 (4) of the Bill read with the words in the preamble is or is not doing something which affects an Act of Parliament and which we cannot do under Section 80A (4) of the Government of India Act.

Mr. V. F. TARAPOREWALA : Mr. President, so far as I can understand the honourable member's arguments, it means that in the case of emergency, the legislature has no power to legislate at all and it is only the Governor-General who can legislate. We have to consider the proposition so put forward to see the absurdity of it. Section 72 of the Government of India Act gives power to the Governor-General to legislate in the case of emergency, but it does not mean that the legislature cannot legislate in the case of emergency. If the legislature is not in session and if the emergency arises, the Governor-General is given power to legislate immediately. It is absurd to state that the legislature has no power to legislate in an emergency. The legislature has got power to enact all laws necessary for the peace and good government of the country—the Assembly for the whole of India and this legislature for the Presidency of Bombay. These special powers are sought to be acquired by Government to meet certain cases of emergency. This legislature has power to legislate for the peace and good government of this Presidency, and so far as the provisions in this Bill amending the Code of Criminal Procedure are concerned, the same have received the sanction of the Governor-General. This legislature has, therefore, complete jurisdiction to legislate with regard to the special powers given to the Government officers which are only to be used in case of emergency.

The Honourable the PRESIDENT : I hope the honourable member has been able to follow.

Mr. J. B. PETIT : Sir, I beg to oppose the third reading of the Bill—

The Honourable the PRESIDENT : There is a point of order at present. The point of order raised by the honourable member (Mr. A. N. Surve) raises questions which are not to my mind as difficult as they have appeared to him. Powers under section 72 are vested in the Governor-General and those powers are to be exercised within the terms of that section for the issue of ordinances. That does not mean that by regular legislation either the Central Legislature or the Provincial Legislatures cannot legislate for emergency conditions, as the honourable member the Advocate-General has rightly pointed out. That being so, this measure, as many other measures of the kind in other provinces, is being considered. Beyond that, as the honourable member the Advocate-General has pointed out, this Bill has received the sanction of the Governor-General, which is necessary under the Government of India Act. Neither this

[The President]

House nor any other provincial legislature is barred under any law from passing a legislation of this kind. The change in the preamble does not affect the question at all. No ruling is necessary, but if the honourable member wants it, I rule that there is no point of order involved in the points he has raised.

Mr. J. B. PETIT (Bombay Millowners' Association): Mr. President, I beg to oppose the third reading of this Bill. I know, Sir, that it is practically useless to expect honourable members and particularly those non-official elected representatives, who have all along helped the Government, to change their minds even at this late stage, because it is assumed that when they deliberately gave their votes in favour of this measure, they did so in the conscientious discharge of their duty, not only with a full sense of their responsibility but also with a complete knowledge of all the facts and circumstances of the case. But, Sir, I consider it my painful duty all the same to give expression to my feelings of profound disappointment and sorrow at the enormity of the step which the Government have taken, and to my firm conviction that they have thereby sown the seeds of a revolution which will be productive of the most disastrous results.

Sir, I have watched and participated in the proceedings of the House for the last ten days with the deepest feelings of regret, pain and even anguish. It has been particularly humiliating to me, Sir, to realise that a measure of this highly retrograde and repressive character is about to be put on the statute book with the active assistance and co-operation of my own countrymen. Had it not been for this support, I am perfectly certain that the Honourable the Home Member, even with his compact majority of the entire Government bloc and the nominated members at his back, would never have dared to introduce such a measure in this House, much less succeeded in placing it on the statute book. I accordingly deplore the attitude of my countrymen all the more deeply, and I am sure that they will live to regret the day. I am equally certain that even the Government themselves will experience to their regret, before very long, the disastrous consequences of the step that they have so light-heartedly taken, for a measure of this kind is sure to react against themselves in due course and to defeat the very purpose they have in view. I feel bound to say that the Government are hopelessly ignorant of what is going on around them in the country. Those of us who are in close touch with the public and come in daily contact with all classes and sections of the people, have no hesitation in declaring with perfect confidence and still in all humility, that their present short-sighted policy of repression is already securing recruits by the thousands for Mr. Gandhi and his methods, and that before very long the whole country will become congress-minded. It is only too true that repressive and retrograde enactments of this character, invariably carry their own condemnation with them. However, Sir, I have nothing further to say on this aspect of the question except this, that I regard this enactment as the blackest Act ever passed by this Legislature, and consider this session as constituting the most dismal chapter in the history of this honourable House.

[Mr. J. B. Petit]

What I most deplore is the fact that this Bill is absolutely unnecessary and misconceived. I have honestly tried my best to trace in the arguments of the Honourable the Home Member and his numerous supporters even the remotest justification for it, but have failed to find any. I accordingly reiterate, with all the emphasis that I can command, all that I said during the first and second readings regarding the purpose of the measure. I deny that there is a revolution in the country, much less in this Presidency. I deny that the province is in a state of war with the Government. I deny that there is an emergency necessitating special treatment. I deny that the present situation requires such extraordinary and unheard-of powers to remedy it. I deny that the existing laws of the land are inadequate and insufficient to do so. All these arguments have been repeated *ad-nauseum* by the Honourable the Home Member and by his numerous supporters. But they have not been substantiated by any one of them, and have totally failed to carry conviction. The amazing plea that these extraordinary provisions are absolutely necessary, because the Bill is a *preventive* and *not a punitive* measure, will deceive no one. Why is this measure designed to be preventive, when there are no preventive laws anywhere else in the world? The Bill accordingly stands self-condemned in all its nakedness. The Honourable the Home Member, in the plenitude of his power and with the help of his compact majority, has chosen to ride rough-shod over the deepest feelings and sentiments of the public. Even the few halting concessions that he has made here and there, have been made, *not* with a view to conciliate public feeling, but in pursuance of a particular policy of the Government which had better be forgotten for the moment.

I say all this with very deep and profound feelings of regret; but I do so none-the-less with the firm conviction that by putting this outrageous and inequitable piece of legislation on the statute book, the Government have not only egregiously erred and grievously wronged the public of this Presidency, but have also very largely, if not completely, forfeited the respect, the support and the confidence of all those who had all along considered it their duty to work in harmony and co-operation with them.

Rao Bahadur R. R. KALE (Bombay University): Now that the Bill has passed through two readings and is about to go through the third reading, I only wish to say a few words as to the future steps that have to be taken when the law has been enacted. We have been repeatedly assured by the Honourable the Home Member in reply to points that were raised by the Opposition for the consideration of Government that this legislation will be worked in a reasonable spirit. Some of the changes desired have been effected, but there are other points on which only assurances have been given. My only request is that Government should make a summary of the points raised by the Opposition on which assurances have been given by Government and circulate it among their officials (the Police and the Magistracy) as a guidance for them. My point is that all movements which do not partake of civil disobedience should be safeguarded. We in this House have certainly no sympathy

[Rao Bahadur R. R. Kale]

with the civil disobedience movement. Our opposition was based on fears that this legislation might be used to suppress the spirit of nationalism which permeates other political movements. It is to safeguard such movements that some such step as I have indicated should be taken. The Honourable the Home Member, who will be leaving this country shortly (the assurances may not sail with him) has paid a compliment to the members of this House generally and to some of the members on this side who form a sort of opposition—

The Honourable Mr. W. F. HUDSON: Effective opposition.

Rao Bahadur R. R. KALE:—ineffective opposition I should say. However, the opposition we raise is not opposition for opposition's sake. Our policy is to seek co-operation wherever possible and raise opposition wherever necessary. That is the principle on which opposition from this bench is based. I hope our opposition has been rightly understood by the Honourable the Home Member—

The Honourable Mr. W. F. HUDSON: Yes.

Rao Bahadur R. R. KALE: I need not say anything further. I only wish that scrupulous care will have to be taken in applying the provisions of the Bill when it is passed into law. Of course, it does not come automatically into force. I hope and trust that in selecting districts some discrimination will be used. By now Government must have material with them to show which districts and which parts of the Presidency are really in a state of mass civil disobedience. I hope and trust that those districts and areas only which have not been saturated with the creed of this movement, and where cases occur only here and there, will not have this Act applied to them. The Honourable the Home Member has stated that this is a weapon forged for the successors of this Government. I hope and trust that these safeguards will be observed by this Government and its successors also.

Moulvi Sir RAFIUDDIN AHMAD (Central Division): Mr. President, in rising to support the third reading of this Bill, I offer my cordial congratulations to the Honourable the Home Member. Sir, I should be wanting in my duty if I omit to mention on this occasion the great courtesy, and consideration which he showed in answering various criticisms against this Bill. The Honourable Member when he introduced this Bill modestly remarked that this was the only Bill of first class importance which it was his good fortune or misfortune to move in this House during the tenure of his office—

The Honourable Mr. W. F. HUDSON: Misfortune.

Moulvi Sir RAFIUDDIN AHMAD: Sir, the Honourable Member has piloted this Bill with great skill and ability and avoided dangerous rocks and shoals as an experienced captain. Sir, I will not say more on this occasion because, I think, we shall have soon another occasion to say something about the Honourable the Home Member's work in this House. I was considerably pained to hear the remarks of my honourable friend Mr. Petit, with regard to the conduct of those persons and members

[Moulvi Sir Rafiuddin Ahmad]

who supported this Bill. I say, Sir, with all consciousness that this side of the House and all those that supported this Bill need not feel the least humiliation regarding their attitude towards this Bill. We have supported this Bill fully believing that it would not crush nationalism or real freedom in the country. No, Sir. On the contrary, I personally think that this Bill is introduced in order to usher in a free constitution in this country in the near future. Moreover it is a temporary measure to tide over a crisis. We have supported this Bill with the best of intentions, and we are not ashamed of it. No honest citizen, no patriotic Indian need be ashamed to support this Bill. It is only against those misguided people who have taken to unconstitutional means and adopted terrorism and lawlessness in order to gain their object. A state of civil war still prevails in the country. And if it shall appear that the final conflict is still to be fought in this unfortunate country and if it shall appear that the law, purged of all taint of injustice, is still to be repelled and refused, and if the first conditions of political society still remain unfulfilled, then I say it will be the duty of all patriotic Indians, who have co-operated with this Government in maintaining peace and order, to see that there would be no doubt as to the result of the conflict. We have the greatest respect for all those who honestly differ from us but we also say that the means that they are adopting are not the means by which good government and constitutional freedom can be brought to this country, and I personally believe that if self-government is to come to India, it will come through the co-operation and goodwill of the British people. It is necessary that all those classes who have loyally supported and co-operated with the Government should continue to offer their help and co-operation to it.

I have already expressed previously my regret with regard to the necessity for the introduction of this Bill. But now when the Bill is becoming law I think it is the duty of all to bring in peace and goodwill before introducing parliamentary government into this country. Sir, I have nothing more to add.

Mr. J. B. PETIT (Bombay Millowners' Association): A word of personal explanation, Sir. When I used the word "humiliation", I had no intention in any way of hurting the feelings of those non-official members who have supported this Bill. All that I wished to say was that it was humiliating to me to see the sad spectacle of my own countrymen giving their support to a Bill of this character. I beg to assure those honourable members that nothing was farther from my mind than to cast any reflection upon them in the slightest or remotest degree.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, it is my duty, as one of the humble persons who offered some opposition to this Bill, to offer a few remarks. Every Bill which becomes an Act after being discussed and passed in this Council, even though it may be passed against the wishes of some members of the opposition, it takes the place of an Act and the minority disappears. It is too true that in all

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well conducted bodies, after the fight is over there are no tears, that we must take the defeat in a sportsmanlike spirit. After all, we are sportsmen trying to do our best. The defeat may be by an innings and several centuries of runs. There may have been several leg-hits, but all that disappears now when we near the end of making this particular Bill. But, however, Sir, I think that my honourable friend's speech—I mean the honourable member Sir Rafiuddin Ahmad who just spoke and sat down—was pitched in a rather another key. It is an irony of fate that we are asked to put our seal to this measure which is considered and rightly may be considered as obnoxious by many of our people in the presidency. Nobody likes to have this measure on the statute book for a day longer than is necessary, but it is necessary to state why we oppose it. It is this that we find that this Bill which will now be an Act is practically the same and substantially the same which tries to perpetuate even for some time the ordinance Raj which we were condemning. The civil disobedience movement has no terrors for me. It is not an end, it is a means to an end and whether the people who are following that particular movement are right or wrong, history alone will show. In all civilised countries wherein these revolutions which go to the root and change the political systems have occurred, they were always begun by patriotic people going to jail, suffering imprisonment and its rigours and after a few years coming out triumphantly and taking their country on to a higher and a higher level. I do believe, Sir, that this is one of those stages through which our country which aspires for self-government must pass. It is necessary to emphasize this because the position of us here on this side should not be misunderstood. After this Bill becomes law, may I point out and echo the feelings of His Excellency that it should not be put into operation with a light heart simply to continue the ordinances? His Excellency has rightly said that these are emergency powers which are sought and I express a hope that the necessity for them will soon pass away. His Excellency's observations are clear inasmuch as His Excellency says that the present position is such on which everybody can be complimented. The wildest manifestations of the civil disobedience movement are effectively curbed and therefore, Sir, if His Excellency's analysis is true and is believed in by the executive Government, which will be the arm to put this particular law into execution, it would be one of the factors which would go to make for peace and early peace. For that reason, Sir, I should think the Honourable the Home Member is to be congratulated when he asked us and told us point-blank that it would be his duty in the next month to revise the sentences which have been passed in several cases. I do myself believe that if this peaceful atmosphere is to continue, for which there are many hopes, I very strongly recommend and humbly recommend the exercise of that prerogative which, after chastising people for going wrong, in fact stretches the hand of mercy and then tries to do its best in mitigating the woeful condition of the unfortunate people. In various matters, Sir, it is the desire of this side of the House that those people who are now incarcerated and are

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ailing, ailing in the sense that they are not fit to continue in that particular state of health, should be his first care. I may point out to him about 30 or 40 inmates of Visapur jail who have suffered from typhoid fever and have been ailing for a considerable time and have gone back to Visapur jail. I would just point out to him whether it would not be humanely possible to see that they recover their health earlier by releasing them with the least possible delay. I am a believer in this. I am a believer that in such cases of illness, for instance, in the case of men like Bajaj, who are in failing health and others who may also not be well, I should think that this side particularly will be very much obliged if the Honourable the Home Member exercises his power before he leaves these shores.

Now, Sir, it is our regretful duty to oppose the Bill even at this stage because it has to be done as a part of our duty to be consistent. Though consistency may not always be a virtue, but still, Sir, it may be taken for what it is worth, namely, our assurance that after this let the executive Government remember that there are men who share the responsibility of this Bill and therefore whatever the mistakes that they may do in the administrative part of this particular Act, they also will have a share and therefore it is my honest desire and the desire at least of this side of the House, no less perhaps of those who have been stalwart supporters of Government, that after sharing that responsibility, that we should wait, hope and see that there is no necessity whatsoever of putting this measure into action.

Mr. B. S. KAMAT : Sir, after the remarks which fell from my honourable friend Rao Bahadur Kale, I have very little to say, but a remark from my very old friend the honourable member Sir Rafiuddin Ahmad tempts me to offer one or two observations. The honourable member said that those who supported Government need not be ashamed of the support they gave to Government. Let me assure my honourable friend that for not a single moment have we thought of accusing our friends who assisted Government of being in any way ashamed of their support ; nothing of that sort at all. Let me also ask my honourable friend Moulvi Sir Rafiuddin Ahmad, on the other hand, to think that those who honestly and conscientiously thought it necessary to say that the Bill as it stood was not acceptable, and those who thought it their duty to suggest certain modifications should also be judged by him in the proper light.

Moulvi Sir RAFIUDDIN AHMAD : Certainly. I have said nothing against them.

Mr. B. S. KAMAT : I do think that those who suggested modifications have assisted Government to a greater degree in shaping this Bill than those who gave their silent support. The criticism of this side has been vindicated in several respects, and that is shown by the number of modifications which Government have accepted. But for the criticism of those who pointed out that the principle of unlimited fine was not a good principle, I do not think the opposite side would have accepted the wholesome modification of limiting the fines.

Moulvi Sir RAFIUDDIN AHMAD: Did I not co-operate with them in that matter? I have supported it.

Mr. B. S. KAMAT: Certainly. We do take the credit to ourselves that we have helped the other side to shape the Bill in the proper manner. The other side wanted to make almost every offence under this Bill non-bailable. Who has helped Government to make the Bill presentable in that respect?

Moulvi Sir RAFIUDDIN AHMAD: We.

Mr. B. S. KAMAT: Then again, the criticism about clause 19 has been of great assistance to the presidency as a whole. Government have thought fit, in the light of that criticism, to take away clause 19 from this Bill. That has been an absolutely necessary safeguard in the interest of millions of agriculturists in the presidency. Now, is it not due to this side that they have shaped the Bill to its present form?

Moulvi Sir RAFIUDDIN AHMAD: Both to this and the other.

Mr. B. S. KAMAT: That, Sir, is the principle on which we have been co-operating, not only with reference to this Bill, but for years together in the presidency. It is true that we have not won on every point that we pressed. It is true that clause 4 (d) still remains somewhat objectionable, in the sense that the executive can compel a man to so conduct himself as he may be dictated to. But as my honourable friend Rao Bahadur Chitale pointed out, we take the defeat in a sportsmanlike manner, and if in several respects the Bill has not emerged to our liking, we do hope and trust that when this Act which the legislature has assisted in passing into law comes to be enforced, the executive, not at the top, but the subordinates in the districts will so enforce it as to leave no room for the impression that they have betrayed the trust and confidence which we have placed in the assurances of the Honourable the Home Member, viz. they would do all that is reasonable and in the interests of the people in administering the law.

Lastly, before I conclude, let me say this: whatever our differences, throughout the piloting of this Bill by the Honourable the Home Member, we have felt that he has been appreciating the spirit in which suggestions from this side of the House have been made. We on this side very much appreciate the courtesy he has shown in his replies—very prompt and courteous replies—which he gave on every occasion, on every amendment, and although he has not seen his way to accede to many of our suggestions, still we appreciate the manner, the spirit, and the cordiality with which he received our criticisms.

Mr. J. R. DHURANDHAR: Sir, before the Bill is read a third time and passed into law, I have to propose some formal and verbal amendments. The first amendment is:

In clause 1, sub-clause (1), after the word "Special" insert the word [and brackets " (Emergency) "].

Question put, and agreed to.

Mr. J. R. DHURANDHAR: The next amendment is:

In clause 1, sub-clause (1), after the figures "193", the figure "2" shall be inserted.

Question put, and agreed to.

Mr. J. R. DHURANDHAR: The next amendment is:

In clause 1, sub-clause (4), for the word "force", where it occurs at two places, the word "operation" shall be substituted.

This amendment is intended to remove an ambiguity in that clause. Sub-clause (2) refers to commencement and sub-clause (4) to operation. Sub-clause (2) contains the word "force." Therefore, it is not right to use the same word in sub-clause (4).

Question put, and agreed to.

Mr. J. R. DHURANDHAR: The next amendment is:

Clauses 20 to 34 shall be renumbered as clauses 19 to 33, respectively.

Question put, and agreed to.

Mr. J. R. DHURANDHAR: The next amendment is:

In clause 31 so renumbered, for the word "force" the word "operation" shall be substituted.

Question put, and agreed to.

Mr. J. R. DHURANDHAR: The next amendment is:

In clause 33 so renumbered, for the word "force," where it occurs for the first time, the word "operation" shall be substituted.

Question put, and agreed to.

Question, "That the Bill be read a third time," put. The House divided: Ayes, 48; Noes, 19.

Division No. 22.

Ayes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur	MEHERBAKSH, Mr. S.
ADVANI, Mr. P. B.	MITHA, Mr. MAHOMED SULEMAN CASSUM
AMINUDDIN, Mr. SAHYID	MODAK, REV. R. S.
ARBUTHNOT, Mr. C. W. E.	NAMDORAO BUDHARIRAO, Mr.
ASAVALE, Rao Bahadur R. S.	NAVLE, Mr. N. E.
BANGLI, Mr. A. K. J.	NAWAB SHAH ROOKH SHAH YAR JUNO BAHADUR
BIRADAR, Sardar MAHABOOBALI Khan	OWEN, Mr. A. C.
BOLE, Rao Bahadur S. K.	PATEL, Khan Bahadur A. E.
BRANDER, Mr. J. P.	PATIL, Mr. N. N.
BULLOCKE, Mr. A. GREVILLE	PRATER, Mr. S. H.
CLAYTON, Mr. H. B.	RAFIUDDIN AHMAD, Moulvi Sir
COOPER, Khan Bahadur D. B.	RAHIMTOOLA, Mr. HOOSENALLY M.
DATTS, Mr. G.	ROOSE, Mr. F. O. J.
DHURANDHAR, Mr. J. R.	SERVAL, Mr. A. E.
GENNINGS, Mr. J. F.	SHAIKH ABDUL AZIZ, Mr.
GHULAM HUSSAIN, the Honourable Sir	SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
HAMPTON, Mr. H. V.	SOLANKI, Dr. P. G.
HUDSON, the Honourable Mr. W. F.	SPENCE, Sir REGINALD
HUMPHREY, Mr. JOHN	TARAPOREWALA, Mr. V. F.
JAM JAN MAHOMED KHAN, Khan Bahadur	THAKOR OF KERWADA, Sardar BHASANEH RAISINGHI
JONES, Major W. ELLIS	TURNER, Mr. C. W. A.
KADRI, Mr. J. S.	VAKIL, the Honourable Sardar Sir RUSTOM JEHANGIR
KAMBLI, the Honourable Dewan Bahadur S. T.	WINTERBOTHAM, Mr. G. L.
MASTER, Mr. A.	
MAXWELL, Mr. R. M.	

Tellers for the Ayes: Khan Bahadur A. E. PATEL and Mr. SHAIKH ABDUL AZIZ.

Noes.

ACHREKAR, Mr. A. B.
 BAKHALE, Mr. R. R.
 CHITALE, Rao Bahadur G. K.
 DHALUMAL LILARAM, Mr.
 DIXIT, Dr. M. K.
 GANGOLI, Mr. G. S.
 GOKHALE, Mr. L. R.
 JOG, Mr. V. N.
 KALE, Rao Bahadur R. R.
 KAMAT, Mr. B. S.

KARBHARI, Mr. M. M.
 MORE, Mr. J. G.
 PETIT, Mr. J. B.
 PRADHAN, Rao Bahadur G. V.
 SHINDE, Mr. R. B.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 VAISHAMPAYAN, Dr. V. G.
 VAKIL, Mr. PESTANSHAH N.

Tellers for the Noes : Mr. M. M. KARBHARI and Mr. P. N. VAKIL.

Bill read a third time. The Honourable the PRESIDENT : The Bill is now read a third time and passed into law.

DEMANDS FOR SUPPLEMENTARY GRANTS.

Opening of a new Dispensary at Dadu in Dadu District, Sind.

The Honourable Sirdar Sir RUSTOM JEHangIR VAKIL : Sir, I make a demand* for a grant of a token sum of Rs. 10 under " 32, Medical Transferred."

As this House is perfectly well aware the new district of Dadu was established in October 1931. There is no facility for medical aid in that district and the population which is now about 6,000 is bound to increase when the courts are transferred there, and in view of the fact that there is also a sub-jail at Dadu and that medico-legal work and post-mortem examinations have to be carried on it is absolutely necessary that there should be a whole time man in charge of a small dispensary. Government do not propose to have a medical man of the rank of Civil Surgeon there but they have decided to put a man from the Bombay Medical Service. The charge will be met by the Surgeon-General from the current year's sanctioned grant under 32, Medical Transferred, and there is no question of any additional expenditure. I therefore request the honourable House to pass this supplementary demand.

Question put, and agreed to.

Improvements to the Sukkur Begari Bund.

The Honourable Mr. W. F. HUDSON : Sir, I make a demand† for a grant of a token sum of Rs. 10 under " 13, Deduct Working Expenses, under 15, Other Revenue Expenditure financed from ordinary revenues, and Refunds of Revenue under the heads 13 and 14, Reserved."

This, Sir, is a much more pleasant business than Ordinance Bills, and it gives me great personal satisfaction that my final act in this House is to try and do something for my old province where I spent so many years and where a large part of my heart still is. I notice that most of my old friends from Sind have disappeared which does not cause me much surprise. But nevertheless I feel that even in their absence this House will agree that this demand should be granted.

*Appendix 2.

†Appendix 3.

[Mr. W. F. Hudson]

The floods in Sind, as everyone knows, have done infinite damage in the past and unless we insure against them they will do infinite harm in the future. Quite apart from the loss which is caused to the zamindars, and agriculturists, there is also, Sir, a very serious loss which occurs to Government by way of remissions and although it is very regrettable that we have to spend this large amount of money on repairs of bunds, I may assure the House on this occasion that every care has been taken to omit everything that is not absolutely necessary, and I can also assure the House that if we expend this amount from the savings the chances are that in this particularly dangerous area which is protected by the Sukkur Begari Bund there will be a very much reduced chance of a flood in the future.

Question put, and agreed to.

Combined Bridge and Regulator over the Aral-Manchar near Sehwan.

The Honourable Sirdar Sir RUSTOM JEHANGIR VAKIL : Sir, I make a demand for a token grant* of Rs. 10 under "41, Civil Works—Provincial (Partly Reserved and Partly Transferred)."

The amount involved is Rs. 16,737. This amount was originally intended to be met by the District Local Board of Sukkur, but subsequently it was discovered that the bridge for which this sum is necessary is situated on the Kotri-Dadu-Shikarpur-Baluchistan Road, which is one of the schemes approved by the Government of India as eligible for being financed from the petrol tax fund. We have already obtained the sanction of the Government of India and therefore this amount of Rs. 16,737 is to be met from the petrol tax fund.

Question put, and agreed to.

*Employment of Ramoshis for patrolling the Artillery Maidan,
Karachi.*

The Honourable Sir GHULAM HUSSAIN : Sir, I make a demand† of Rs. 364 under "60-A, Other Provincial Works not charged to Revenue (Reserved)."

Question put, and agreed to.

AMENDMENT OF RULES UNDER COTTON TRANSPORT ACT.

The Honourable Dewan Bahadur S. T. KAMBLI : Sir, I move that—

"This Council recommends to Government that the following amendments proposed to be made to the rules under section 7 of Act III of 1923, having been laid in draft before the Council and approved by it in the form set forth below, may now be issued in the said form :—

Notification.

No. 535-A.—In exercise of the powers conferred by section 7 of the Cotton Transport Act, 1923 (III of 1923), the Government of Bombay is pleased further to amend the rules

*Appendix 4.

†Appendix 5.

[Dewan Bahadur S. T. Kambli]

made thereunder published in Government Notification in the Revenue Department, No. 535-A, dated the 18th August 1923, as follows, namely :—

I. In rule 3 of the said rules—

(a) in sub-rule (1) after the word 'rail' the punctuation and words, ' road, river or sea ' shall be inserted; and

(b) for sub-rule (2) the following shall be substituted, namely :—

' (2) In the case of consignments to be despatched by rail certified copies of the licenses shall be tendered in Form C hereto annexed with each consignment at the despatching station, and shall accompany the railway invoice to the station of delivery and shall then be forwarded by the railway authority concerned to the railway audit office for being forwarded to the Secretary, Indian Central Cotton Committee; and in the case of consignments to be despatched by road, river or sea certified copies of such licenses shall be tendered in Form C hereto annexed with each consignment and shall be delivered at the naka, bunder or other place specified by the licensing authority to the officer mentioned in the license, for being forwarded to the Secretary, Indian Central Cotton Committee.'

2. For forms B and C appended to the said rules, the following forms shall be substituted, namely :—

Form B.

[Annual General License (for Mills).

Import by rail, road, river or sea.]

(See rule 3.)

No. of 193

Under the Cotton Transport Act, 1923 (III of 1923), the.....(Mills) situated in the protected area known as.....are hereby granted a general license under section 3 of the said Act for the period September 1st, 193 , to August 31st, 193 , to import.....*.....from.....to.....for the purpose of manufacture, subject to the following conditions :—

(1) In the case of consignments to be despatched by rail, a certified copy of this license shall be tendered with the consignment at the despatching station and it shall accompany the invoice to the Railway audit office and shall be forwarded from there to the Secretary, Indian Central Cotton Committee.

(2)*In the case of consignments to be despatched by road, river or sea, a certified copy of this license shall be surrendered to the officer in charge of the..... at..... on the arrival of the consignment, who shall forward it immediately to the Secretary, Indian Central Cotton Committee.

(3) Cotton imported under this license shall not be used except for the purpose stated above, save under the instructions of the licensing authority.

(Signed)

Licensing Authority.

Dated.....193

This certified copy shall accompany the invoice to the railway audit office or be surrendered to the officer mentioned in the license, and shall then be despatched to the Secretary, Indian Central Cotton Committee.

Form C.

Certified copy of the General License (for Mills) to be tendered at despatching stations or places.

(See Rule 3.)

License No. of 193

Copy No.

Under the Cotton Transport Act, 1923 (III of 1923), the.....(Mills) situated in the protected area known as.....are hereby granted a general license

* Here enter ginned cotton, cotton waste, kapas or cotton seed in respect of which license is granted.

[Dewan Bahadur S. T. Kambli]

under section 3 of the said Act for the period September 1st, 1932, to August 31st, 1933, to import.....*from.....to.....for the purpose of manufacture, subject to the following conditions :—

(1) In the case of consignments to be despatched by rail, a certified copy of this license shall be tendered with the consignment at the despatching station and it shall accompany the invoice to the Railway Audit Office and shall be forwarded from there to the Secretary, Indian Central Cotton Committee.

(2) In the case of consignments to be despatched by road, river or sea a certified copy of this license shall be surrendered to the officer in charge of the.....at.....on arrival of the consignment, who shall forward it immediately to the Secretary, Indian Central Cotton Committee.

(3) Cotton imported under this license shall not be used except for the purposes stated above, save under the instructions of the licensing authority.

(Signed)

Licensing Authority.

Name of consignor

Number of bales

Descriptions of cotton

(Signature of the Consignor.)

(Signature of the Station Master or of officer in charge of the....
.....at.....)

By order of the Government of Bombay
(Transferred Departments),

Acting Secretary to the Government of
Bombay, Revenue Department."

Sir, in commending this resolution to the acceptance of this House, I have to draw the attention of the honourable members to the Government Notification No. 535A, dated the 18th August 1923, and especially to Rule 3 of the Rules framed thereunder. Under Rule 3 of those Rules, annual licenses for import by rail are granted to manufacturing concerns situated within the protected area, for the importation of cotton from outside such areas, for manufacturing purposes only. It has been brought to the notice of the Government that the Rule, as it stands, is somewhat defective, as there is no provision for import of cotton by river, road or sea. So far, Sir, no difficulty in this connection was experienced, but it has recently been found that manufacturing concerns demand licenses to import cotton by sea route or by road for the purpose of manufacture. It is, therefore, necessary to amend Rule 3 in the manner mentioned in this Resolution so as to admit of import of cotton by sea route or by road or by rail. This is purely an amendment to suit the convenience of the mills which are situated in the protected areas. I hope that this Resolution will be unanimously accepted by this House.

Question put, and agreed to.

*Here enter ginned cotton, cotton waste, *Kapas* or cotton seed in respect of which license is granted.

**APPRECIATION OF SERVICES OF THE HONOURABLE
Mr. W. F. HUDSON.**

Mr. L. R. GOKHALE (Poona City): Sir, after the laborious work of this session of 12 days, of amendments, opposition and divisions, I have great pleasure in moving the motion that stands in my name which runs as follows :—

“This Council puts on record its high sense of appreciation of the valuable services rendered by the Honourable Mr. W. F. Hudson, as a Member of the Executive Council of the Governor of Bombay, during the last three years, regrets his impending retirement from the Indian Civil Service and wishes him all health and happiness during his well-earned rest.”

The Honourable Mr. Hudson joined the Indian Civil Service in the year 1899 and has worked in various capacities both in the Presidency proper and in Sind until finally he reached the top of the ladder and he became a Member of the Executive Council in August 1929. In that capacity he has been working since. I came to know him in 1919 when he was appointed Collector and District Magistrate of Poona. He worked there for more than two years and those who came in contact with him during his official career at Poona have always received from him a full, patient and sympathetic hearing. He was always courteous and broad-minded. His despatch of business has been always very quick and his language has always about it a ring of sincerity. He has been an administrator, I should say, of very broad sympathy and he is one of the few members of the Indian Civil Service who have recognised fully their sense of responsibility both to the people and to the Government.

Sir, it has fallen to the lot of this honourable House to pass an Emergency Bill which we have just now done. As we know, the Bill has been the production of the joint responsibility of the Cabinet which has in it three Indians, two of whom are popular Ministers, yet none of them could even open his lips during the discussion, either in support of or against the Bill. Such are the exigencies of service and office. In the framing of this Bill, we know that the Honourable the Home Member was not a free agent and most of the sections have been taken from the Ordinances; and he had to defend some of these by referring to the terrorist movement in Bengal from which, thank God, this Presidency is free. Neither the credit, therefore, nor the discredit should go to the Honourable Mr. Hudson. But even in the passage of this Bill we have experienced that the Home Member has helped to reduce the extreme rigour wherever he could, and what little we have been able to get is due to the sympathetic frame of mind of the Honourable the Home Member. It would have been far better if he had continued as a Member of the Executive Council to watch the actual working of this measure, as he promised that in the working of this Act the greatest caution would be exercised. Sir, the Ordinances are to expire during the tenure of his office and we hope that the introduction of the several chapters of the Bill will be zealously guarded by him.

[Mr. L. R. Gokhale]

The Honourable Mr. Hudson retires from his service in the 1st week of January 1933 and I wish him a long and happy life after his retirement which he deserves, after a strenuous work of office for such a long period. With these words, I commend the resolution for the acceptance of the House. [*Applause.*]

Question proposed.

Mr. PESTANSHAH N. VAKIL (Ahmedabad City): Sir, I associate myself whole-heartedly with the sentiments so felicitously expressed by the previous speaker. And in doing so may I be permitted to strike a personal note? I look upon the impending departure of the Honourable Mr. Hudson as something akin to a personal loss. Day after day when the session was on we used to see him in his place with his happy, smiling face—beaming with benignity and the thought of not finding him in his place again is really painful to me. Ever since the departure of Sir Ernest Hotson from this country, the Honourable Mr. Hudson has been the only exponent of the policy and principles of Government to whose utterances members on this side were looking forward with something like real pleasure. A finished speaker, with a gift of imparting to his speeches those literary graces which a deep and profound study of the masters of English prose alone is able to confer upon a man, to hear him speak was liberal education. Moreover he had the gift of humour too, and time and again sting was taken out of his reproach by a witty remark and he invariably resumed his seat without leaving any bitterness behind. Sir, it is impossible for a gentleman belonging to a foreign race to live in this land for upwards of a generation and to serve it without coming to love the country and its people; and with such qualities of head and heart as Mr. Hudson possesses, it is impossible that he should not have liked them both from the bottom of his heart. The country is losing a great public servant and I am indeed sorry that this House will be really the poorer by the departure of the Honourable Mr. Hudson.

Dewan Bahadur D. R. PATIL (East Khandesh District): Mr. President, I rise to support the resolution moved by my honourable friend Mr. Gokhale. I heard his speech which he read and I can say that he has made a very cautious speech. I am glad to know that the Honourable the Home Member is an old friend of the honourable member Mr. Gokhale while he was the Collector of Poona. Sir, I really admire the attitude of my friend Mr. Gokhale who has been kind enough to admit certain facts and table this resolution. For this I am really very glad to congratulate him. The Honourable Mr. Hudson is not an old friend of mine but I know him only in this Council. I have always found him to be courteous and obliging. There were occasions on which he had to differ from us, but those differences were honest, because everybody has a right to differ from another person, provided he honestly thinks that he has to differ. During the course of this Bill which has now been passed into law, I must say that, whenever he was convinced that any recommendation or suggestion made by this honourable House, was proper, if he was convinced about the propriety of it, he has given effect to it. His one notion is that the civil disobedience movement should be

[Dewan Bahadur D. R. Patil]

put down. It is the natural desire of Government to put it down. I must express my gratitude to him for specially having been very sympathetic towards the agriculturists. He said that he has a soft corner for the agriculturists. But he has to retire now and he is going back to his place, England, and I may say I wish him long life and prosperity.

Mr. V. N. JOG (Dharwar District): Sir, on behalf of Karnatak, I fully sympathise with the sentiments expressed in this House on this resolution by my honourable friends, the previous speakers. We are very sorry to lose the Honourable Member who is on the eve of his retirement. No doubt, Sir, since the time he has been in this House for a period of three years and more we have found him sympathetic towards the people and whenever grievances were brought to his notice he had readily considered them and if possible redressed them. One or two instances from my side of the country I myself brought to his notice when he was in charge of the Revenue portfolio. He readily considered them and gave remissions in respect of assessment which he thought at that particular moment was very heavy. In the conduct of this Bill also we have seen, as the honourable mover said, that in spite of the fact that the framing of the Bill was not done by him he had accepted some amendments which he could accept. I make a reference to that part of the speech where he said that he would redress the grievances that were brought to his notice and would go into the hard cases under the ordinance that were brought to his notice personally. Many amendments which were moved he could not accept, but he accepted some, e.g. as regards non-cognizability, non-bailability of the offences, pitch of the fine and distinctions between offences and offences. He took care to see that sections 5 to 10 were properly worded and inserted the words "in the interests of public peace and safety" in place of "public advantage". When it was pointed out to him that section 19 would be very oppressive to the agriculturists, he removed it from the Bill. All this clearly goes to show that, whenever grievances were brought to his notice, he was very sympathetic. With these words I fully associate myself with the resolution moved by my honourable friend Mr. Gokhale.

Sir REGINALD SPENCE (Bombay City): Mr. President, on behalf of the non-official European group I rise to support the resolution before this House. I am, like the representative of the Europeans in Sind, who will speak later, privileged to do so because of the many years I have known the Honourable the Home Member, and I may say, Sir, it is a privilege which every member of this group would like to enjoy.

In view of what has already been said, it is perhaps difficult to strike a fresh note. What I think has appealed to most of us—and I think I speak not merely for our group but for everyone in this honourable House—is that the Honourable Mr. W. F. Hudson has, throughout his whole service, during the whole time we have known him, and all through

[Sir Reginald Spence]

his membership of this honourable House, proved himself to be the finest type of not only an English gentleman but also of a British official. [*Applause.*]

Mr. Hudson will not—and he must be very glad of this—be remembered as a politician, but he will be remembered as possessing virtues the lack of which are the destruction of many an otherwise promising politician. Mr. Hudson in short has proved himself to be a straightforward man, actuated by the sole desire to serve the people of this land in which for some 34 years he has worked. He has shown himself to be fearless in adhering to what he considers necessary in the interests, not of a section, but of the great majority of the people of this Presidency. Many a member of the Executive Council has during his years of office been cursed by over-fondness for the prayer “Peace in our Time, O Lord. I shall be out of the country in a little while and will do nothing to cause trouble.” This has not been the attitude of Mr. Hudson. His conduct of the Bill which has been before our House this session has been a good proof of this. Fearlessly he has said: “No, I cannot accept this amendment.” He has been adamant where it was necessary to be so, but in what a delightful way has he said “No”? How contrary to what one sometimes hears of a man “It is not so much the thing he says but the nasty way in which he says it.” Mr. Hudson in this way has done more good to what we on this side of the House consider to be the right side than an additional 20 nominated members, vowed to vote for Government whatever happens, would have done. Yet, although the honourable members on the opposition—and perhaps I might say, one member on the cross benches—have found the Honourable the Home Member a doughty opponent, the speeches that have been made today prove how much he is appreciated by every one here. [*Applause.*] His departure will be a loss to this Presidency. Whatever may be the future position of the Englishman in Government service there is no question but that men of the character of the Honourable Mr. Hudson will still be of the greatest use and service to the country which Mr. Hudson has loved so well. His record provides an outstanding example to the great Service of which he is so distinguished a member, and, Sir, it is for the example he has shown us all that we thank him most.

Mr. J. B. PETIT (Bombay Millowners' Association): Mr. President, I rise to associate myself with this resolution; and I do so with particular pleasure, because it has been my misfortune to differ rather sharply from my honourable friend, not only during the last ten days but also on other previous occasions. Sir, there always necessarily are differences of opinion among public workers everywhere in the world; and it is but natural that it should be so. In this country, however, owing to its political and other conditions, and particularly owing to the very wide divergence between the official and non-official outlooks on life and angles of vision, these differences are, unfortunately, very considerably accentuated. But this fact in itself need not and cannot deter us from maintaining friendly and cordial personal relations with each other. I accordingly have much pleasure in associating myself with the resolution

[Mr. J. B. Petit]

and in joining my honourable friend Mr. Gokhale, in conveying to the Honourable the Home Member the best and most cordial wishes of the House for his health and happiness in his retirement.

Sardar BHASAHEB RAISINHJI (THAKOR of KERWADA) (Gujarat Sardars and Inamdars): Sir, on behalf of the constituency whom I represent here I associate myself with all the sentiments that have been expressed in this House in connection with the Honourable Mr. Hudson. I endorse every word that has been said about him. In the Honourable Mr. Hudson this Presidency is going to lose one of those great civilians who come out to India with the one idea of serving it well and of giving it the best part of their lives. He has faithfully followed the noblest traditions which have grown up round the Indian Civil Service. His departure at this juncture particularly is a great loss to us. The winning manners and persuasive ways which he displayed in connection with this Bill will be lost. If this Presidency was fortunate enough to see him stay longer in this country, we would have his guidance during the impending reforms. Sir, I join the other honourable members in wishing him a happy retirement. I hope that even during his retirement he will not forget this Presidency and the province of Sind where he has left his mark during his service. I hope in his future career, in whatever sphere of life he is, he will not forget this Presidency but will always have a soft corner for it. With these words, I bid him good-bye.

The Honourable Sir GHULAM HUSSAIN: Mr. President, I wholeheartedly associate myself with this resolution both on behalf of myself and of the Government benches, and, with the permission of the House, on behalf of the Sindhi members whom we do not find in this House. Sir, my acquaintance with Mr. Hudson is much longer than that of any one in this House. I knew him as an Assistant Collector in 1903. He served in my part of the country as Assistant Collector, Collector and Commissioner in Sind. And I assure the honourable members of this House that he acquitted himself with great credit in every capacity. His broad sympathies and his sense of fairness and justice made him popular among all castes and creeds. He has served the Presidency with great distinction for over 33 years. He has now risen to the highest rung of the ladder as Member, and he has been with us for more than three years. I assure the honourable members that his relations with those on this side, whether Members, Ministers or Secretaries, have been very cordial. He has been a good friend and a good colleague to us all. His amiable disposition, his charming manners and playful humour have endeared him to both sides of the House. I am sorry that we are losing a good friend and an honourable and straightforward gentleman. I wish him long life, continued health and happiness.

The Honourable Mr. W. F. HUDSON *rose*.

The Honourable the PRESIDENT: There are other honourable members wishing to speak.

The Honourable Mr. W. F. HUDSON: I know that many of my honourable friends would wish to speak, but I am trying to save the time of the House.

[*Several Honourable Members rose.*]

The Honourable the PRESIDENT: Order, order. The honourable member to whom the resolution relates does not wish that many more should speak. I know that the whole House would wish to speak. We have to follow the procedure. The resolution has first to be passed before the Honourable Member replies. As there are several sections of the House, I think one member from each section should be allowed to speak on this resolution.

Mr. JOHN HUMPHREY (Karachi Chamber of Commerce): Sir, I must apologise for rising as the second speaker of such a small community as the European section of this honourable House. But I have two very special reasons for rising on this important occasion. The honourable member Sir Reginald Spence mentioned that he had known Mr. Hudson for many years, and many other honourable members also mentioned the various terms of years of their acquaintance with him. I think I can claim that I have known Mr. Hudson ever since he came to this country. And knowing him I feel that I cannot allow this opportunity to pass without paying a personal tribute to him as regards his fine character and great abilities. And the second and more important reason is that I represent the European community of Sind, and, as everybody knows, Mr. Hudson is regarded in Sind as one of the finest Sindhis that Sind has ever had. So I am sure my constituency would not forgive me if I allowed this opportunity to pass without expressing their support to this resolution. I do not say more because I feel brevity is very necessary on this occasion. I ally myself with everything that has been said in tribute to Mr. Hudson, and I support this resolution.

Moulvi Sir RAFI UDDIN AHMAD (Central Division): Mr. President, Sir, I have no desire to paint the lily. On behalf of the Mahomedan party as well as on my own behalf and as a former Minister I associate myself with the sentiments of this resolution.

It has been pointed out by an honourable member that the Honourable Mr. Hudson would not be remembered here more as a politician, but Sir, I am of a different opinion. The members of the Civil Service generally are all good administrators, but very few of them have left their mark as politicians. Mr. Hudson is an exception. In this House, Sir, I find him quite equal to any one in debate. Members of the Civil Service are excellent in despatches but not so always in debates. But in Mr. Hudson we have all found a very formidable debater. The effect of oratory is persuasion, not verbosity. Mr. Hudson is not a man of many words. A rapid speaker, a quick thinker and a humorous critic, he has disarmed opposition by a few words. It was pointed out that he was delightful in replies, but in addition to being delightful he was also in argument unanswerable.

[Moulvi Sir Rafiuddin Ahmad]

My regret is that the Honourable Member is retiring very shortly. I wish he would reside here after retirement and join the Opposition later on. My own regret is that the English members of the Civil Service generally leave this country. They should reside here and as citizens work for the freedom of this country. I hope wherever he goes he would remember the time he spent in this House.

It has been pointed out that Mr. Hudson is no less a scholar than an administrator—by Mr. Pestanshah Vakil who, by the way, seems to have been unmuzzled now, because he never said a word in favour of the Bill of Mr. Hudson and never voted for it. I sincerely wish him joy and prosperity. As an ex-member of the Cabinet, I found him always—I hope I am not revealing any great secret—a very great friend of India. I wish him prosperity and long life.

The Honourable Mr. W. F. HUDSON: Thank you.

Rao Bahadur R. R. KALE (Bombay University): Sir, if I am to say anything on this motion, I do so as a member of this House. I only came to know Mr. Hudson since he became a member of this House, but during all that time I never failed to perceive his pleasing manners, his amiable disposition and his kindly behaviour, and, above all, his uniform courtesy to each and every member of this House, combined as it was, with a firmness and outspokenness, qualities which are seldom surpassed to my knowledge. It is unfortunate, as he said himself the other day, that the mantle of Home Membership has fallen on him at a time of great trouble and disturbance. It must have entailed towards the eve of his retirement and towards the end of his official career very heavy strain indeed on his health, but I should say with his genial disposition he has been able to carry on his duties, arduous as they were and are, and, as he put it himself, no one regretted more than he did that he should have to pilot this Bill, a measure which is not liked by anyone. I must pay a tribute to the qualities which have really endeared him to this side of the House and I conclude that by his going to the land of his home, he will endeavour even there to maintain good relations between the country of his birth and this country in which he has spent a greater part of his life and has come to know its people, their sentiments, their aspirations and I do hope that he will not forget the people of the land in which he has spent so many years of his life. We wish him all health and strength to carry on the work of maintaining good relations between England and this country.

Mr. N. E. NAVLĒ (Ahmednagar District): Sir, I whole-heartedly support the resolution of appreciation of the services of Mr. Hudson which is tabled by my honourable friend Mr. Gokhale. Sir, many honourable members who have spoken on this resolution have alluded to the various good qualities of head and heart of the Honourable Member, but speaking as I do on behalf of the non-Brahmin members in this House I am going to refer to only two outstanding qualities of Mr. Hudson which have appealed to me, namely, first that he was a great friend of the agriculturists as a whole. The proof of this is amply given in the Bill which

[Mr. N. E. Navle]

he piloted successfully in this House in this special session. I do not think, Sir, that the deletion of clause 19 which dealt directly with agriculturists and the amendments in sections 17, 18 and 20 which give protection to the tenants as against the landlords were due to any private persuasion or any influence privately brought on the mind of the Honourable the Home Member. I know personally that from the beginning he was going to show a practical sympathy for the protection of *bona fide* grievances of the agriculturists and he showed that by deleting section 19 and to the last he kept his word.

The second quality of Mr. Hudson which impressed me most was that of any question which came before this House he always took a very sound practical view. That is what impressed a member like me most. With great moderation he always piloted any measure from Government benches. He has always been very sober in his criticism, and to interpellations and questions tabled in this House he tried to satisfy members to his utmost capacity. I wish him a long and happy life and a happy journey to his country, where I hope he will continue to take keen interest in the Indian affairs as a whole and in the affairs of this Presidency in particular.

Rao Bahadur S. K. BOLE : Sir, I fully associate myself with what has been said by previous speakers. The Honourable Mr. Hudson is a Home Member and, though a very high officer of Government, he was accessible to all. He was courteous, kind and considerate. Though he differed from us on some questions, still he gave us a patient hearing and tried to redress the grievances that were placed before him as far as possible. He was very sympathetic towards the backward and labouring classes. Whilst explaining his point of view he never used harsh words, but there was sweet reasonableness and the evidence of that we have in the manner in which he piloted the Ordinance Bill and therefore his relations with non-officials were always friendly.

Sir, he tried to meet the wishes of the members also. During the last session of the Council in Poona I went to the Home Member when he was very busy, he had no time to speak and he made a sign to me to please go away. I was of course rather disappointed and came to my seat, but after a while I was surprised to see the Home Member himself coming to my seat and sitting by my side and asking me what I wanted. I then told him that I wanted to move instead of my first resolution the second resolution which concerned his Department. Without any hesitation he readily acceded to my request and gave his consent. That showed his noble heart and how he was willing to meet the wishes of members. It is, Sir, regrettable that he is going to leave us shortly and I wish him long life, health and happiness.

Dr. P. G. SOLANKI : Sir, I rise to support the resolution moved by my honourable friend Mr. Gokhale, and I join in the chorus of admiration and appreciation of the good qualities of head and heart of Mr. Hudson, the Home Member. Much has been said from all sides that Mr. Hudson has been a friend of all sections of the people. On

[Dr. P. G. Solanki]

behalf of the backward classes, though I had very little to do with Mr. Hudson and I had no occasion to ask any favour from the Honourable the Home Member, yet from the manner in which he has conducted his business in this honourable House for the last few years as a member of the Cabinet and for the last one year as Home Member, I have found him always very kind and patient to hear the complaints or the requests of the members of this House. Sir, Mr. Hudson has made himself dear to every member of this House. It is very difficult for high officials to please the people of Sind who are mostly illiterate and are led away by agitators, because we have heard many times in this House by way of complaints and grievances that the higher officers in Sind and particularly the Commissioners are not approachable by the public at large and their grievances and complaints never reach the ears of the Commissioner. The Honourable Mr. Hudson as a Commissioner in Sind was very sympathetic, courteous and popular among all sections of people and the zamindars always spoke very highly of the Honourable Mr. Hudson. Although he has not shown any very active sympathy towards the inferior village servants in the Revenue Department, he has shown the greatest sympathy for the agriculturists and in this Special Powers Bill he has shown his active sympathy by deleting clause 19, and by doing so I do believe that among the agriculturists the backward and depressed classes do come, and they will also reap the benefit of the deletion of that clause. He has been a great friend of India and as one of the most eminent members of the Civil Service, he has shown to us and set an example to the junior members of the Civil Service, that if a Civilian serves in this country sincerely and honestly, he is rewarded by rich tributes of gratitude and appreciation from the representatives of all sections of people of this Presidency in this honourable House. Sir, before I sit down, I wish the Honourable Mr. Hudson long life, prosperity and happiness throughout the rest of his days of retirement in his sweet home.

The Honourable the PRESIDENT: I think I must now request honourable members not to press their desire to speak on the motion.

Before I put the resolution, I may be permitted by the House to associate myself whole-heartedly with the resolution. I thought I was the person here who knew the Honourable Member longest, but I found that the honourable member Mr. Humphrey has known him longer than myself. I have known Mr. Hudson for over 25 years. I think I met him first in Karachi, and have ever since watched his brilliant career as a distinguished member of that distinguished Service. As a member of this House, a matter with which we are more concerned, he has, as has been pointed out already, proved himself a debater of great powers, courteous and winning. I hope that when he returns home, as the honourable member Moulvi Sir Rafiuddin Ahmad remarked the other day, as an Indian of Indians, he will not forget India.

Although he has succeeded in getting the Special Powers Bill passed with slight modifications, I think he would be glad, as he has himself

[The President]

said, to hear soon that it is no longer required on the statute book. I may echo the feeling of the House—and he would pardon me for that—the very strong feeling, that before he lays down the onerous charge of his portfolio, he will issue complete instructions to explain the full scope of the Bill.

He must have noticed one thing particularly, from the speeches on the resolution, that honourable members have felt grateful that he accepted even a few of the many amendments. But I can assure him the response to this resolution would not have been more enthusiastic than it has been, even if he had accepted all the 400 amendments.

I wish him every success, and desire that the whole House should receive the resolution with acclamation.

Resolution carried amidst acclamation.

The Honourable Mr. W. F. HUDSON: Mr. President, I did not venture to challenge a division on this motion, because I could not help seeing that, if I did, it would probably have been lost. But, Sir, I cannot for a moment claim all the many virtues which have been ascribed to me by my honourable friends from all parts of the House. I am not a lily, as my honourable friend Moulvi Sir Rafiuddin Ahmad suggested, and I really cannot understand what my honourable friend Mr. Pestanshah Vakil meant about my literary graces. I am only too conscious that at any rate during the last week my answers have been rather short and sharp, and I certainly never had time to think as to the particular way in which I should turn a phrase. In spite of that, I should be more than human if I were not feeling rather proud and rather sad today; proud, because of all the very kind if unmerited things that have been said by the Chair and by the honourable members who have spoken about myself, and sad, because I must now say good-bye. For, I am afraid it is good-bye, and that I am unlikely to return to this House, in spite of the kind invitation of my honourable friend Sir Rafiuddin Ahmad; and that for the best of reasons, that I cannot think of any constituency which might possibly elect me.

It is a very great compliment to me, which I much appreciate, that this motion should have been carried with such unanimity on this occasion, because I am painfully aware that I have inflicted an intolerable number of speeches on the House in the course of the last ten days, and also that I have had to adopt an attitude which was inevitably distasteful to a good many members of this House. It has also been a great pleasure to me—this is a personal matter between him and me—that this motion should have been brought forward by my old friend Mr. Gokhale. He and I unfortunately are generally on opposite sides in politics. But, as he kindly said, he has not forgotten that in those far-off days when I was Collector of Poona we were very good friends, and I have not forgotten the very kind advice and assistance which he always gave to me in good works for the city and the district. I am grateful to him for his kindly thought in tabling

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this motion and to all my friends for the generous support which they have given to it.

I notice, Sir, that the motion says something about my services as a Member of the Executive Council. In the few remarks that I am going to make today, I am only going to refer to the small part which I have played in politics in the last ten years. When I landed in this country 33 years ago, I never dreamt for a moment that I should have anything to do with politics. I was brought up in what I believed to be, and still believe to be, the good old British tradition that the Civil Services are better out of politics. For the first few years of my service, at any rate, I certainly never meddled in them. Then came the Reforms and diarchy, and it was believed that the help of experienced officers of Government might be of some value to the new legislatures. Whether that has proved to be true or not, it is not for me to say. But I am a little bit encouraged by the speeches made today and by this vote to think that perhaps it has been of some value during the transition period. At any rate, Sir, whether that is so or not, I must confess that I have thoroughly enjoyed the share which I have taken in politics. I first began in the Assembly in 1922, when my honourable friend Mr. Kamat and I were colleagues, and he and I have often wished that we were back there again. I took my first seat in this Council in 1924. I went back to the Assembly after that, and had the honour, for nearly three years, of being the Chief Government Whip. Then I came back to this House, as honourable members are aware, and have been on this bench since September 1929. During that time we have seen many changes, a new Council amongst others, and notably the reduction—to my mind a very regrettable if necessary reduction—in the number of the occupants of this bench. But for me at any rate one thing has never changed, and that has been the courtesy and kindness which I have received from all sides of the House; from the Chair every possible indulgence and forgiveness of many mistakes, from my honourable friends behind me and around me constant encouragement and support, and from my honourable friends opposite every courtesy and tolerance. And therefore, Sir, it is but natural that I am feeling sad today, when I am addressing this House for the last time.

May I, in this connection, Sir, commend to the kindness of the House my successor, Mr. Bell? He is well known to most of you as a most able and hard working officer, but perhaps less well known, owing to his modesty, as a most efficient speaker; but of that quality the House will soon have a taste, and you will find in him, I am perfectly certain, a great addition to our debates.

Now, Sir, I feel I am postponing the happy moment when you will pronounce the dissolution. But before I sit down, I should like, if I may, to express a wish for all members of this House. For you, Sir, that you may continue to adorn that Chair for as long as you have the patience to sit in it. [*Hear, hear.*] For my friends behind me, that, with the advent of the new constitution, they may be spared from

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sitting in this House ; for the nominated members, that a tolerant and kindly Government will forget how seldom some of them have appeared in the Government lobbies, and in spite of that fact will renominate them all ; and for the elected members, that their constituencies, in gratitude for their past services, will return them all unopposed. [*Laughter.*]

Finally, Sir, may I wish for the House as a whole that it will continue to maintain the reputation for sanity and good sense which it has built up in the last twelve years, and that it will be able to hand on an unsullied tradition to its successors ?

Once again, may I thank all honourable members very much indeed for the great honour they have done me today ? [*Applause.*]

PROROGATION OF COUNCIL.

The Honourable the PRESIDENT : I have now to intimate to the House that I have received a Commission from His Excellency directing me to announce that he is pleased to order that the present session of the Legislative Council should be prorogued. Accordingly, by virtue of the Commission of His Excellency, I declare the Council prorogued until the date of which due notice shall be given. The Council is now prorogued.

APPENDIX I.

BILL No. XXVII OF 1932.

A Bill to confer special powers on Government and its officers for the purpose of maintaining law and order.

(As published in the "Bombay Government Gazette"
of the 2nd November 1932.)

WHEREAS it is expedient to confer special powers upon Government and its officers for the purpose of maintaining law and order; and whereas the previous sanction of the Governor-General required by sub-section 5 & 6 (2) of section 80A of the Government of India Act has been obtained for ^{Geo. V,} the passing of this Act; It is hereby enacted as follows:—
c. 61.

CHAPTER I.

PRELIMINARY.

1. *Short title, commencement, extent and operation.*—(1) This Act may be called the Bombay Special Powers Act, 1932.

(2) It shall remain in force for a period of three years.

(3) This Chapter extends to the whole of the Presidency of Bombay and the Governor in Council may by notification in the *Bombay Government Gazette* extend all or any of the remaining provisions of this Act to such district or area as may be specified in the notification.

(4) This Chapter shall come into force at once and the Governor in Council may by notification in the *Bombay Government Gazette* direct that all or any of the remaining provisions of this Act shall come into force in any district or area to which they have been extended on such date as may be appointed in the notification.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) "The Code" means the Code of Criminal Procedure, 1898; and ^{V of}

(2) "District Magistrate" means, in the case of the City of Bombay, ^{1898.} the Commissioner of Police.

CHAPTER II.

SPECIAL POWERS.

3. *Power to arrest and detain suspected persons.*—(1) Any officer of Government authorised in this behalf by general or special order of the

[Appendix 1—*contd.*]

Governor in Council may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest any means that may be necessary may be used.

(2) An arrest made by or on the direction of any officer under this section shall be reported forthwith to the Governor in Council by the officer so making or so directing the arrest, as the case may be, and such officer may, by order in writing, commit any person so arrested to such custody as the Governor in Council may, by general or special order, specify in this behalf ;

Provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days ;

Provided further that no person shall be so detained in custody for a period exceeding two months.

4. *Power to control suspected persons.*—(1) The Governor in Council, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person—

(a) shall not enter, reside or remain in any area specified in the order ;

(b) shall reside or remain in any area specified in the order ;

(c) shall remove himself from, and shall not return to, any area specified in the order ;

(d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Governor in Council by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

5. *Power to prohibit or limit access to certain places.*—The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

6. *Power to prohibit or regulate traffic.*—The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think

[Appendix 1—*contd.*]

necessary for the public advantage, traffic over any road, pathway, bridge, waterway or ferry.

7. *Power to regulate means of transport.*—(1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order.

8. *Power to control posts and telegraphs.*—The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station, and, in particular, may intercept any postal article or telegraphic, telephonic or wireless message in the course of transmission, may ascertain its contents and may prohibit its further transmission.

9. *Power to regulate the use of railways and vessels.*—The District Magistrate may—

(a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;

(b) require that any specified persons or classes of persons or persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;

(c) exclude or eject any passenger from any train or vessel;

(d) stop, or prohibit the stopping of, trains or vessels at any station; or

(e) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons.

10. *Power to secure reports of public meetings.*—The District Magistrate may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

Explanation.—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

[Appendix 1—contd.]

11. *Power to issue search-warrants.*—The power to issue search-warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising—

(a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Act or any act prejudicial to the public safety or peace has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made ;

(b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause ;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

12. *General power of search.*—Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of—

(a) ascertaining whether it is necessary or expedient to exercise such power ; or

(b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with ; or

(c) generally, giving effect to such power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

13. *Power to give effect to orders if disobeyed.*—(1) If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under sub-section (1).

14. *Penalty for disobeying order under section 4.*—Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

15. *Penalty for disobeying other orders under this Chapter.*—Subject to the provisions of section 14, whoever disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of this Chapter or impedes the lawful exercise of any power referred to in this Chapter shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

[Appendix 1—contd.]

16. Delegation of powers.—(1) The Governor in Council may invest the District Magistrate with the powers of the Governor in Council under sub-section (1) of section 4.

(2) The Governor in Council may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this Chapter.

(3) The District Magistrate may, by order in writing, authorise any officer to exercise any of the powers of the District Magistrate under this Chapter in a specified area or in connection with a specified emergency.

CHAPTER III.

SPECIAL PROVISIONS AGAINST ILLEGAL REFUSAL OF THE PAYMENT OF CERTAIN LIABILITIES.

17. Power to declare notified areas and notified liabilities.—(1) The Governor in Council may, by notification in the *Bombay Government Gazette*, declare that any district or area shall be a notified area for the purposes of this Chapter.

(2) The Governor in Council may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

18. Punishment for unlawful instigation to the non-payment of notified liability.—Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both,

19. Punishment for wilful failure or refusal to pay arrears of notified liability.—(1) Whoever wilfully fails or refuses to pay any arrears of a notified liability shall be punishable with imprisonment which may extend to one year or with fine or with both.

(2) In prosecutions under this section unless the contrary is proved it shall be presumed that failure or refusal to pay arrears of a notified liability is wilful.

Explanation.—A failure or refusal to pay the arrears of a notified liability on account of poverty is not wilful within the meaning of this section.

[Appendix 1—contd.]

20. *Special rule of procedure.*—No Court shall take cognizance of any offence punishable under section 19 except upon a complaint in writing made either by the Collector or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf and no Court shall take cognizance of any offence punishable under any other provision of this Chapter except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of sub-inspector.

21. *Power to collect an arrear of a notified liability as an arrear of land-revenue.*—(1) Any person to whom an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

(2) Nothing in this section shall prevent any person to whom an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) Any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with law from the person on whose behalf the Collector has realised it.

CHAPTER IV.

SUPPLEMENTAL.

22. *Jurisdiction.*—No Court other than a court of a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

23. *Offences under the Act to be cognizable and non-bailable.*—Notwithstanding anything contained in the Code, any offence punishable under this Act shall be cognizable and non-bailable.

24. *Procedure for trial of offences.*—Notwithstanding anything contained in the Code, a Presidency Magistrate or a Magistrate of the First class, in the trial of an offence under this Act, may, in his discretion follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

25. *Power of court to disallow adjournments.*—In the trial of an offence under this Act, a court shall not be bound to adjourn the trial for any purpose unless such adjournment is, in the opinion of the Court, necessary in the interests of justice.

26. *Power of magistrate to pass a sentence of fine.*—The provisions of section 32 of the Code shall not operate to limit the power of a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine of any amount for an offence under this Act, and the provisions of the Code shall be deemed to have been amended accordingly.

[Appendix 1—*contd.*]

27. *Powers of courts to deal with refractory accused.*—(1) Where any accused, in a trial of an offence under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Codes, no finding sentence or order passed in a trial of an offence under this Act shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has then been dispensed with under sub-section (1).

28. *Special rule of evidence.*—Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial of an offence under this Act if such person is dead or cannot be found or is incapable of giving evidence, and the court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused. ^{I of 1872.}

29. *Application of ordinary law.*—The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act.

30. *Jurisdiction barred.*—Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act.

31. *Operation of other penal laws not barred.*—Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Act.

[Appendix 1—*contd.*]

X of 1932. **32. *Validity of things done under Ordinance.***—Anything done or deemed to have been done in pursuance of any provision of the Special Powers Ordinance, 1932, shall, where the corresponding provisions of this Act have come into force before the expiry of the said Ordinance, be deemed to have been done in pursuance of the corresponding provision of this Act and shall have effect, and the provisions of this Act shall have effect accordingly.

X of 1932. **33. *Right to appeal and pending appeals in cases relating to offences under Ordinance.***—This Act shall operate to confer a right of appeal against a conviction under the provisions of the Special Powers Ordinance, 1932, in all cases where an appeal would have lain under any provision of the said Ordinance, and every appeal pending at the time of the expiry of the said Ordinance and every appeal made in pursuance of the provisions of this section shall be heard and decided by the appellate authority by which it would have been heard and decided under the said Ordinance.

X of 1932. **34. *Continuation of pending trials for offences under Ordinance.***—Any person accused of the commission of an offence punishable under the provisions of the Special Powers Ordinance, 1932, notwithstanding the expiry of the said Ordinance, may, where the corresponding provisions of this Act shall have come into force, be tried and punished as if such offence were an offence punishable under or by reason of the corresponding provisions of this Act, and as if this Act had been in force at the time of such commission; and any trial of any such offence begun but not completed at the expiry of the Special Powers Ordinance, X of 1932. 1932, may be continued and completed as if it had begun after the passing of this Act.

STATEMENT OF OBJECTS AND REASONS.

The scheme of the Bill is to provide Government with all necessary powers in reserve to deal with the Civil Disobedience Movement. The passing of the Bill into law will only of itself bring the first Chapter of the Bill into operation leaving it to the Governor in Council by subsequent notification to extend to and to bring into force in any district or area in the Presidency, such of the provisions of the Act as are in the opinion of Government necessary.

2. *Chapter I* (clauses 1 and 2) is a preliminary chapter and contains provisions relating to the extent, commencement and operation of the Act and the interpretation or definition clause. Sub-clause (2) of clause 1 provides that the Act shall remain in force for a period of three years. Sub-clause (3) is the extent and sub-clause (4) is the operation clause. They provide that Chapter I shall extend to the whole of the Presidency and shall come into force at once. Government have power to extend or to bring into operation all or any of the remaining provisions to or in such district or area as Government think fit.

[Appendix 1—*contd.*]

3. *Chapter II* (clauses 3 to 16) of the present Bill purports to re-enact sections 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18 and 22 of the Special Powers Ordinance.

4. *Chapter III* (clauses 17 to 21) of the present Bill repeats the provisions of Chapter V (sections 54 to 57) of the Special Powers Ordinance. Clause 19 is a new provision and is designed to punish refusal to pay land revenue on political grounds. It also provides that in prosecutions under the section, until the contrary is proved, the presumption will be that the offence has been committed. An explanation has been added that a failure or refusal to pay the arrears of a notified liability on the ground of the poverty of the accused will not be deemed an offence. In clause 20 it is provided that an offence under clause 19 will be triable only upon a written complaint of the Collector, or his assistant or deputy authorised by him while other offences under the Chapter will be triable on a report of a police officer not below the rank of a Sub-Inspector.

5. Chapter IV of the Bill is headed "Supplemental" and contains provisions some of which are important. Clause 22 provides that no court inferior to that of a Presidency Magistrate or First Class Magistrate can try an offence under the provisions of the Act. The clauses of the Bill which create offences and provide for penalties are Nos. 14, 15, 18 and 19. Clause 14 provides for a penalty of two years' imprisonment, clauses 15 and 18 for six months, and clause 19 for one year. Offences punishable under clauses 15 and 18 for which the penalty provided is less than a year would have been triable by any magistrate, i.e. even by a second or third class magistrate. (See Schedule II to the Criminal Procedure Code). Clause 22 however provides that offences under the Act can only be tried by a Presidency Magistrate or Magistrate of the First Class and in view of the power to try such offences in a summary way now proposed to be given to such magistrates, it is not thought desirable that any but Presidency Magistrates or Magistrates of the First Class, should be empowered to take cognizance of or try offences under this special enactment. Clause 26, also provides that an offence under this Act is punishable with a fine of any amount. Having regard to the nature of offences under the provisions of this Act, clause 23 provides that they will be cognizable and non-bailable. This clause is similar to section 74 of the Special Powers Ordinance.

6. Clause 24 of the Bill provides that a court trying an offence under this Act can in its discretion follow the procedure prescribed in Chapter XXII of the Criminal Procedure Code, for summary trials of cases in which an appeal lies. This will enable the court to decide cases arising under the Act speedily. Section 44 of the Special Powers Ordinance gave somewhat similar powers to summary courts.

7. Clause 25 leaves it to the discretion of courts to grant adjournments. It empowers a court to disallow an adjournment, if the court is of opinion that it is an abuse of the process of the court.

[Appendix 1—*contd.*]

8. *Clause 26* empowers a magistrate trying a case for an offence under the Act to inflict a fine of any amount.

9. *Clause 27*.—This clause corresponds to section 49 of the Special Powers Ordinance. This provision will enable courts to proceed with the trial in the absence of a refractory accused.

10. *Clause 28*.—This clause corresponds to section 50 of the Special Powers Ordinance. It will enable courts to adduce in evidence statements of the accused recorded under section 164, Criminal Procedure Code. This clause amplifies the provisions of section 32, Indian Evidence Act.

11. *Clause 29*.—This clause repeats the provisions of section 53 of the Special Powers Ordinance. It makes clear that the provisions of the Criminal Procedure Code, as modified by the Act, will apply to trials of offences under this Act.

12. *Clause 30*.—This clause re-enacts the provisions of section 78 of the Special Powers Ordinance. It not only enacts the common law rule that a public officer is not liable to any civil or criminal proceedings for any act done in good faith in pursuance of the statute, but also lays down definitely that no proceeding taken or order passed under the provisions of the Act will be called in question in any court, civil or criminal. This provision will prevent orders passed under such provisions as clause 3 or 4 from being challenged in any court, except when the legality of those orders comes into question in a proceeding instituted for their breach.

13. *Clause 31*.—This clause corresponds to section 79 of the Special Powers Ordinance.

14. *Clause 32*.—This is a validating section and corresponds to subsection (1) of section 80 of the Special Powers Ordinance. It is necessary to validate all orders passed and acts done under the Ordinance, if such orders and acts are to continue in operation. Executive orders passed under such provisions as section 4 must be validated in order that they shall not expire along with the Ordinance, but this validating section will only operate where the provisions of the Act corresponding to the provisions of the Ordinance under which the orders to be validated were passed, have been extended and brought into force by notification by the Local Government.

15. *Clause 33*.—This clause confers a right of appeal in cases in which an appeal would have lain under the provisions of the Special Powers Ordinance. Section 40 of the Ordinance provides that appeals against convictions passed by Special Magistrates will lie in some cases to the Sessions Judge and in some cases direct to the High Court. Similarly section 46 of the Ordinance contains a provision for appeals against convictions passed by Summary Courts. Clause 33 of the Bill is intended to provide for those cases in which the Ordinance will expire, before an appeal has actually been made against a conviction recorded under the Ordinance. It is provided that an appeal can be made to the Sessions Judge or the High Court as it could have been made under sections 40

[Appendix 1—concl'd.]

and 46 of the Ordinance as it is not thought desirable that the right of appeal given to an accused person under the Ordinance should be limited by the expiry of the Ordinance. For instance, an appeal from a sentence exceeding 4 years imposed by a Special Magistrate lies under section 40 of the Ordinance not to the Sessions Judge but to the High Court. This clause is designed to preserve this right of appeal in the case of a person convicted before the expiry of the Ordinance. Clause 33 will apply to all trials by Special Magistrates and Summary Courts under the Ordinance.

16. *Clause 34.*—This clause provides that (1) trials commenced under the Special Powers Ordinance will be continued under the provisions of the Act and (2) offences under the provisions of the Ordinance corresponding to those of the Act will be deemed to be under the provisions of the Act and prosecutions can be commenced or continued in respect of them under the Act. In the absence of any such provision, all such prosecutions and trials will lapse.

17. It is not intended to constitute courts of Special Magistrates or Summary Courts after the expiry of the Ordinance, but to leave offences punishable under the provisions of the Act to be tried by the ordinary courts in accordance with the provisions of the Act.

(Signed) W. F. HUDSON.

28th October 1932.

APPENDIX 2.

STATEMENT OF DEMAND FOR A SUPPLEMENTARY GRANT.

Transferred 1. The Honourable Sirdar Sir RUSTOM J. VAKIL.

Opening of a new dispensary at Dadu in Dadu District, Sind.

The new District of Dadu has been established since October 1931 and Dadu town is the head-quarters. There is a considerable staff of Government servants, for whom no adequate facilities for medical aid exist, at present. The population of the town is expected to increase when the Civil Court from Sehvan is transferred there. There is a sub-jail also at Dadu and the number of prisoners is on the increase on account of the place being now the head-quarters of a district. It is, therefore, necessary to make suitable arrangements for the performance of medico-legal work and post-mortem examinations and treatment of Government servants and the public generally. For this work a whole-time Government Medical Officer is necessary. Upto now this work was done by the Medical Officer of the North-Western Railway Dispensary but the Railway administration has decided to terminate the arrangement. The nearest Local Board Dispensary at Johi is at a distance of 10 miles from Dadu and there is no other suitable dispensary to which the civil medical work could be entrusted. A new Municipality and a District Local Board will be established at Dadu in due course but the Collector states that neither of these bodies will, when formed, be able to establish their own dispensary.

[Appendix 2—contd.]

In view of the existing financial stringency Government have no thought it necessary to create a post of Civil Surgeon for the District in the Bombay Medical Service Class I. It has, therefore, been decided by them to open a small Government Dispensary at Dadu with a Bombay Medical Service Officer in charge who will also be the Medical Officer for the District on the same basis as at Nawabshah and Mirpurkhas.

Orders have been issued for the conversion of the existing sub-divisional Public Works Department office at Dadu into a head-quarters dispensary with accommodation for in-patients, at an estimated cost of Rs. 4,300 (including the cost of a temporary mortuary). This cost the Surgeon-General has agreed to meet out of his discretionary grant for minor works. Fittings, furniture and equipment required for the dispensary will be purchased from the Barrage Dispensary at Sukkur which has been closed at an estimated cost not exceeding Rs. 3,000 and here also the Surgeon-General has agreed to meet the cost from the current year's sanctioned grant under "32—Medical—Mofussil hospitals and dispensaries—Contingencies—Other Supplies and Services." Thus no additional grant is required for meeting the initial cost of the dispensary.

The Legislative Council is requested to sanction the grant for the following recurring expenditure with effect from the date in the current year from which the dispensary will be opened :—

	Annual expenditure, First year.
	Rs.
<i>Officer—</i>	
Pay of the Medical Officer of the rank of Bombay Medical Service, Class II—scale of pay 200—40/3—400—50—450	2,400
Special pay for administrative charge of the district at Rs. 50 per mensem	600
Total, Pay of Officer ..	3,000
<i>Establishment—</i>	
1 Compounder—scale of pay 22—5/2—75 ..	300
1 Dresser at Rs. 18 per mensem	216
1 Ward servant at Rs. 18 per mensem	216
1 Bhisti at Rs. 15 per mensem	180
1 Sweeper at Rs. 14 per mensem	168
Total, Pay of Establishment ..	1,080
<i>Contingencies—</i>	
Diets	240
Medicines	684
Other Contingencies	300
Total, Contingencies ..	1,224

N.B.—The pay for the establishment being unrevised pay is subject to a deduction of 2 annas in the rupee.

[Appendix 2—concl'd.]

The above recurring expenditure during the current year will be met by the reappropriation of funds from savings in the sanctioned grants under "32-Medical" but as the expenditure relates to a new service the sanction of the Legislative Council is requested to the demand for a grant of a token sum of Rs. 10.

The Collector of Dadu has been requested to ask the District Local Board and Municipality of Dadu, when they are constituted, to contribute towards the cost of the dispensary.

Hospital fees will be levied at this dispensary as at all other Government and aided hospitals and dispensaries and the receipts will be credited to Government revenues.

Demand voted and now increased.

32-Medical—Transferred.

Rs. 44,48,000 + Rs. 10.

FINANCE DEPARTMENT :

Bombay Castle, 21st November 1932.

APPENDIX 3.

STATEMENT OF DEMAND FOR A SUPPLEMENTARY GRANT.

Reserved 2. The Honourable Mr. W. F. HULSON.

Improvements to the Sukkur Begari Bund.

There have been serious floods in the last few years on account of frequent breaches in the Sukkur Begari Bund and the loss caused to Government as well as the people has been tremendous. It is, therefore, absolutely necessary thoroughly to overhaul and strengthen this bund in order to afford protection to the country from flood damage. The work considered immediately essential and now proposed to be carried out is estimated to cost Rs. 4,68,000 and will consist of the following items :—

	Estimated cost. Rs.
(1) Bund length from Sukkur to Chak (13½ miles approximately)—	
Construction of a diaphragm wall for a length of 800 feet in mile 2/2	5,477

[Appendix 3—contd.]

	Estimate cost. Rs.
<p>It is essential and economical to put in a diaphragm wall for a length of 800 feet in mile 2/2. This short length is a definite danger spot and has been the cause of grave anxiety during the past three years and especially in the current year when special additional staff had to be employed to watch it day and night and where a serious breach was only narrowly averted. A breach here would have been very serious indeed as Sukkur town would have been threatened with disaster.</p>	
(2) Length of Sukkur Begari Bund from Choi to mile 23/4—	
(a) Raising Trenching Bund	24,000
<p>It is really necessary to raise this length and bring the bund up to proper Indus River Commission Section, but as a measure of temporary economy it is now proposed to raise the <i>Trenching Bund</i> only. This will cost approximately Rs. 24,000.</p>	
(b) Constructing a manguli round breach that occurred this year in mile 29/2	9,251
(3) <i>Satabani Loop</i> —	
(a) Diaphragm wall in lengths mile 0/7 to 1/2 and 3/5 to 3/7	24,972
<p>The soil in these lengths is hopelessly treacherous and the problem of permanent safety must be faced now. This will cost, as estimated in detail, Rs. 24,972.</p>	
(b) Raising Trenching Bund	12,500
<p>The <i>Satabani loop</i> requires also to be raised and brought to proper Indus River Commission Bund Section. The detailed estimated cost is Rs. 30,264 but as a measure of economy it is proposed to raise only the <i>Trenching Bund</i> now at a cost of Rs. 12,500.</p>	
(4) Diaphragm wall in mile 0/7 to 3/6 in Adurtakio Loop	91,573
<p>A diaphragm wall is essential in the whole of this length (0/7 to 3/6) as the soil is particularly treacherous and the length has been a source of grave anxiety and danger for the past four abkalanis.</p>	
(5) <i>Arain Loop</i> —	
(a) Diaphragm wall in mile 0/0 to 4/7	1,63,118
<p>This diaphragm is essential for the same reasons as those given for item (4) above.</p>	
<p>By the diaphragming of this length it will be possible to connect up with the diaphragm wall in 1913 Loop constructed in 1931. This diaphragm was eminently</p>	

[Appendix 3—contd.]

satisfactory and the minimum staff was maintained. There was not a single leak in this treated length, despite the fact that in previous years it was the worst length and gave grave anxiety.

(b) Raising Trenching Bund 12,500

The Arain Loop requires also to be raised and brought up to proper Indus River Commission Bund section. The detailed estimated cost is Rs. 25,404 but as a measure of economy it is proposed to raise only the Trenching Bund at a cost of Rs. 12,500.

(6) Sarfu Loop—

Filling in breaches and cuts that occurred this year .. 2,782

(7) Strengthening banks of Sind Feeder and Rajib Canal. 47,000

(8) Reconstruction of certain bund sluices 50,000

A number of sluices are in bad condition and urgently require to be reconstructed.

(9) Special mats as a prevention against wave-wash .. 25,000

A length of 12 miles from the beginning of Arain Loop is subjected to severe wave-wash in the absence of protective jungle. The damage in the past from wave-wash has been very considerable and costly. It is proposed to have specially prepared mats of approved design in stock before next abkalanı to overcome the difficulty in the cheapest possible manner. These mats are expected to have a life of three years.

Grand total .. 4,68,173

or 4,68,000

in round figures.

It is confidently expected that if the proposed improvements are carried out, great economy will be effected in the future annual cost of maintenance of the Bund.

The scheme is classified under the head "15-Other Revenue Expenditure financed from ordinary revenues". If the work is put in hand at once and it is given on contract to be completed definitely before the next abkalanı, a saving of about 20 per cent. on the estimated cost (Rs.4,68,000) is probable. It is proposed to spend Rs. 1,25,000 on the work in the current financial year and the balance in the next year. Endeavour will be made to meet as much portion of the amount required in the current financial year by reappropriation from savings in the voted grant under the heads "XIII" and "15" and if it is found necessary

[Appendix 3—concl.]

later on to supplement the voted grant, the necessary demand for supplementary grant will be presented to the Legislative Council at the next February-March session. As, however, the expenditure in question relates to a new service, the sanction of the Legislative Council is requested in the meanwhile to the demand for a grant of a token sum of Rs. 10.

Demand voted and now increased.

XIII—Deduct Working Expenses, 15-Other Revenue Expenditure financed from ordinary revenues, and Refunds of Revenue under the heads "XIII" and "XIV-Reserved".

Rs. 64,01,030 + Rs. 10.

FINANCE DEPARTMENT:

Bombay Castle, 21st November 1932.

APPENDIX 4.

STATEMENT OF DEMAND FOR A SUPPLEMENTARY GRANT.

Transferred 3. The Honourable Sirdar Sir RUSTOM J. VAKIL.

Combined bridge and regulator over the Aral Manchar near Sehwan.

The District Local Board road bridge over the Aral Canal in the Larkana District, which was very old and in a dilapidated condition, was further damaged during the floods of 1924 and required to be replaced by a new one. The District Local Board, Larkana, being unable to provide the large amount required for constructing a new bridge, spent about Rs. 3,000 on repairs on an undertaking being given by the local Public Works Department officers that close to the old bridge a combined regulator and bridge was almost certain to be built at the expense of the Lloyd Barrage and Canals Construction Project. The old bridge was kept serviceable for some years, but finally its condition became so bad that it was condemned as beyond repair. The question of constructing a new bridge therefore required immediate attention, as without it the whole Sehwan taluka would be disconnected from its headquarters.

The list of works connected with the Manchar Drainage Scheme, which was to be financed from funds under the Irrigation head "55", included provision for two regulators over the Aral Manchar. Detailed investigation by the local officers however showed that one regulator would meet all requirements. While the question of a suitable site for a regulator was being examined, the District Local Board, Larkana,

[Appendix 4—contd.]

was asked whether it would bear the difference in cost between a plain regulator and a combined bridge and regulator, if constructed at the site of the old bridge. The District Local Board accepted the suggestion and undertook to contribute its share. The whole work was estimated to cost Rs. 1,44,081 out of which a sum of Rs. 16,737 represented the cost of the bridge, i.e. the amount to be contributed by the District Local Board. The work was completed in 1931-32. Owing however to depletion of its finances the District Local Board has been unable to pay the share of cost which it undertook to bear and requested that the money should be provided by Government. The Chief Engineer in Sind and the Commissioner in Sind agreed that, as the road on which the bridge was situated was an inter-provincial road, Government should pay for the bridge. As the bridge is on the Kotri-Dadu-Shikarpur-Baluchistan Road (West Road) which is one of the schemes approved by the Government of India as eligible for being financed from the petrol tax fund, their approval was requested to debit to that source, the cost amounting to Rs. 16,737. The Government of India have now accorded their approval to the proposal of this Government and the amount required, viz. Rs. 16,737 will be made available from the savings in the current year's provision for petrol tax works under the head "41, Civil Works—Provincial". As the expenditure on the work is of the nature of a new service, the sanction of the Legislative Council is requested to the demand for the grant of a token sum of Rs. 10. On receipt of the sanction of the Legislative Council the expenditure will be written back from the major head "55" and debited to the petrol tax fund.

Demand voted and now increased.

41, Civil Works—Provincial (Partly Reserved and Partly Transferred).

Rs. 1,31,64,020 + Rs. 10.

FINANCE DEPARTMENT :

Bombay Castle, 22nd November 1932.

APPENDIX 5.

STATEMENT OF DEMAND FOR A SUPPLEMENTARY GRANT.

Reserved 4. The Honourable Sir GHULAM HUSSAIN HIDAYATALLAH.

*Employment of ramoshis for patrolling the Artillery Maidan,
Karachi.*

The development of lands on the Artillery Maidan, Karachi, has engaged the attention of Government for some years past. Recently the Karachi Estate Board, which has been specially charged with the

[Appendix 5—*contd.*]

maintenance of these lands, received complaints from the military authorities, the Municipality and the people in the neighbourhood that the Maidan was in a very insanitary condition owing to people committing nuisances there. The Executive Engineer, Karachi Buildings Division, thereupon provided wire-fencing along a portion of the Maidan and put up notice boards warning the public not to commit nuisance on the area, but this step proved unsuccessful. It was not found possible to spare any policemen to watch the area. As the only alternative Government accepted the Commissioner's recommendation to appoint two ramoshis each on Rs. 19 per mensem *plus* house rent allowance at Rs. 4 per mensem *plus* clothing and miscellaneous charges at Rs. 3 per mensem. The total expenditure during the current year is expected to amount to Rs. 364. As no provision has been made for this expenditure in the current year's budget under the minor head "Acquisition of properties in connection with the development of the Artillery Maidan" under the major head "60-A," a grant is required to cover it. The sanction of the Legislative Council is accordingly requested for this expenditure.

Demand voted and now increased.

60-A, Other Provincial Works not charged to Revenue (Reserved).

Nil + Rs. 364.

FINANCE DEPARTMENT :

Bombay Castle, 30th November 1932.

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