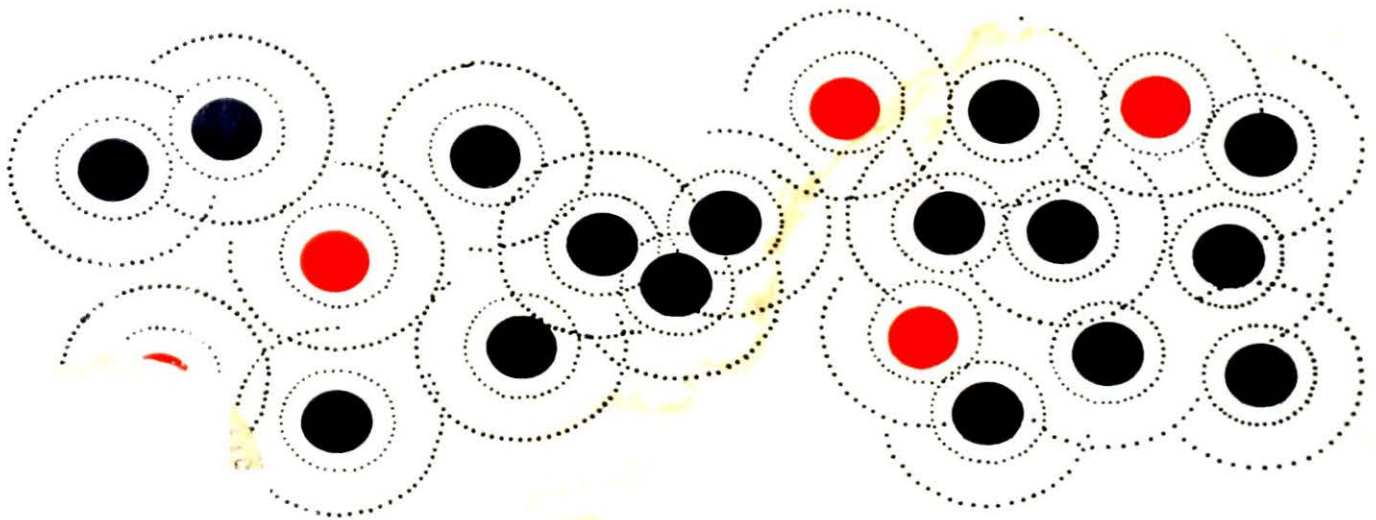


New Light on the Punjab Disturbances in 1919

volume two



V. N. Datta

Indian Institute of Advanced Study

The Disorders Inquiry Committee (known as the Hunter Committee after its Chairman, Lord Hunter) was appointed by the Government of India on 14 October 1919 to inquire into the disturbances of 1919 in India. The Committee produced a report and seven volumes of evidence. The Government of India withdrew from circulation volumes VI and VII of the evidence on political and military considerations. After persistent appeals, Sir Michael O'Dwyer, the then Lieutenant-Governor of Punjab, was allowed to use a highly censored version of volume VI of evidence. During the proceedings of the libel case of O'Dwyer vs. Nair in London, Sir Sankaran Nair produced a copy of volume VI in the court and for this the Government of India held him guilty of "at least a breach of confidence". The British Government took the copy and returned it to Nair after censoring portions of it. After the libel case, the Government recovered these censored volumes from O'Dwyer and Nair, and since then until their recent recovery, few had heard of their existence.

Now for the first time volumes VI and VII of the evidence of the Disorders Inquiry Committee are made available for general readership. Professor Datta has provided an Introduction based on original sources which explains the origin and history of these volumes as also the nature and specific value of the evidence incorporated in them.

These two volumes containing in camera oral and written evidence will throw new light on the social and political situation in India during the years 1915 to 1919, the period of the rising tide of nationalism in the country. The evidence reflects the tensions and conflicts of the British officials who, burdened with extraordinary responsibilities, sought to muddle through those critical times as also the hopes, aspirations and programmes of a new class of Indian leadership emerging after the war. To the historian and the researcher interested in the study of British policy and the freedom struggle in India these volumes are indispensable as they make possible a more complete reconstruction of the history of this meaningful period.

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NEW LIGHT ON THE PUNJAB DISTURBANCES IN 1919

**NEW LIGHT
ON THE PUNJAB DISTURBANCES IN 1919**

**VOLUMES VI AND VII OF DISORDERS INQUIRY COMMITTEE
EVIDENCE**

Volume Two

Edited with an Introduction by

V. N. DATTA

INDIAN INSTITUTE OF ADVANCED STUDY SIMLA

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PART II

Memorandum Submitted to Lord Hunter's Committee by the Government of India

Object of memorandum.

1. The object of this memorandum is three-fold, first to place before the committee appointed to enquire into the disorders in the Punjab and elsewhere a brief sketch of the political situation in India in so far as this is connected with the recent unrest ; secondly, to furnish such information as was at the time of the outbreaks available to the Government of India as to the causes and character of the disorders ; and, thirdly, to give a general history of the action taken by Government for their suppression

Political situation in India in recent years.

2. For many years the spread of education in British India has given rise to a genuine nationalist spirit and a desire to share in the Government of the country. In 1885 this feeling led to the formation of the National Congress which has since developed into the most powerful political organization in the country. Generally speaking this political feeling has been more marked in urban areas and amongst the younger generation ; but the outlook of the more conservative elements and the rural classes who have hitherto always been content to accept British rule in the past for the material benefits which it has brought them has also changed perceptibly in recent years. The idea that the

Asiatic was inferior to the European was largely dispelled by the Russo-Japanese war and the subsequent commercial prosperity and improvement in political status of Japan. Further the minds of educated Indians have undoubtedly been affected powerfully by the great growth of democratic ideas in Europe. With this spirit has arisen an increasing demand for an immediate and substantial change in the administration of the country. As in other countries, this desire for change has taken different lines and has given rise to two political parties—the moderates and the extremists—the former more temperate in their demands, more cautious in their methods, more mindful of the benefits of British rule and more diffident of the political capacity of India ; the latter more violent in their utterances, more extravagant in their hopes, more clamorous in their demands and more hostile to the present administration. For some time the policy of the Congress was controlled by the moderate party. Various attempts were made by the extremist section to seize control of this organization but, though these were partially successful in 1907, it was not until 1916, at Lucknow, that the extremists attained this object ; and at the same time also secured the support of the Moslem League. This latter body, which was originally started as a counterpoise to the Congress, had gradually become less and less conservative, and since hostilities with

Turkey began has been promoting pro-Turkish sentiments and propoganda. With this capture of the Congress and the support of the Moslem League the influence of the extremist politicians increased to a marked degree. Their feelings have naturally found expression in the Press and on the platform, and in the hope of emphasizing the justice of the demands made and of arousing those who are not interested in political development, both these means have been exploited to the full by this party during recent years.

Attacks by extremist political party on Government.

3. Attacks by certain agents of the extremist party on the administration have taken various forms all tending towards the same end. Sometimes inaccurate accounts are given of the previous greatness of India before the advent of the British ; its present condition is contrasted with the prosperity which the argument assumes to have been prevalent, the cause of its poverty being alleged to be the drain on India and its exploitation by English merchants. More frequently, however, these attacks take the form of persistent and malignant misrepresentations of the motives and actions of Government. The administration of the country is represented as oppressive and tyrannical, selfishly seeking to consolidate its power and to secure its interests and those of Europeans as a class; deaf to the wrongs and discontent of Indians and indeed rejoicing in their unhappiness. The Indian's position is compared to that of slaves, Helots, hewers of wood, etc., and this doctrine is taught until it is becoming believed by certain classes. Nor are attacks of this kind confined to the Government of India. The Governments of the Dominions, particularly of South Africa and Australia, are similarly maligned. The foreign policy of His Majesty's Government, particularly the policy in regard to Turkey and Persia and other oriental powers, is maliciously mis-

represented as one of self-aggrandizement bent on the suppression of the Asiatic and the elimination of Islam from motives of religious hatred. In India the central Government, the provincial Governments and all Government authorities alike are made targets for abuse and misrepresentation, individual officers being frequently selected for attack and vilification. The apparent aim is to promote most bitter racial feeling, to create disaffection towards the Government and towards British residents as a class. Appended to this memorandum will be found in annexure A a series of extracts from various papers indicating the general tone of papers of this character, and in annexure B two judgments of the highest judicial authorities in India on the character of certain extracts brought before them.

Legislation dealing with the press.

4. This mischief attained such heights in 1909 in certain sections of the press when crimes of violence were common in Bengal, that the Government of India found it necessary to enact the Newspapers (Incitement to Offences) Act, 1908, and the Press Act of 1910 in the hope of effectually combating the evil. The reasons which led the Government to enact these measures will be found in appendix C, which contains speeches made in the debate in Council when the Bills were introduced. Simultaneously with the enactment of these measures the Government took a great step in the direction of attempting to remove the causes of the discontent by the grant of far-reaching political concessions in the shape of the Morley-Minto reforms. It cannot be said however that these efforts were entirely successful. The political changes, which were at the time received with acclamation, were subsequently criticised as of no value, and though openly seditious activities were checked by the new legislation, the campaign of misrepresentation was continued with undiminished vigour though less openly. Those

convicted of sedition were acclaimed as heroes and martyrs, and unsuccessful prosecutions were used to discredit the Government. The use of the Press Act was, and is now, made a ground for accusations of tyranny and oppression; and the law itself has, it must be admitted, been used only spasmodically and irregularly in cases of the greatest necessity. In most cases the enemies of Government have been allowed to pursue their course of unchecked. It is difficult to over-estimate the effect of this on an ignorant and easily moved people living under a foreign Government. It has been argued indeed that the great bulk of political crime in Bengal is due to the influence of the extremist press. In any case it may be affirmed beyond all possibility of contradiction that this persistent campaign of vilification has created in many parts of India grave disaffection towards the Government. This is not a state of feeling that has been produced suddenly but is the product of many years careful preparation.

Effects of press attacks on Government.

5. It may be argued that such criticisms and attacks are a legitimate means of securing redress of grievances. The student of modern politics in India, however, who reads these speeches and articles cannot but realize that it is not really a question of fair or even reasoned criticism, but that the intention is to undermine British rule in this country by creating in the minds of the masses a widespread desire to end it. Nor is it safe to argue from the analogy of Western conditions, for the position in India is entirely different. We have not in this country the same standards of political morality, the same intelligent public or that sense of responsibility which controls the English press; nor have we the great safeguard that misrepresentations in one party newspaper are refuted by those of the other side. These attacks on Government remain therefore largely unanswered

and create grave ill-will towards Government. They have indeed by this time become a serious menace to good administration.

Position of the loyal and moderate classes.

6. It must not, however, be supposed because a section of the community is more or less openly hostile to the existing system of Government that this sentiment is shared by the vast bulk of the population. The rural masses, who form over 70 per cent. of the whole population, are for the greater part almost entirely apathetic about political matters, though of late there have been in certain parts of the country some signs of an awakening. At the same time they appreciate the good services of Government in maintaining law and order, protecting them from oppression and promoting their welfare generally. Their natural leaders, the great landlords, are generally strong conservatives. They recognize that their position and prosperity depend on the position of India as an integral part of the British Empire, and that any sweeping political changes would almost inevitably have the effect of diminishing their influence and subordinating their interests to those of the professional middle classes whom they regard as their social inferiors. They rightly regard any changes which are likely to affect the maintenance of peace and order as dangerous in the highest degree to vested interests. Members of this class are, therefore, from motives of self-interest as well as by tradition and heredity, strong supporters of the existing form of Government and to some extent apprehensive of approaching changes. There is also the large body of moderate politicians who, if less vocal than the extremists, probably reflect the views of the great majority of those sections of the community who have a real stake in the country and are sufficiently educated to take an interest in political affairs. Their attitude may be defined as a genuine conviction that the time has come for substantial advance towards democratic insti-

tutions, coupled with a ready recognition of the advantages of the British connection and a sincere desire for its continuance with certain modifications.

These elements are strong numerically and undoubtedly exercise a considerable restraining influence on public opinion. But they are ill organised and have never commanded the opportunities of voicing their views in the press and on the platform enjoyed by the extremists; while of late years their position has become increasingly difficult. Indians, especially those of high social position, are singularly sensitive to press criticism; and it is hardly an exaggeration to say that any one publicly defending the action of Government on any controversial question is exposed to the most scurrilous attacks in the extremist press. The party politician in England would accept such attacks with equanimity but there are few Indians who are prepared to face constant vituperation as sycophants and traitors to their country. The unscrupulous virulence of the anti-Government press has thus had the effect of silencing many of those who are genuine supporters of the existing regime, and in consequence the large body of well-disposed opinion has for sometime been gradually losing influence.

Effects of the war on India.

7. Since 1914 political unrest has been much accentuated by the war and by the consequences which it has entailed, such as the restrictions on trade, the necessity for recruiting a large number of men for the army and the raising of war loans. Though India has felt the effects of the war far less than the countries of Europe, the strain in proportion to its strength and reserves has been considerable, and Indians have obviously neither the patriotic motives nor the knowledge which have supported other peoples under it. The utterances of European and American statesmen regarding the ideals for which the Allies have fought, the principles of demo-

cracy and self-determination, have been widely discussed and naturally adopted by enthusiastic Indians as no less applicable to themselves than to other countries; and political thought here, as elsewhere, has been affected by the doctrine that the war was to inaugurate a new era of greater freedom and happiness for all, when no nation would be in a position to impose its ideals and methods on another. The fall of ancient dynasties and the abandonment of many of the old standards regulating national and individual conduct have not left India untouched; and it is natural that the world-wide unrest which has succeeded the termination of the war should have affected to a marked degree a country which has rendered great service to the empire in the hour of need.

Muhammadan uneasiness regarding the fate of Turkey.

8. Moslem India has in particular throughout the war been much perturbed by other causes. For some time before the war Indian Moslems had regarded the attitude of European powers, more particularly that of Great Britain, towards Turkey with grave suspicion; and once hostilities were declared with Turkey, this apprehension as to the future of the last great Islamic power was naturally much enhanced. In spite of this, the attitude of the great mass of Indian Muhammadans throughout the war was beyond reproach. The response to call to arms was nowhere more eager or more sustained than among the Muslim tribes of the North-West Frontier Province and the Northern Punjab, and Muhammadan troops fought on all fronts, even against their co-religionists in Palestine and Mesopotamia, as bravely as any in the Indian Army. During the last year, however, unrest regarding the fate of Turkey has been strengthened by the Pan-Islamic movement, which has secured many adherents among fanatical Indian Muhammadans. These have not failed to use their influence in appealing to the religious

prejudices of the ignorant masses. Finally in 1918 the defeat of Turkey, the threatened dismemberment of the Turkish Empire, the destruction of the last Islamic power and apprehension about the Holy Places, all have aroused the deepest feelings amongst Indian Muhammadans, feelings which prevail up to the present moment.

Economic causes of unrest.

9. To these factors was added the stimulation of political ideas caused by the announcement of the Secretary of State in Parliament in August 1917. More marked still has been the economic unrest. Indeed it was the more dangerous factor because it affected classes not interested in politics, and afforded an additional weapon to those who have persistently been preaching the doctrine that a foreign Government was at the root of everything evil in India. For years those hostile to Government have alleged that it was an alien Government which was responsible for the poverty of India, that it was the Government which failed to develop industries in the country, that it was the Government which was responsible for over-taxation, that the country was steadily being impoverished by the Government, that no country could stand against the annual drain of wealth from India, that the high prices of necessaries were due to Government action, that grain was exported from starving India by the Government deliberately and without necessity. It happened that the beginning of 1919 was a singularly favourable moment in which to renew these attacks with the additional vigour. The inflation of prices during the war, the expansion of currency, the subordination of private needs to the requirements of the military forces of the Empire, the abnormal rise in the price of necessaries of life without any corresponding increase in wages, and finally one of the worst harvest known for many years in India made the task easy. Everyone in India had hoped that with

the end of the war normal conditions would immediately be restored, that prices would come down and that prosperity would at once reign, and when it was found that the termination of the war brought none of these benefits, the people were the more ready to accept the view that Government was the source of all their troubles.

The position in the Punjab.

10. All these conditions were prevalent to a greater or less extent in the Punjab as in other parts of India. But that province had in proportion to its population and resources borne a greater part in the burden of the war than any other part of India and it is probable that the strain and reaction arising from its war efforts were more marked than elsewhere. Moreover for several years past the professional and trading classes, from which the educated *intelligentsia* is mainly drawn, had felt they were losing weight and influence as compared with the agricultural classes, and that they had not secured that amount of influence which their *confrères* in other provinces had obtained. Recent extensions of canal irrigation had greatly improved the material position of the agricultural classes; the Land Alienation Act had given them statutory recognition, which they themselves regarded as a privilege and which the money-lending and professional classes, largely debarred from investment in land, challenged as invidious. The efforts made by the larger land-owners and men of leading in rural areas to promote recruiting during the war had brought that class into prominence and had secured a generous recognition from Government. The rural classes had demanded in the local Legislative Council that a definite share in all Government posts should be reserved for the land-owning castes, and in the discussion on the new franchise scheme had asked that the representation of rural areas should be confined to members of the statutory agricultural tribes. For these reasons there had

sprung up a distinct tendency towards cleavage between the rural classes on the one side and the trading and professional classes on the other. The popular idea among the latter was that the rural classes were receiving an undue share of the favours and protection of Government and that it was the policy of Government to curtail so far as possible the political influence of the professional urban classes.

The Punjab Provincial Congress of July 1918.

11. In such circumstances much importance must be attached to the Punjab Provincial Congress held at Amritsar in July 1918. This was presided over by Mr. Duni Chand, a barrister of Lahore and a prominent part was taken by Dr. Kitchlew, Pandit Rambhaji Dutt and Kotu Mal (all of whom have since been convicted in connexion with the recent disorders). The session was marked by an obvious desire to promote the influence of the extremist politicians and to create discontent. The chairman's opening speech was characterised by a bitterness of language which was probably unprecedented in the Punjab, and certainly had great effect in creating the idea that the authority of Government could be openly defied with impunity. A few passages of his speech are cited below to indicate the character of his language. Speaking of the Montagu-Chelmsford report he said:—

"The fetish of an efficient bureaucracy pluming itself on the achievement of good government, connoting really, in the words of a most brilliant Empire-builder the late Earl Cromer—'the continuance of their own supremacy' is continuously and uniformly worshipped throughout the report. And whenever the question of self-government is taken up, obstacles are put in the way of an effective transfer of power into the hands of the people and their representatives. False issues are raised and wholly erroneous theories propounded about the inexperience in the art of government of a people

whose ancestors were the founders of great empires...."

And again

"Do Lord Chelmsford and Mr. Montagu offer to the people of India a mite even of unrestricted opportunity to carve out their own future and live their lives as they desire? I emphatically say, no. What they propose to give is just what a *zubberdust* manager of Court of Wards in this country does something propose for his ward on his attaining the age of maturity, namely, that he should be placed in charge of the stables"..... "What they (Lord Chelmsford and Mr. Montagu) propose is just the old depotism with the bureaucrat made more irresponsible and more fortified."

In criticising the proposals for the provincial executive, Mr. Duni Chand said:—

"Stripped of all conventionalities this, (i.e., the proposal that members of the Civil Service should be eligible for Governorships) means that instead of a Lieutenant-Governor, you might have some Sir Michael O'Dwyer as your Governor. This is too horrid to think of, particularly as a substantial part of the reforms coming in redemption of the pledge of August 20."

Towards the end of his speech, when dealing with the existing political situation in India, Mr. Duni Chand said:—

"To-day when India wants to consider calmly and coolly a reform scheme that is going to affect her destiny vitally, the tables are turned upon her, and the unbridled bureaucracy resumes its un-English methods of gagging the mouths and muzzling the tongues of constitutional workers. The quackery of hurried violence dissembling as law and order again comes to the front and a brazen faced attempt is made to dragoon into servile silence educated men armoured with modern ideas."

The speaker went on to say that spiritual India would interpret "these attacks on individual liberty in the terms of naked Prussianism", and he appealed to the Viceroy "to follow

Tolstoi and to take immediate order with those of his subordinate pro-Consuls, who are abusing the Defence of India Act under the guise of law and order." He appealed to his audience to make it clear to the Viceroy that "our cup of disappointment, discontent and misery, in the Punjab at any rate, is full to overflowing." As regards the report of the Rowlatt Commission, over which an English High Court Judge had presided, he said that it was impossible to speak in terms of restraint of "this Prussian document" and he concluded by quoting the saying "United we stand, divided we fall" and appealing to his audience for union, strength and courage.

Effect of speeches delivered.

12. Even the "Tribune," the organ of the most advanced party in the Punjab, admitted that the language of this speech was at places "somewhat strong" and that in one or two cases the criticism offered was almost personal. Particular attention is invited to this speech for various reasons. It was, so far as the Government of India are aware, the first time that language of this violence had been used in the Punjab, and the fact that it was allowed may be cited as a rejoinder to those who allege that constitutional agitation was not permitted in the Punjab. Finally if, as is believed by many, this speech was largely responsible for the outbreak in the Punjab in the following year, it illustrates the danger of allowing intemperate language of this kind to be addressed to ignorant and inflammable audiences. Equally violent speeches have frequently been delivered elsewhere, but Punjab audiences are not of the same character as those of other provinces.

Sessions of the All-India Congress at Christmas, 1918.

13. At Christmas 1918, the session of the All-India Congress was held at Delhi under the Presidency of Pandit Madan Mohan Malaviya.

The most prominent features of this session were:—

- (a) The adoption of the extremists policy regarding the Reforms Scheme, including a demand for full and immediate provincial autonomy. Speakers who took a more moderate view, such as Mrs. Besant and Mr. Srinivasa Sastri, met with an unfavourable reception.
- (b) The close rapprochement between Hindus and Muhammadans. The All-India Moslem League held its session at Delhi at the same time and there were joint debates between the Council of the League and the Reception Committee of the Congress.

Speaking generally, the effect of the Congress session was undoubtedly to widen the breach between Government and the educated classes especially on the question of reforms and the Rowlatt legislation then under contemplation.

Simultaneous Sessions of the All-India Moslem League.

14. The meeting of the All-India Moslem League held at the same time and place passed a number of resolutions on similar lines to those of the Congress, especially one urging India's rights to self-determination, as well as several on subjects of special interest to Indian Moslems, such as the integrity of the holy places, the Caliphate, the Turkish peace terms and the Muhammadan internees. The most striking speech was that delivered by Dr. M. A. Ansari, a physician of Delhi, on the subject of the Caliphate and the threatened dismemberment of the Turkish Empire. Violent language was used in the course of the speech against the King of the Hedjaz, who was at the time an Ally of His Majesty's Government, and he was described as having raised the standard of revolt against the unquestioned Calipha of Islam. Texts from the Qoran were quoted to show that it was lawful and incumbent for all true

Moslems to use force against a rebel of this kind. The attitude of Government officials toward Muhammadans during the four years of the war was described as "varying from bias against them to antipathy, suspicion, mistrust and even dislike." The cause of this attitude was said to be the entry of Turkey into the war against England and her Allies; and the speaker described Indian Muhammadans "as having been subjected to a treatment which no self-respecting people would have tolerated", the reference here being to the internment of certain Moslem leaders, the alleged strangulation of the Moslem press, and the remarks on communal representation in the Montague-Chelmsford Report. Dr. Ansari's speech created great excitement and when the newspaper and pamphlet reports of it appeared, they were immediately proscribed under the Press Act by certain local Governments. It certainly had the effect of intensifying Moslem feeling in regard to Turkish questions at a time when Musalman discontent was already causing anxiety.

The Rowlatt legislation.

15. It was at this juncture that the Rowlatt Act was passed. The Government of India are aware that it is frequently alleged that the passing of this Act was the cause of the disorders. They believe, however, that though it is perfectly true that the Act was regarded with great dislike by those who were expecting immediate changes in the Government at the end of the war, a little reflection will show that there is no ground for the allegation that the enactment of this measure brought about the disorders. It is probably not within the scope of the enquiry by the committee to review in detail the reasons which led the Government of India to undertake this legislation; those reasons were fully stated in the Legislative Council, the debates of which body are available. There are however certain outstanding facts which cannot be overlooked. In the first

place the Act had not in April last been enforced in any single part of India. In the second place more drastic measures against revolutionary crime were at the time being actually taken, and had been taken for some years, under the other temporary provisions of the law without any sign whatever of serious resentment. Thirdly, the province which was most affected by the Act was Bengal, and yet that presidency remained untouched by the Satyagraha agitation or by the disorders, save for a very short time in Calcutta. It has also been proved that the vast majority of those who took part in these outbreaks had no knowledge at all of the contents of the Rowlatt Act, or as to what the effect of that measure was. But though the Act was not the cause of the disorders, it was undoubtedly made an occasion for them. The most mischievous false rumours as to the contents of the Act were sedulously disseminated by ill-wishers of Government in order to promote disaffection and the passing of the Bill was made an occasion for violent agitation, systematically promoted by virulent writings in the press and equally virulent speeches at public meetings. No pains were spared to make it appear that the Government was acting callously, in utter disregard of the feelings of the public, and that it had forced through the legislative council an oppressive piece of legislation which would be used unscrupulously and tyrannically to the prejudice of the liberty of loyal subjects.

*Agitation against the Rowlatt Bills
in February and March.*

16. Throughout February and March the general agitation against the measure in the country continued to increase in bitterness and intensity. Mr. Gandhi visited Madras and the United Provinces to promote the movement, and meetings of protest were held in many parts of the country. In the Punjab a large meeting was held at Amritsar on the 23rd March when

Dr. Satya Pal (since convicted under section 124-A, of the Indian Penal Code) made a violent speech, as a result of which he was served with an order prohibiting him from addressing the public on any subject. Subsequent meetings at Amritsar on the 29th and 30th March were attended by audiences computed at upwards of 30,000 persons, and caused much excitement. There was a general closing of shops and many persons were seen wearing black ribbons. Some who were asked the reason replied "Badshah mar giya". In Multan Home Rule meetings were held on the 15th and 16th March and were addressed by Dr. Kitchlew and Mr. Duni Chand. In Lahore a public meeting on the 9th March unanimously passed a resolution approving the passive resistance movement.

Inception of Mr. Gandhi's Satyagraha movement.

17. It was in this atmosphere, surcharged with electricity, that Mr. Gandhi thought fit to start his Satyagraha movement and it may well be to pause and consider the character of this movement and its inevitable consequences. In its inception it constituted an attempt to defy Government by concerted disobedience to the Rowlatt Bills (should these become law) and to "such other laws as a Committee to be hereafter appointed may think fit," and so to force Government to drop the obnoxious Bills. This was indeed the avowed aim of Mr. Gandhi, the originator of the agitation. From this stage the movement progressed into one which not only defied but sought to intimidate the Government and to compel it by violence to take certain action. From such an attitude to the stage of attack on Government buildings, Government officers and on Europeans generally as representing the ruling authority, is in India no long step. Mobs collected and processions organized to defy and intimidate Government, inflamed by violent speeches, mischievous pos-

ters and a virulent press, were quite certain not to rest content with mere protest but to proceed to violence. This was the more probable in India in that there were certain elements who were definitely hostile to Government and because of the large disorderly element which must always exist in considerable numbers in a poor country like India and which was larger in 1919 owing to the economic strain. The dangers of such a movement must have been apparent to every intelligent person and the rapidity with which it assumed a definite revolutionary character increased the danger.

Connection between the Satyagraha movement and the disorders.

18. The proof of these statements is to be found in the progress of these disorders. On the 6th April there was a *hartal* with a limited scope, professedly both voluntary and in no way tainted by violence. Later, encouraged by the success of the movement those who did not wish to join in it were forced to do so. There was a gradual increase in violent speaking and writing, coupled with an attempt to intimidate and compel Government to change its policy. This culminated in a violent movement directed against the British administration, the object of which can be judged from the speeches delivered, the conduct of the mob and the posters published. The whole of these disorders had their direct origin in the action of Mr. Gandhi. In this country subject to foreign rule, the margin of stability of Government is always narrower than elsewhere. The danger of disorder is greater, and a movement of this character, the essence of which is a deliberate defiance of established authority, cannot but lead to grave consequences. These results were clearly foreseen by many of the leading moderate politicians when the movement was first proposed, and during the debate on the Rowlatt Bill early in March ten of them issued a

manifesto condemning the Satyagraha movement and pointing out the great dangers which it involved. At that time it seemed reasonable to hope that the influence of those opposed to the movement aided by the common sense of the people would prevent the movement from securing any large number of adherents; but the influences hostile to Government proved to be too strong and with the weight of Mr. Gandhi's authority added were able to create a movement of a very different character from that contemplated by that gentleman himself.

False rumours regarding the Rowlatt legislation.

19. The text of the Satyagraha vow was published on the 1st of March in the *Times of India* but the first day fixed for a day of mourning was the 30th of March. This notice was later considered as insufficient and the *hartal* was postponed until the 6th of April. Meanwhile Mr. Gandhi inaugurated the campaign of passive resistance in Bombay by an overt attempt to evade the provisions of the Press Act. Simultaneously with the announcement of the *hartal*, the wildest falsehoods as to the effect of the Rowlatt Act began to be circulated. Appendix H to this memorandum gives samples of some of these rumours. It may seem incredible that most of them should have been believed, but the masses in India are credulous and superstitious to the last degree, and though there is little or no evidence that either public speakers or the more responsible newspapers gave currency to these rumours, still there is no doubt that they did nothing to contradict them, and in fact indirectly encouraged them by virulent abuse of the Act in their own language. The lower spread of false ideas as to the effect of the new law. Thus the *Wakt* of Amritsar of the 22nd March published a cartoon showing "the Secretary of State in the act of handing the

order of liberty to India, when a black cobra, released from a basket by Mr. Rowlatt, bites her." Further cartoons show the funeral of liberty and depict an Indian soldier who returning as a conqueror from the war is given an iron box as a reward. The *Aftab* of Lahore in a poem published by it on the 8th April gave currency to certain of the rumours reproduced in the appendix. The Government of India were informed that in many Indian regiments the men were questioning their British officers regarding the truth of the rumours, and in consequence of these reports a pamphlet was drawn up in simple language explaining the effect of the Act passed in March, which was read or explained to his men by the commanding officer of each unit.

Summary of situation at the end of March 1919.

20. The situation about the end of March may be summed up as follows: a general war weariness probably more marked in the north of India, and especially in the Punjab, than elsewhere, a great measure of economic unrest caused by high prices and a bad harvest, combined with political discontent and an increasing demand for substantial constitutional changes; grave anxiety and unrest among the more advanced sections of the Muhammadan population regarding the fate of Turkey, feelings which certain fanatical Pan-Islamic leaders and divines were doing their best to foment; an agitation of constantly increasing bitterness against certain unpopular legislation, sedulously propagated by certain anti-Government papers, the tone of which had for years become more and more venomous; a crop of wild and malicious rumours calculated to appeal to the ignorant and uneducated; and finally a movement of deliberate defiance of the law started by a person whom many of his countrymen regarded as the foremost patriot of the day

and an ascetic of peculiar sanctity. The situation was one of great difficulty.

The first outbreak of disorder at Delhi on March 30th.

21. The first actual breach of the peace arising out of the Satyagraha movement occurred on Sunday, March 30th, at Delhi. Apparently Gandhi's decision to postpone the day of fasting and prayer till the following Sunday had not been made known in Delhi. Suggestions had been made in public meetings and in the local newspapers by people who had taken the Satyagraha vow that the 30th March should be observed as a fast and by a *hartal* [or general cessation of business] as a protest against the passing of the Rowlatt Bill, but the authorities did not think that the suggestion had received much support or that the *hartal* was likely to be general, nor in fact was it, so far as our information goes, at first of a general nature. It would be out of place in this memorandum to describe the actual course of the rioting at Delhi. Evidence as regards this have been given by the local officers, but it is necessary to emphasize that the disturbance at Delhi on the 30th March and the acute state of tension that continued in that city for some days thereafter greatly increased the potentialities of danger of the Satyagraha movement in other parts of India. The firing at Delhi was in fact and was recognized to be the first direct collision between the passive resisters and the forces of law and order, and the news caused great excitement all over the country.

Its effect elsewhere.

22. This outbreak of violence might well have conveyed to the leaders of the movement a warning of the dangers which underlay the agitation, but actually it was far from doing so. On the contrary the general tendency was

to speak of the event as a militarist outrage

and to treat as martyrs those who were killed by firing of the troops.* Delhi

was not the only place where the *hartal* was observed on the 30th March. Amritsar and Multan in the Punjab followed the example of Delhi. After the 30th March the promoters of the movement redoubled their efforts to secure a *hartal* on even more complete lines throughout the country on the 6th April. In Lahore, for example, a crop of posters on the subject began to appear in the streets, some of which were couched in very violent language. One began: "Alas, the tyrants with gallows are ready to hang me," and finished "he who tears this up shall go to hell." Another contained these words: "These tyrants are determined to annihilate you; remember if you do not up your lives, each child of yours will be laid low by the guns of the tyrants." Specimens of the posters that have come to the notice of Government are given in annexure D.

The hartal of April 6th.

23. On the 6th April the observance of the *hartal* was much more general and indeed extended over a great many provinces. It passed off however without serious disturbance, though there was some disorder both in Calcutta and to a greater extent in Bombay. The *hartal* was observed by the great majority of the inhabitants of Calcutta and in some of the districts of Bengal. It was almost universal in the large towns of the United Provinces and the Punjab. In Lahore an informal procession organized in contravention of orders, dispersed peacefully but the general tone of a large mass meeting held at the Bradlaugh Hall on the same day was distinctly minatory. The character of the various meetings at Lahore is described fully in the judgments of the Special Commission and it is not necessary to give

further details. Some European police officers who attended the meeting of April 6th were loudly hissed and after the meeting broke up crowds proceeded to the city with a cry of lamentation "Hai, hai Rowlatt Bill" and the more significant cry, now heard for the first time, "Hai, hai, George mar giya." On its way it burnt the explanatory copies of the Rowlatt Act distributed by the Publicity Committee and a section of the crowd visited certain honorary magistrate's houses where they hooted and threw stones. In Bihar and Orissa the movement seems to have been confined to Patna and a few other towns. In Burma, the Central Provinces, Coorg, the North-West Frontier Province there were practically no demonstrations. In Bombay and in most of the large towns in the Presidency and Sind most of the shops were closed. In Madras shops were closed in the Presidency town and in other towns but not much interest was taken in the movement.

At one time it seemed possible that with the successful conclusion of the *hartal* and the day of fasting on the 6th, the agitation had achieved its objects and that no further demonstration would occur. The reports received by the Government of India regarding the 6th April were on the whole re-assuring and their general feeling was that the situation was appreciably easier. But the agitation had created an atmosphere of tension which contained many elements of danger, especially in the Punjab where passive resistance is not a course of action likely to find favour with a virile and martial population. Later the agitation, whatever was its original character, assumed more sinister aspect and was directed to compel the Government by intimidation to take certain administrative action, the mobs being much encouraged by the success of the measures hitherto taken to defy Government by means of a *hartal*. The progress from such a design to one of revolution is one of degree only.

*Attitude of moderate opinion towards
the Satyagraha movement.*

24. It would at the same time be unfair, while dilating on the mischief done by those inimical to Government, not at the same time to give prominence to the fact that throughout these disorders there was a large body of public opinion which did not hesitate to discourage by all means in its power any action likely to promote disorder and to place before the public the danger which necessarily must follow from the development of the Satyagraha campaign. In annexure E of the memorandum will be found instances of such public pronouncements and they were undoubtedly of the greatest value. These efforts were the more praiseworthy because their publication was in almost all cases the signal for violent attacks on the authors by certain sections of the press. The dates of the various letters differ and many were published after the disorders had been quelled, but it has been thought convenient to collect them into one annexure. It is also only fair to say that once the dangerous effects of the Satyagraha movement were apparent from the disorders which ensued, many of those who had originally supported the agitation severed their connection from it and Mr. Gandhi the *fons et origo mali*, suspended for indefinite period active measures in prosecution of his agitation. Further, some of those who had been prominent on the platform and in the press in attacking Government made belated efforts to check the tendency to disorder which they themselves had wittingly or unwittingly provoked.

*Policy of Government in regard to
passive resistance.*

25. On the 8th April the Government of India (then in Simla) received news from the Government of Bombay that Gandhi had announced to the Commissioner of Police in

Bombay that he had issued an unregistered newspaper. The local Government added that a committee was sitting to decide what further laws were to be disobeyed. On the same day the Government of India wired to the Bombay Government stating their views that if there was a clear case of breach of the law, Mr. Gandhi and any other leaders should be prosecuted. Should prosecution be decided upon, it was of great importance that it should take place with the least possible delay so as to prevent Gandhi moving about the country and creating similar disturbances elsewhere. Except as a last resort, the Government of India considered it inadvisable to use the Defence of India Act. On the 9th April the Government of India telegraphed to other local Governments, repeating the advice given to the Bombay Government and suggesting that if the passive resistance movement showed dangerous symptoms in any province, the local Government might issue a manifesto widely and simply worded regarding the necessity, object and scope of the Rowlatt Act, condemning those who seek notoriety by embarrassing Government, pointing to the moral of the Delhi incident, calling upon all sober-minded people to discourage the policy of embarrassing the Government, whatever their views might be on the Act, and making it clear that Government was determined to carry out its duty of maintaining the laws of the country and dealing rigorously with all movements that endangered the peace and prosperity of the great body of citizens. The telegram ended with an expression of the Government of India's opinion that the policy of prosecuting leaders for definite breaches of the law should be followed in other provinces as in Bombay.

*Exclusion of Gandhi from the Punjab
and Delhi.*

26. On the same day (the 9th April) the Government of India received information that

Gandhi had left Bombay for Delhi on the night of the 8th. Immediately on receiving this news, the Government of India consulted the Lieutenant-Governor of the Punjab and the Chief Commissioner of Delhi by telephone. Both Sir Michael O'Dwyer and Mr. Barron considered it would be most dangerous to allow Gandhi to enter their jurisdictions, and judging from the facts before them, the Government of India found it difficult to see what other opinion could have been expressed. Mr. Gandhi's avowed intention was to break the law of the land and to secure adherents to the *Satyagraha* movement. His arrest and prosecution for breach of the law in the Punjab would in all probability have been the signal for an outbreak, and the enlistment of any large number of supporters to his movement in the Punjab would have led to an immediate campaign of active resistance and outrage. Sir Michael O'Dwyer stated his opinion that the situation in the Punjab was now serious. He had consulted leading people in Lahore, including some members of the Congress, and they agreed with him and admitted that matters had passed out of their control. Mr. Barron's view was that an order prohibiting Gandhi from entering Delhi alone would be very dangerous, as the only method of enforcing it would be to arrest, detain and prosecute him in Delhi City. On the other hand, if Gandhi were allowed to enter Delhi, it was most probable that he would break the law there and would have to be arrested and tried for an offence, with the result that there would be a disturbance and in all probability a recurrence of the recent serious rioting. In these circumstances the Government of India authorized the local Governments of the United Provinces, the Punjab and Delhi to issue orders under Rule 3 (b) of the Defence of India Rules (which requires the previous sanction of the Governor-General in Council) directing Gandhi to remain in the Bombay Presidency. The effect of these orders was that Gandhi, having left the Bombay Presidency, had disobeyed them and was therefore

liable to be sent back to Bombay. This sanction was communicated to the three local Governments concerned and to Bombay by a "Clear the Line" telegram of the 9th April, which contained a direction that all reasonable means to enforce the order should be used, but that Gandhi should be treated with every possible consideration and force should be used only if he refused to obey the order. He was to be informed that although at present his entering the Punjab or Delhi would be likely to promote disturbance and therefore could not be allowed, the Government of India would be willing to reconsider the position later, should he give an explicit undertaking to refrain from inaugurating a campaign to break the law and undertake not to promote such violation. The Government of India trusted, therefore, that he would carry out the orders and return to Bombay quietly. A subsidiary instruction was given to the United Provinces Government that their order should be made only if Gandhi entered their jurisdiction and if the local Government considered an order necessary.

Justification of orders passed.

27. It must be remembered that Government, when it decided on this action, was confronted by a movement of open violation to the law, which had already resulted in serious disturbance of the peace and which threatened, in the opinion of the local authorities, to lead to further disorder. The leading spirit of this agitation was looked upon as the only person who could successfully organize an agitation strong enough to intimidate and defy Government. The movement had been condemned by the great bulk of moderate opinion throughout the country, but in spite of this was steadily acquiring strength and had been made the occasion of bitter racial feeling and innumerable disquieting rumours. Had Gandhi been allowed to enter Delhi, everything pointed to the probability that he would pursue his cam-

paign of disobedience there and would force the authorities to arrest him, thereby greatly adding to the already high state of tension prevalent in the city.

Gandhi prevented from entering the Punjab on 9th April.

28. As a result of the Punjab Government's order under Rule 3 (b) Gandhi was removed from the train at Palwal in the Punjab on the night of the 9th April and escorted back to Bombay Presidency. He was treated with every possible consideration. The action taken against him was known in Ahmedabad (his native place) on the morning of the 10th April, having presumably been telegraphed by some of his party either from Delhi or Palwal. On the same day serious rioting occurred at Ahmedabad (though reports of this did not reach the Government of India till a day or two later, as explained in paragraph 32) and at Amritsar and Lahore.

News of the Amritsar outrage of April 10th.

29. We now come to the events immediately preceding the declaration of martial law in the Punjab. The first bad news of actual breach of the peace received by the Government of India was on the evening of the 10th April in the form of a "Clear the Line" telegram from the Punjab Government. It reported serious rioting at Amritsar following on the deportation of the two agitators, Kitchlew and Satya Pal, and announced the wrecking of the telegraph office, the destruction of the goods shed and the burning of the National and Chartered Banks and Town Hall. Three Europeans were said to have been killed, including a railway guard. The telegram concluded by saying that 300 infantry, including 100 British troops, were being sent from Lahore to Amritsar as soon as possible.

Events in the Punjab on 10-12th April.

30. Next morning (11th April) a further message from the Punjab Government announced the events of the afternoon of the 10th April at Lahore. The message ran:—

"Yesterday afternoon *hartal* started in Lahore. Large crowds collected outside the city and came down the Mall. Having sent orders civil station police turned back crowds. Police fired a few shots there and at one of the city's gates but there were only five casualties among crowds, so far as we know, including one person killed. Order was restored quickly."

The agent, North-Western Railway, also reported that the main line was interrupted by burning bridge sleepers between Amritsar and Jullundur; the telegraph lines had been cut, but restored. Bhagtanwala railway station had been burnt.

On the evening of the 11th a further message from the local Government reported all quiet that day at Lahore and Amritsar. It was on this day and on the 12th, as was ascertained later, that meetings were held in the Badshahi mosque at which violent speeches attacking the Government were delivered and at or about the same time a number of posters were published in the city inciting the people to open rebellion. In such circumstances it was clear that a mob once collected was certain to go further than its leaders professed to desire or possibly even intended.

On the 12th at 12-30 P.M., a telephonic message from the Punjab Government stated that troops had marched through Lahore city, that morning; that a collision had occurred outside the Taksali gate and the troops had fired, killing two and wounding two.* Hindus

* NOTE.—This message, as recorded at the time, was not strictly accurate. It referred to the Hira Mandi incident when the police (not the troops) had to fire. Only one man was killed.

and Muhammadans were fraternizing. Pandit Rambhaj Dutt had addressed a crowd in the Badshahi mosque and Hindus joined with Muhammadans at prayer. Shops were still closed. The leading men in the city admitted that they could exercise no control over the mob, and the mob leaders such as Duni Chand and Rambhaj Dutt also admitted that they had very little control. Further details were given of the rioting of the 10th at Amritsar, in which the number of Europeans killed was five and not three as previously reported, but all was said to be now quiet at Amritsar.

The outrage at Kasur. Martial Law introduced in Lahore and Amritsar Districts.

31. On the afternoon of the 13th a "Clear the Line" wireless message was received as follows:—"Railway stations between Kasur and Amritsar looted. British soldier killed and two British officers injured at Kasur. Bands of rebels reported on move. Kasur and Tarn Taran Treasuries attacked. State of open rebellion exists in part of districts of Lahore and Amritsar. Lieutenant-Governor, with concurrence of General Officer Commanding, 16th Division, and Chief Justice of the High Court, requests the Governor-General in Council to direct him to suspend functions of ordinary Criminal Courts in Amritsar and Lahore Districts, to establish martial law therein and to direct trial of offenders under section 2 of Regulation X of 1804. Section 4 will be borne in mind. Situation is critical. Movable column starts on march from Ferozepur to Amritsar through worst tract with guns tomorrow morning."

Further details of the outrage at Kasur were given in a message of the same day from the General Officer Commanding, Lahore Division. This reported the burning of the station building, with instruments and furniture, and of the Munsif's Court, and added that the mob had been dispersed by fire, two men being killed.

It was in consequence of these messages that the Government of India decided formally to proclaim martial law in the Amritsar and Lahore districts. The Government of India had at that time no information as to the *de facto* establishment of martial law at Amritsar at 10 P.M. on the 10th April.

Disorders in Bombay Presidency. Reports received in April 11th-13th.

32. Simultaneously with this news from the Punjab the Government of India were receiving equally disquieting reports from the Bombay Presidency. On the 11th the General Officer Commanding, Bombay, reported to the Chief of the General Staff at Simla that the mob in Bombay city was interfering with the running of trams, that the police had asked for help and troops had been sent to their assistance. He also reported that the Ahmedabad telegraph staff was being attacked and he had sent troops, including a machine-gun company, by a special train to that place. The same day a Bombay Government telegram was received as follows: "It is reported by the Postmaster-General that a mob this morning attacked the Ahmedabad city telegraph office which was burning at the time of the despatch of the message. Telegraph Master wires 'position hopeless; good bye.' Communication probably interrupted as no further message received." A further message from the Bombay Government, received late on the night of the 11th, reported that two Government buildings had been burnt at Ahmedabad. There was a conflict with the police that morning resulting in slight loss of life. The city was at the time of despatch of message picketed and patrolled by military forces and all was quiet. At 11 A.M. on the 12th the General Staff received information from the postal authorities that the Commissioner's and Collector's houses were seriously damaged. Other Government buildings were said to be in flames and two

Europeans had been injured. The railway had been damaged both north and south of Ahmedabad. On the same day (12th April) the General Officer Commanding, Bombay, wired that the special train conveying the machine-gun company and other troops to Ahmedabad had been derailed close to Nadiad owing to the rails being taken up. Early that day some disturbances occurred in Bombay city. Police and cavalry patrolling town were stoned during the afternoon and charged, several cases of injury being reported. A message received from the Bombay Government on the morning of the 12th contained a rumour that in addition to a number of buildings having been burnt at Ahmedabad, two Europeans had been killed and others injured. More detailed reports received on the 13th from the Bombay Government added two mills to the list of buildings burnt at Ahmedabad. It also reported that two European sergeants and one European mill manager had been killed, other European officers wounded and injured and that the European mill community had taken refuge in railway station premises. At Sabarmati, Europeans had taken refuge in the Commissioner's bungalow. At Shahbagh military assistance had been invoked on the 10th and 11th. Nadiad was reported excited on the 11th but quiet on the 12th. Messages were received on the 13th April from the Government of Bombay stating that all was quiet in Ahmedabad and Bombay, but no communication was open to Viramgaum. Another message stated that a European sergeant and an Indian constable had been killed at Ahmedabad on the 11th. About 250 rioters were killed and wounded. Troops had been despatched to Viramgaum and Rajkot.

Collision with troops in Calcutta on 12th April.

33. Serious news was also received from Calcutta. A military report of the 12th April stated that a mob attacked a picket on duty in the city with stones that afternoon. The

picket opened fire killing five or six men and wounding twelve others. The report stated that the situation was now quiet.

Reports of forthcoming general railway strike.

34. On the 13th the Quartermaster General in India, who was on tour, wired from Agra to Simla that the British Station Master of Agra suspected that the railway telegraphists were using the railway telegraph lines to foment a general strike on the railways. The words "Rowlatt 14th" were found that day on the station notice board. On the 14th the Quartermaster General telegraphed from Jhansi that railway telegraphists at Bina had received a message that on receipt of the word "Rowlatt" Indian soldiers in the Punjab and telegraph subordinates of the Great Indian Peninsula and Oudh-Rohilkhand Railway had decided to strike.

The imposition of martial law justified.

35. This was the situation with which the Government of India were confronted when on the evening of the 13th April they decided to sanction the introduction of martial law in the Lahore and Amritsar districts in the Punjab. There had been most serious disorder of a definitely anti-Government and still more of an anti-British character at Lahore, Amritsar, Kasur and Ahmedabad. There had been some disturbances in Bombay and a serious collision with the troops in Calcutta. The Punjab Government had reported that a state of open rebellion existed in parts of the Lahore and Amritsar districts. Anxiety was also felt regarding the situation in Bihar and Orissa, where the British garrison is very small, and in the United Provinces. Perhaps the most disquieting feature of the situation was the persistent and apparently organized attacks on communications. At Amritsar the telegraph office and the railway station were the first objects of the mob's attack, at Kasur too the railway

station was the first point of attack. In the Ahmedabad district communications were seriously interrupted and a train had been derailed. In a country so vast as India, where the military forces are necessarily scattered, the danger to isolated Europeans was obviously most grave. The events at Amritsar, Kasur and Ahmedabad showed the savage temper of the mobs towards all Europeans exposed to their mercy. In judging of these occurrences the Government of India had to take in mind the military situation as a whole and the demands likely to be made upon their military resources. These will be dealt with in a separate memorandum and supported, if need be, by expert evidence. They will not be discussed in this memorandum, but it will be apparent to the Committee that they were vital factors in the situation. In the Punjab moreover the character of the people had to be taken into account. The bulk of the Punjab population is more virile than that of the rest of India. Popular excitement and agitation which might be harmless in Bengal or Madras are in the Punjab likely to turn quickly into violence. What the Rowlatt Committee wrote of the Sikh population is true of many classes in the Punjab.—"With the high spirited and adventurous Sikhs, the interval between thought and action is short. If captured by inflammatory appeals, they are prone to act with all possible celerity and in a fashion dangerous to the whole fabric of order and constitutional rule." The Government of India were aware that a violent agitation was at the moment in progress and that every kind of appeal calculated to arouse the passions of the more ignorant section of this population was being made. The crisis was one of the first magnitude. If the disorders were not speedily suppressed, there was every prospect of widespread conflagration. The situation was beyond the control of the civil Government by normal methods and the machinery of the regular courts. It was absolutely essential that the civil author-

ities should receive the support of the military forces of Government and it seemed to the Government of India that the only effective and at the same time the most humane method of dealing with the situation was that proposed by the local Government, namely the immediate imposition of martial law.

The facts as to the disorders were placed before the public in the Home Department resolution, dated the 14th April 1919, which explained the policy of the Government of India and emphasized their intention of employing the ample military resources at their disposal to suppress organized outrages, rioting or concerted opposition to the maintenance of law and order. A copy of this resolution will be found in Appendix I.

*Tribunals constituted under
Ordinance No. 1 of 1919—Summary courts.*

36. In order to secure the trial of persons concerned in these disorders by tribunals of judicial weight and experience and with the object of avoiding hasty and excessive action against such persons, it was decided when extending martial law to certain areas in the Punjab to provide for the trial of offenders, otherwise triable by Courts-Martial, by commissions of experienced civil officers and to give effect to this Ordinance No. 1 of 1919, was promulgated immediately after the proclamation of martial law. The Ordinance provided that every trial under the Bengal State Offences Regulation of 1804 should be held by a commission of three persons appointed by the local Government. At least two members of each such commission had to be persons with not less than three years' service as Sessions Judges or Additional Sessions Judges or persons possessing the statutory qualifications for appointment as Judges of a High Court. The commission was invested with the powers of a General Court-Martial under the Indian Army Act of 1911 and had to follow the procedure prescribed by that Act for trials by such

Courts-Martial subject to certain exceptions. The convening authority was, however, given discretion to direct that the commission should follow the procedure prescribed for a summary General Court Martial when, in the opinion of the convening authority, a summary trial was necessary in the interests of the public safety. The constitution of

Copies of all the Ordinances issued by the Viceroy are printed in annexure F to this memorandum.

the summary courts created to dispose of a large number of minor cases arising out of the disorders is fully described in the Punjab provincial report (page 7). The majority of these courts were created by General Officers Commanding Divisions without reference to the Government of India. There was at first some doubt as to the powers of these courts and whether they could deal only with offences committed after martial law had been proclaimed and this was of some importance as there was a large number of cases arising out of disturbances which took place before the proclamation of martial law. The Government of India in a telegram of the 4th May informed the Punjab Government that in their opinion it was within the power of the General Officers Commanding Divisions to appoint summary courts for the trial of such cases and that they (the Government of India) had no objection to the appointment of selected civil officers to such courts. They considered, however, that such courts should not, in respect of offences committed prior to the proclamations of the General Officers, inflict sentences other than those warranted by the ordinary law. As a result of this telegram the summary courts described in the Punjab Government notifications nos. 12341-A, and B of the 5th May 1919, were created.

*Attitude of the Government of India on
the punishment of whipping.*

37. While dealing with the courts it will be convenient to take up the question of the

attitude of the Government of India on the question of whipping as a punishment. The first information which the Government of India received on the point was contained in a paragraph in a newspaper. The statement apparently originated in an Indian News Agency telegram from Lahore. As soon as this information was received the military authorities in Simla telegraphed to the General Officers Commanding the Lahore and Rawalpindi Divisions stating that they would be glad if this form of punishment (that is public whipping) which was repugnant to Indian sentiment, could be dispensed with as far as possible. As a matter of fact information received later, which will presumably be produced before the Committee by the Punjab Government, shows that in very few cases was whipping administered in public.

Gandhi's visit to Ahmedabad on 13th April.

38. It is necessary now to return to the sequence of events after the 13th April, on the evening of which day the Government of India declared martial law in the Lahore and Amritsar districts. On the 14th April a telegram was received from the Bombay Government reporting that on the 13th Gandhi had arrived at Ahmedabad and had an interview with the Commissioner of the Northern Division. Gandhi appeared to be greatly shocked at the events in Ahmedabad and had now abandoned the idea of disobeying the orders restricting him to the Bombay Presidency. He

This matter is of some importance in that it shows that Mr. Gandhi was by this time aware of the fact that the Satyagraha movement was responsible for the disorders which had occurred.

declared his readiness to obey absolutely all Government orders and had been permitted by the Commissioner to issue handbills inviting the public and the millhands to return to work, open shops and resume business. Ahmedabad was re-

ported quiet, though still in military occupation. Viramgaum was also quiet, but on the 13th the Awal Karkoon had been murdered. Troops had been despatched to Anand, and between Ahmedabad and Anand a patrol train was guarding the telegraph lines night and day.

Events of 13th and 14 April. Jallianwala Bagh incident. Extension of martial law to Gujranwala.

39. On the 14th a "Clear the Line" wireless message from the Punjab Government reported that on the previous afternoon a prohibited public meeting at Amritsar had been fired upon with the result that about 200 persons were killed. The city was quiet at night, but the political effect of these casualties on the Manjha and the troops was uncertain. More British and Indian troops were being drafted into Lahore. Early on the morning of the 14th a large mob attacked the railway flag station at Wagah between Lahore and Amritsar; rails were removed by skilled hands, with the result that an armoured train sent from Lahore was partially derailed. The cutting of railway lines was becoming more frequent. This was supplemented by a message from the General Officer Commanding, Lahore Division, stating that Wagah station had been burnt and railway and telegraph communication had been broken there. Other military messages received the same day reported strikes of the railway staff at Bhatinda at Delhi-Kishengunj and at Shukurpur. The strike had spread to Bhawalnagar, where there were 22 European families. Unrest was increasing at Bhatinda. Telegraphic communication between Lahore and Rawalpindi was interrupted. A telegram from Delhi, intercepted at Kharagpur, stated that on receiving the word "Rowlatt" the Indian soldiers in the Punjab had decided to strike as had also the staffs of the East Indian and Oudh and Rohilkhand Railways. The telegram urged employés of the Bengal

and North-Western and Great Indian Peninsula Railways to do the same.

From the North-West Frontier Province an attempted demonstration on the 13th was reported, many shops being closed, joint prayers being offered by Hindus and Muhammadans and a boycott of English goods proposed. A wireless message from the Punjab Government on the 14th reported that the railway and civil stations and church at Gujranwalla had been attacked and burnt. This disturbance was quelled by the use of aeroplanes, no other force being immediately available which could achieve the object in view. A movable column started that morning from Kasur through Manjha to Amritsar. Various attempts had been made on the telegraph lines and permanent way. On the 15th the Lieutenant-Governor asked for the application of the Seditious Meetings Act and of martial law to Gujranwalla. This proposal was agreed to. On the 15th the General Officer Commanding, Lahore Division, reported that there had been no communication between Bhatinda and Bhawalnagar since 1 p.m. on the 14th and that the whereabouts of four trains were unknown. There was no news of the European Railway staff and passengers.

On the same day conditions in Ahmedabad were reported better. Confidence was being restored and business recommencing. The looting of the Viramgaum treasury on the 12th was reported and it was also stated that troops were being sent to protect Government property at Sanand and Dholka. A police outpost near Sarkhej had been burnt and a patrol of British troops had been sent in that direction.

News received on 16th and 17th April, from the Punjab and Peshawar. Numerous attacks on communications.

40. On the 16th news was received of a serious attack on the railway at Chuharkhana and the despatch of an armoured train. The

telegraph wires had been cut and the line between Bahalike and Sheikhpura dismantled. On the same day the Government of India first heard of the false rumours of damage having been done to the Golden Temple and of the murder or wounding of high officials. A telegram from the Lieutenant-Governor of the 16th April reported that the disorderly elements in rural areas were taking advantage of the disturbances to loot trains and damage Government property in parts of Lahore, Amritsar, Gujranwalla and Kasur. This telegram mentioned that there was no doubt that attempts had been made to seduce the Indian troops, but so far their attitude was staunch.

On the morning of the 17th a telegram was received from the Punjab Government saying that the Agent, North-Western Railway, reported perpetual attempts to cut the railway and telegraph lines in the various parts of the province. The local Government accordingly proposed the extension of martial law to all railway lands throughout the province. This proposal was not, however, agreed to. On the 17th, somewhat disquieting news was received from Peshawar, whence it was reported that demonstrations were being held in which Islamic politics played a more important part than the agitation against the Rowlatt Act. Though no actual disturbances had taken place, there was talk among the mob of obtaining arms from the Amir. The Chief Commissioner reported that though the situation was undoubtedly serious, no hostility had been shown to Europeans. On the same day a Bombay telegram reported a rumour of a movement among Moslems in favour of *jehad*, and stated that an all-India meeting of Moslems had been arranged for the 25th at Bombay. The news received from the Punjab on the 17th included the derailment of a train near Jhelum owing to the removal of a rail; the cutting of the telegraph lines from Rawalpindi to Murree and Kashmir and an attack on the station at

Malakwal. A strike of telegraphists was reported at Kundian.

Further attacks in communications in the Punjab. Extension of martial law to Gujrat district. Refusal to extend it to Delhi.

41. On the 18th, news was received that the wires east of Jullundur had been broken, that martial law had been proclaimed at Kasur on the 17th and that there were signs of unrest at Gojra in the Lyallpur district. Troops had by now been sent to almost all the districts in the province and a third movable column started from Amritsar on the 17th. The derailment of a train in the Gujrat district between Lala Musa and Malakwal was reported, in which a fireman and a passenger had been killed. The rioters at Chuharkhana had been fired on. The Muhammadans of Lala Musa in Gujrat district were reported to have voted in a mass meeting for the burning of all public buildings. The mob which have attempted to wreck the Malakwal station in the same district was said to have been dispersed by a bayonet charge. In consequence of these events, the local Government recommended the extension of martial law to the Gujrat district and this was sanctioned.

On the 19th April reports from the Punjab Government mention the burning of stacks on the grass farm near Lahore; the pursuit of the Chuharkhana rioters by the troops with the results that 5 were killed and about 12 were arrested; wire cutting in the Gurdaspur, Jullundur, Jhung and Rohtak districts, the burning of a flag station at Sidhwan in Jullundur district and an attack on the railway station at Kaithal in Karnal district. News was also received this day that the railway station at Gujrat had been attacked by a mob on the 15th April which smashed the instruments and was fired on by the police. In Lahore and Amritsar a number of students had been arrested for tearing down martial

law notices. Another message received on the 19th reported that emissaries from Delhi were trying to raise the south-east Punjab, where Arya Samaj influences were strong among the Jats of Rohtak and Gurgaon. It was also alleged that in addition to Arya Samaj influences strong anti-British Muhammadan propaganda was emanating from Delhi. The Punjab Government urged the application of martial law to Delhi. The Government of India, after consulting the Chief Commissioner of Delhi, declined to accede to this request. Delhi had been quiet for two days and the Chief Commissioner promised to make careful enquiries regarding reports of emissaries from Delhi to the surrounding districts.

Extension of martial law to Lyallpur district.

42. On the 20th April the Punjab Government reported that the movement was spreading in Lyallpur and asked for the application of the Seditious Meetings Act to that district. This proposal was sanctioned by the Government of India on the same day. Further reports received on the 20th mentioned serious agitation at Sangla where there had been two attacks on Europeans; and a case of incendiarism was reported from Sargodha. On the 21st the Punjab Government asked for the application of martial law to the Lyallpur district. There had been *hartals* at Lyallpur and Gojra, where posters and the conduct of the mob were strongly anti-British; telegraph wires had been cut in various places in the district. Martial law was extended to the Lyallpur district on the 22nd. A further report on the 21st mentioned two cases of incendiarism in the Jullundur district and the arrest of a Bengali agitator in Lyallpur. Further cases of wire cutting were reported from various parts of the Punjab.

There were no further reports of open disorder, though from the various parts of the

province attempts to cut communications were reported during the next two days.

Justification for continuance of martial law after April 21st. The Afghan menace.

43. It may be asked what justification there was for the continuance of martial law after this date (21st April). Up till the end of April, it was impossible to predict that fresh disturbances would not occur. The whole province was in a high state of tension and there was every reason to believe that in various parts a strong anti-British agitation was continuing. There were moreover grounds for apprehending that persistent attempts being made to seduce Indian troops from their allegiance, and it is certain that misleading and malicious rumours not only regarding the Rowlatt Act, but on other matters calculated to disturb the minds of the troops had been propagated among these troops. A prominent example of this is to be found in the widely circulated report that the Golden Temple at Amritsar had been bombed which for some time obtained general credence and was most dangerous. Rumours of mutinies among the Indian troops in the Punjab had even spread to such far distant places as Rangoon. The importance from the military point of view of the Punjab, the principal recruiting ground of the Indian Army, the agitation in Peshawar and the obscure situation created in Afghanistan by the murder of the late Amir were all factors that had to be carefully considered, and no central Government confronted by a similar situation could have pressed those more directly responsible for the maintenance of law and order for the abrogation of martial law before the end of April. On the 3rd May, however, an enquiry was made of the local Government as to the prospect of the early abrogation of martial law. The Government of India stated their anxiety that martial law should not be continued longer than was

necessary and should be withdrawn as soon as the ordinary civil authorities could deal adequately with the situation. This suggestion was considered by the Punjab Government in consultation with the military and railway authorities on the 14th May. These authorities all agreed that martial law should be discontinued as early as possible, subject to the paramount consideration of the public safety, but it was felt that the relaxation of the restriction should be gradual. It was also agreed that it would be much better not to discontinue martial law than to discontinue it with the likelihood of having to reimpose it. During the interval the situation had also been materially altered by the outbreak of hostilities with Afghanistan, general mobilization was in progress and the preservation of order over the strategic railways of the Punjab had become a matter of the first importance. The Agent of the North-Western Railway was of opinion that without martial law he could not feel sure either of the men in the workshops or of the traffic staff; agitation had been rife among both these classes and they had been on the verge of a strike. The Agent believed that the strike had only been prevented by a telegram which had been sent all over the North-Western Railway system announcing that martial law was to be proclaimed on the railway immediately. A proposal to this effect had been made to the Government of India but was not acted on. [Cf. para. 40]. Any recrudescence of trouble on the railway during the period of mobilization would, in the Agent's opinion, have produced a very grave situation. Recent disturbances had shown that there were disloyal elements among the railway staff; they were for the present over-awed, largely owing to the existence of martial law in certain parts of the province. In the Agent's opinion, it would have been unwise to do anything which might have the effect of encouraging the railway staff to think that they could once more work against Government with impunity.

As regards the military aspect it must be remembered that large numbers of troops were being hurried to the frontier and that the existence of martial law made it possible to reduce the number of troops required to maintain internal order. For instance, the Officer Commanding the Lahore Civil Area was of opinion that he was in a stronger position with 500 troops and martial law than he would be with 2,000 troops and no martial law.

From the civil point of view martial law had also had an effect in the maintenance of order which could not have been achieved by the civil administration. Conditions were still very dangerous and the temper of the populace may be judged from the fact that on the 20th May, when the men charged with the Amritsar murders were sent from Amritsar to Lahore, they were given an ovation at Amritsar and at Lahore openly shouted to some troops on their way to the frontier: "Brothers, when you go to the front join the Afghans and shoot down the British!"

In these circumstances the Government of India decided that it would be unsafe and unfair to those directly responsible for the maintenance of order to disregard the views of the local Government, who had necessarily detailed information as to the condition of the disturbed area which was not available to the Government of India.

Withdrawal of martial law in certain areas on May 28th.

44. On the 18th May the Lieutenant-Governor of the Punjab requested by telegram that the Government of India would delegate to him power to terminate martial law at his discretion. In reply it was explained by a telegram of the 20th May that as martial law was established by orders of the Governor-General in Council under the Regulation of 1804, it was legally necessary that the orders should be cancelled by the same authority. It

was further stated that an Ordinance providing for the trial of pending cases was being prepared. The terms of this draft Ordinance were communicated to the local Government and its criticisms invited. These were received in a telegram of the 22nd May from the local Government. The Lieutenant-Governor agreed that martial law might be withdrawn in Gujrat within a few days and in Lyallpur about the same time. As regards the other three districts (Lahore, Amritsar and Gujranwalla), the Lieutenant-Governor thought that the discontinuance of martial law should be postponed till a somewhat later date as conditions were still far from normal. Ordinance No. VI of 1919 was as a result promulgated on the 27th May and on the next day martial law was withdrawn from all areas other than railway lands in the Lahore, Amritsar, Gujranwalla and Gujrat districts, the Lahore civil area and cantonment, and the Kasur Municipality, the Amritsar Municipality and cantonment and two neighbouring villages, and certain municipalities and notified areas in the Gujranwalla district.

Abrogation of martial law completed on 25th August.

45. By the 11th June martial law was abrogated except as regards railway lands, on which it was continued in force as a purely strategic measure up till the 25th August.

Conclusion.

46. This concludes the general statement which the Government of India desire to place before the Committee; though various minor incidents have not been mentioned. It might be stated however that the information presented to the Government of India shows that in the course of the disorders 7 Europeans were murdered; there were 15 serious assaults, some of them murderous; 44 cases of arson; 34 cases of tampering with railway lines, any

one of which might have caused grave accident, and 132 cases of damage to telegraph lines and instruments.

It will be observed that many points which have been fully discussed in documents believed to be before the Committee already, *e.g.*, the Punjab provincial report on the disturbances, the reports of local officers and so on, have been deliberately omitted from this memorandum, but if further information is required from the Government of India on any point of general interest or any specific matter they will be glad to supply it as far as possible. Correspondence with the local Governments will also be produced, should the Committee so desire. Attention is invited to Annexure G,

which includes copies of the speeches made by members of the Government during the recent debates on the Indemnity Act in the Legislative Council.

The Government of India have not in this memorandum touched on the legal aspect of martial law or on the question what constitutes waging war or sedition, as these matters are fully dealt with in standard text-books. They solicit reference on the subject to Mayne's Criminal Law, pages 100 to 111, 277 to 285, 293 to 303, and to the discussions reported in XXII Bom. 152 and XX All. 55. These and any authoritative text-books which the Committee may desire to see will be placed at the disposal of the Committee if desired.

ANNEXURES TO MEMORANDUM

- A. Extracts from Indian Newspapers.
- B. Judgments in cases under the Press Act.
- C. Speeches in the Legislative Council on the Newspapers (Incitement to Offences) Act and Press Act.
- D. Specimens of posters published in the Punjab during the disorders.
- E. Letters and articles published by various individuals and authorities on the dangers of the Satyagraha movement.
- F. Ordinances promulgated by His Excellency the Viceroy.
- G. Speeches made by Members of Government in the Legislative Council during the passage of the Indemnity Act.
- H. List of false rumours regarding the Rowlatt legislation.
- I. Resolution by the Government of India, Home Department, no. 549, dated 14th April 1919.

(A) Extracts from India Newspapers

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II. Vilification of Government of India for exploitation	915-19
III. Vilification of Government of India for neglect and suspicion	919-20
IV. Vilification of Government of India and Moslem attitude	920-21
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A

Extracts from Indian Newspapers

I (1).

*Extract from New India, dated the 23rd
May 1917.*

"The President of the United States talks about a League of Free Nations, declares that the war is a war of democracy against autocracy not even remembering that England has established in Asia the most powerful autocracy in the world has fathered more repressive Acts than the Central Powers can boast; interns the youth of the country by hundreds untried and unsentenced and restrains the liberty of peaceable citizens to travel freely over the land. All the paeans sung over the successful revolt (*i.e.*, of Russia) sink into the minds of Indians who, like Mary, ponder these things in their hearts * * * * Desperate they (students) broke away from all control of their elders, began to conspire and numbers of them have conspired ever since. Some have been hanged, some were sent to the living death of the Andaman Islands; some were imprisoned here. Now the students watch with amazement the Premier of Great Britain rejoicing over the results of the similar actions of young Russian men and women who conspired and blew up trains and assassinated a Tsar, and who are now applauded as martyrs * * * The names which were execrated are held sacred and sufferings are crowned with triumph."

I (2).

*Extract from the Bombay Chronicle,
dated the 27th May 1918.*

"Meanwhile the Government of Bengal have been fully using the license allowed to

them by piling tragedy upon tragedy. The latest illustration of the lengths to which they can go in the un-British method of torturing detenus, interned in unhealthy out of the way places without charge or trial, was provided by the case of the Char Lawrence detenus who were sentenced to 2 and 3 months rigorous imprisonment for the crime of satisfying their hunger."

I (3).

*Extract from the The Vijaya, dated
Delhi, the 1st April 1919.*

THE BLOODY SCENES OF DELHI.

Delhi, the capital of India, observed a bloody scene on the 30th of March 1919. We fear that such like incidents have occurred in several other cities of India. Although the political and social conditions are in no way very prosperous, but the sword of the Rowlatt Bills has pricked the public in such a way as to enable it in showing symptoms of real life. The 31st of March produced a splendid scene. Unity was prevailing all over the people, with the exception of some "traitors" and "Yes, sirs". Each and everybody was plunging into the same stream of thoughts. No work. The wilfulness of the Government has closed the mouth of Hope. No fire in the hearths, no man in the shops. Patriotism was flowing out of the sincere hearts. The Government and the Anglo-Indian papers say that the public of India neither understand any politics nor dislike the Rowlatt Bills, but the event of March 30th must have acquainted them with a stern reality. The

national mourning was observed in small streets and remote shops, where the professional politicians could not possibly use their influence. The second objection is that there is no unity among the Hindus and Muslims. Such might have been the case in the past, but not now. India contains, like many other countries, some persons, who are ready to sacrifice their religion for the sake of the world, and to sell their principles for a loaf. But a major portion of the Indians thinks that the Hindus and the Muslims are one and the same nation. The 30th of March supports our argument very strongly. The Government reporters must have reported these changes, which can serve as a subject of serious consideration for the Government. Now India can no longer cause satisfaction to her rulers by being sold. India is a living country now. Her anger must not be overlooked, and her deserving sons must be respected now. We do not know what steps the Government is going to take about these affairs; but the mourning day was a terrible day for her. If anything can be surmised about the future at all, the Government can imagine herself what peace and calm can she expect at the hands of the subjects. These subjects know their good and bad, can express their wrath, and understand their rights. No mysterious wielding of weapons in the dark, for the subjects are on possession of an electric lamp. If she is misguided by the reporters, or blinded by the pride of her power and authority she may begin to prepare other Rowlatt Bills.

A GRAND STRIKE IN DELHI—SCENES OF HOPE AND TORTURE—HORRIBLE MURDER—THE MACHINE-GUN AND SUBJECTS—8 MEN KILLED AND 40 WOUNDED.

The 30th of March came and passed away, but it left an imperishable memory of itself. This day commenced with auspicious signs. The signs of mourning were observed early in the morning. 990 shops out of 1,000 were

never opened, while the remaining 10 were at once shut by a slight request of the volunteers. The Hindus and the Muslims went on strike unitedly. The chamars and the meat-sellers joined the strike cordially. An honorary magistrate of Sadar opened his shop, but shut it shortly afterwards due to the power of the public opinion. By 8 o'clock the people began to assemble in the streets. No one would sit in a tonga, ekka or tram car. The barbers declared that they would work without any charges. The milkmen distributed their milk among the children of the city. Hence at 9 A.M., shutters and locks were to be seen in all the katras and bazars, which presented a strange view to the passer-by. This protest against a political tyranny was peerless in the history of India. The whole city with one voice raised hue and cry. Every citizen was exceedingly happy. Such was the general condition of the strike. Calm prevailed up till noon. Every man was thanking God to pass this day peacefully. Just at the time, when people were praising the police for not troubling any citizen, an ominous news spread among them that some disturbance was created near Lal Kuan. Some boys stopped the motor car of the Superintendent of Police, and asked him to come down. He at once whistled, and the policemen appeared at the scene and began to beat the people. Most of the people ran away, but two of them were caught and sent to the police station.

Murder (i).—Another disturbance was caused at the railway station just at the same time. Some three volunteers went to the station to ask the shop-keepers to close their shops. The station shop-keepers refused to do so. By this time a lot of people had assembled there. At this the Station Superintendent appeared on the scene, and began to abuse and scold the people. He caught two men from the crowd. This news spread rapidly among the public. Some 4,000 or 5,000 people assembled there at once, and asked the

police to leave their men. The police authorities tried to assure the people that their men were already released and so could not be produced at that time. When this talk was going on, a number of English soldiers with a machine-gun arrived there. There were already some armed policemen there. All these things were placed before the mob. The mob was ordered to disperse, but nobody was inclined to do so without getting the men back. The mob consisted of unarmed persons, and would have been calmed very easily at that time. But the Indian troops had been idle for a good while, and so wanted to show some loyalty towards the Government. At once the machine-gun opened fire, and the soldiers began to use their bayonets. The English soldiers could not have expected such foes to deal. They fought so zealously as they had not done against the Germans. Within a moment 26 peaceful unarmed Indians were wounded. The mob began to disperse slowly, and reached the other end of the garden. At this, some Gurkhas came in running and blocked the way. Two men died at once and the rest were dragged to the railway station like dead dogs. Here finishes the first bloody business.

Murder (ii).—The editor goes on in the same tone, describing the event, which occurred near the clock tower. The people demanded their dead bodies from the police. Swami Shardanand came in there and tried to pacify them. But after his departure towards the Congress Pandal, the demand of the dead bodies was again made. Somebody might have thrown stones too. The armed men again fired. Twelve men were wounded. Three men were carried to Katra Nil, and the rest were dragged into the garden by the police. The strange thing is that people would not run away. We cannot say after how long the streets of Delhi were sanctified with the blood of the Indians.

The third scene.—In this note the editor dwells upon the same bloody event with sting-

ing remarks about the heartless cruelty and diabolical tyranny of the Naukarshahi Government. He describes fully the appearance of the Chief Commissioner with a number of horse-men at the Pandal.

I (4).

Extract from the The Vijaya, dated Delhi, the 2nd April 1919.

WHO IS GUILTY FOR THE OPENING OF THE CHAPTER OF MURDER. THE DAYS OF LORD HARDINGE ARE RECOLLECTED.

When a bomb was thrown at Lord Hardinge in the Chandni Chauk, the Commander-in-Chief wanted to order to blow the whole street. Even though it is not the sign of a good government to ask such a question, yet that broad-minded Englishman clearly said that it was not necessary to take thousands of lives for one life. The bomb was thrown, but to this day the brave police have not been able to trace the culprit; though they have had numerous innocent persons hanged and jailed in his name. It is the same police and the same city of Delhi where a disturbance takes place and the Kotwal gives orders to fire to show his work to the Sirkar. The Kotwal fired himself with the revolver at the railway station and ordered the English soldiers to use the machine-gun. It is not known how far it is correct, but if the matter were to be enquired into, the police shall have very greatly to blame for the occurrence at the railway station, as the public are saying. Once it was in Lord Hardinge's time that he—a far-sighted Englishman, did not give permission to fire even when the Commander-in-Chief asked for it. To-day it has to be said with grief that through the wisdom of the "Naukarshahi" the earth has been turned red by means of the blood of the innocent and the subjects have been fired at. (*The Hindustani.*)

"AN EYE-WITNESS"—BY A CORRESPONDENT.

A few persons wanted to get to the railway platform. A *Gora* pointed a revolver at them and said that he would shoot them if they stepped forward. At this a boy, hardly of 12 years of age, snatched away the revolver from his hand by giving a jerk from behind and addressing the soldier "Dekh sahib" (look at it O! sahib) broke the pistol into pieces by throwing it at the stone pavement. The bullets in the pistol all came out. The lad was arrested at this and probably it was on the basis of this occurrence that the farsighted Mr. Curie sent for the machine-gun, because it had reached there in our presence. In the evening we learnt it with great sorrow that nearly 30 persons were killed and wounded.

I (5)

Extract from the United Provinces Selections, no. 33, dated the 18th August 1917.

The *Pratap* of the 13th August 1917, contains another poem by "Trishool" entitled "Prayer to Sri Krishna":—Very wicked and terrible times have come when people are undergoing unprecedented sufferings, and lovers of freedom are in chains, when the strong are in chains, when the strong are oppressing the weak and flags of oppression are planted on every side, when men clad in authority are debasing themselves and oppressing the sufferers. There is no equality and the people are obsessed by partiality. O Lord, Thou promisedst to come to protect Thy devotees whenever there should be a decline of virtue in this land: we are at present beset with troubles and darkness, why art Thou delaying to come to us? Our boat is again in trouble. Come to bring us safely to the shore. We are being strangled by restrictions. We are fast losing our strength and energy. Show Thyself in our hearts to inspire us with fortitude, enthu-

siasm, courage, and strength. Again fortify India with the armour of activity. Blow Thy pipe and once again establish the sway of justice. Thou art the only saviour of the people and they entirely depend upon Thee.

This paper also publishes a poem by Jagannath Joshi exhorting Indians to engage fearlessly and firmly in constitutional agitation for the attainment of self-government. They should give up the use of foreign made articles in favour of *swadeshi* goods. They should vow to serve the Motherland and be prepared to undergo all sufferings, including imprisonment, in her cause. Without self-sacrifice, this national *home* will not be complete. Therefore, they should dedicate body, mind, life, and wealth to her service. The opponents should be plainly told that though they may do everything to frighten the people, they will not flinch from attaining their object. In this national struggle, they will act bravely until they are victorious and get self-government.

I (6).

Extract from the United Provinces Selections, no. 25, dated the 22nd June 1918.

The *Avadhbasi* (Lucknow) of the 11th June 1918 (received on the 13th June), has an article entitled "The fruits of subjection" in which the editor says that the fruits of subjection are very bitter. God only knows which sin is to be expiated, for India fell into subjection to the Muhammadans seven hundred years ago and has ever since remained in the same miserable condition. About two hundred years ago the British traders came here, and through the vicissitudes of time and mutual dissensions the Hindus and Muhammadans lost their freedom and became the slaves of *baniyas*. After centuries of disorder and anarchy peace began to be gradually restored. The general public supposed that freed from the yoke of barbarous Muham-

madans they would enjoy happiness under the rule of justice-loving Westerners. That hope was disappointed long ago and now the teeth of the foreign administration are quite visible. Every child of the country knows now that owing to the irresponsible foreign administration the condition of India to-day is like that of a wood apple eaten by an elephant. Whoever has been happy under subjection? How did our ancestors fall victims to such a gross folly?

Since Dadabhai Naoroji declared *swaraj* to be the remedy for all the ills of the country constitutional agitation has increased in strength. The authorities too threw away the mask and showed themselves in their true colours. The more the aspiration and agitation for *swaraj* grows the more terrible is becoming the form of the policy of repression. It was not even dreamt that liberty-loving Englishmen, in order to repress aspirations for freedom, would follow those methods for which England has always condemned Russia and declared it to be a semi-civilised country. But as soon as a person's own interests are injured his sanity of judgment and generosity take leave of him. The game which is being played in Bengal under cover of the Defence of India Act can never be said to become England. The cruel treatment to which those interned under this Act and Regulation III of 1818 are subjected is entirely Russian in character. Indians are fully convinced that the bureaucracy will spare no means to repress aspirations for *swaraj*. Nay, during the last twelve years these means are being taken and the Defence of India Act is truly serving the purpose of the Devouring of India Act.

II (1).

*Extract from the Amrita Bazar Patrika,
dated the 10th March 1919.*

"The real problem before us is the economic future of our people. If the new policy of pro-

fit-sharing partnership in private industrial enterprises between the State and private capital be actually carried out and the Government of India enter into this new relationship with the Anglo-Indian exploiters, then the only future that is before us is that of a race of intellectual and mechanical and manual labourers working for the benefit of a body of foreign exploiters helped in their exploitation by the political authority in the country.

II (2).

*Extract from the Bombay Chronicle,
dated the 11th March 1919.*

"After discussing the causes of the comparative inertia of the community and pointing out the methods of strangulation levelled against Indian industries by the selfishness of alien exploiters in the past Sir P. C. Ray rightly condemns the passive attitude of the Government in approaching the question as a problem of the masses * * * till there is a sufficient degree of enlightenment among them, they will remain the victims of those who practically despoil them of the fruits of their labour * * * Thus India is to have a costly establishment of mediocres imported from abroad who by their very position are not capable of directly benefiting the rural classes. If, on the other hand, they become a sort of handmaid to alien enterprise, they will complete the work of alien exploitation at the expense of the taxpayer * * * In a word, the reduction of India to a human cattle farm should cease, and the office of foreigners in uplifting indigenous industries can never be completely in favour of India. If care is not taken to defeat this peril, Sir P. C. Ray's judgment that the name of the Commission (the Industries Commission) should be the "Foreign Exploitation Commission" will be justified in the event.

II (3).

*Extract from the Amrita Bazar Patrika,
dated the 11th April 1919.*

"Though India, when it came into the hands of England, was one of the richest, India is now not only far poorer than Japan but it has become the permanent abode of famine, plague and malaria.

* * * * *

"England having acquired India forgot all her noble and solemn pledges and farmed it out to one thousand British officers, and to England in name. The three hundred and fifteen millions in India are governed by them at their sweet will, and on principles which are absolutely despotic and some of them un-British and barbarous. The result is that Indians and the British Empire are decaying and India has become the property of a handful of Englishmen."

 II (4)

*Extract from the Madras Newspaper Selections,
dated the 9th February 1918.*

The *Kistnapatrika*, of the 2nd February, publishes, in Telugu, a speech of Mr. Gandhi on *swaraj*, which contains the following:—"People need not have a knowledge of letters to understand that they have to manage their affairs. It is enough that they have a mere grasp of the idea. People should ask for *swaraj*. Many kings without a knowledge of letters had ruled well. * * * India is not Europe, nor is it Japan or China. India alone is a 'land of *karma*,' while all the rest are 'lands of pleasure'. This gospel truth has taken a firm root in my heart. India has a special mission of God to fulfil. Other countries cannot effect this. India has to take a leading place among the civilized

nations. No other country in the world has suffered so much as ours in the cause of the search after the soul. India has no need for metallic swords. She has fought with the weapons of love. She can still fight like that. The western nations are worshipping brute force. The present horrible war bears testimony to it. India can conquer everything by means of soul-force. * * * Though my views are like this, I will not draw back a bit to join the *swaraj* movement. As Mrs. Besant has said, it is true that if we cannot have *swaraj* we will certainly fall a prey to famine. I do not care for figures. I do not want a better evidence than my own eyes. Poverty is becoming day by day unbearable in our country. There is nothing strange in this. What fate other than poverty can be the portion of a country which exports raw materials to other countries and purchases the same when finished, and which grows cotton in abundance but pours crores of rupees for piece-goods? * * * When the salaries of higher officers go to the foreign countries every year, the country cannot but grow poorer and poorer day by day. I have not seen a cheerful face in the whole country I have travelled over.

* * * The Government are not intentionally reducing the country to such bad plight. I believe that there is no dishonesty in their intentions. * * * Let gods come down and affirm that India is growing prosperous day by day, I will loudly proclaim that our country is growing poorer and poorer. But what are the advantages of getting *swaraj*? If we have it, we shall have the privilege to commit mistakes and to correct them. We will then see a means to remove our poverty at once. Then our life will not depend upon Lancashire goods and crores of rupees will not be spent for the construction of the capital city of Delhi. We are now in a helpless condition. We have no power even to make mistakes. One without such power cannot progress. The history of the whole Parliament is a tale of the mistakes it had committed. * * * We are fit for such a

Parliament. * * * We will be fit for *swaraj* if we strongly ask for it in the firm belief that the days of the bureaucratic Government have passed away.

II (5).

Extract from the Madras Selections, dated the 13th April 1918.

The following appears in *Everyman's Review* for April:—

"UNBENEVOLENT BUREAUCRACY."

"The bureaucracy prides itself always on its policy of benevolent despotism. And never was a despotism so bare and bankrupt of all claims to generosity and beneficent attitude towards the suffering masses as the bureaucratic Government of Bombay that refuses to believe the poverty of crops in the Kaira district, which has been proved over and over again and is now solemnly attested as being a hard fact by Mahatma Gandhi, an honest man if ever there was one. Indifference towards the sufferings of the masses has been characteristic only of the worst of the Indian despots in the darkest days of Hindus or Muhammadan misrule. But such cultivated callousness and wilful negligence that knowing the evil would not remedy it, is a part and parcel of the bureaucratic system of Government which exacts revenue at any cost or risk to the humble cultivators, which attaches, ejects, auctions, undersells, and removes by force the pettiest belongings and humblest appurtenances of the most wretched of mortals to realise the last drop of blood—all because the Revenue Code sanctions it! The gospel of the Christian revenue officials of India is not that of Christ. The professed followers of the New Testament have come to invent a new gospel of their own to their Great Saviour's and Prophet's despite and that practised gospel of governing the heathen millions of India is the blessed Revenue Code! May this gospel come

soon to be abhorred of even the worst and most degraded of all heathens and infidels and may the consolation of the noblest religions be the reward of the poor suffering ryots is our humble prayer."

II (6).

Extract from the Madras Selections, dated the 15th June 1918.

In an article headed "At what cost!", the *Commonweal*, for the week ending 7th June, states:—"The cult of the maintenance of the British element in the services not only secures an unwarranted scale of remuneration to satisfy the inexorable demands of the white officials, but enables them to help men of their blood fleece this country by prostituting their official positions to further missionary propaganda and foreign exploitation. The people's money is freely given away to foist upon an unwilling people a faith to which they are utterly alien and with which they have no sympathy. The foreign exploiter is shown the most flagrant favouritism in the matter of licences, contracts and other business aids. In the English clubs, dotted over the whole country, the white official, the missionary and the exploiter are in perpetual conspiracy to drain this land even of its limited wealth. This is not the worst. In all these at least there is a method and a system. What is more deplorable, is that some officials take individual fancies and overwhelm the particular individual with favours, no matter at what cost to the tax-payer. This incessant demand for increasing the already high salaries of the European officials is flourished before us as the only way to retain the British element in the public services. But we, who know by experiences what that British element stands for in the workaday world, cannot but confess that we are not at all enamoured of it. The public indeed look with eagerness for the day when the public services will as far as possible be Indianised."

II (7).

*Extract from the Amrita Bazar Patrika,
dated the 11th April 1919.*

TO WHOM DOES INDIA BELONG?

India belongs to Indians as of right, as England belongs to Englishmen. Englishmen, however, made a compact with the Indians in which the latter cordially agreed. It was that Indians should accept the rule of Englishmen provided they governed them on righteous principles. The arrangement was that Indians would pay Englishmen handsomely for their labour, but then the former should be treated not as a subject race but as fully the latter's peers.

Not only did a number of England's greatest statesmen agree to such an understanding but their illustrious Queen herself, in the name of God, gave a solemn pledge that her officers would treat her Indian and European subjects exactly in the same manner in every respect—whether it be in regard to self-government or public services, freedom of speech or toleration in religious faiths and practices. In a word Queen Victoria conferred all the political rights of a British citizen upon the Indians. What is more, both Houses of Parliament accepted this Royal Proclamation of 1858 without a dissentient voice.

In one sense the document is more than a Parliamentary Act. It contains not merely the declaration of the greatest sovereign of England, but also the unanimous decision of the entire British nation through its August Representative Assembly. But is India governed by England on those high principles which are embodied in the various Parliamentary Statutes and Official Despatches as well as in the Proclamation alluded to above? Nay, is India governed by England herself?

There are two countries in Asia which are governed on what may be called European principles, *viz.*, Japan and India. In Japan the rulers are but followers of European methods of

administration. In India the Europeans themselves carry on the affairs of the country. India has thus a clear advantage over Japan. For the former is ruled by Europeans direct and the latter by the disciples of the Europeans. The Europeans in India, again, have the honour of their nation and sovereign in their keeping, for both Parliament and Queen Victoria promised the Indians, before God and man, the same rule that obtained in Great Britain. It should also be noted that India is richer in resources and far more populous than Japan. Besides, India has a more ancient civilization and literature than Japan. Japan in fact, is a mere child in this respect.

All the same Japan is almost as great a power as England herself, while India is only a "property". The existence of the latter is ignored by all, and three hundred and fifteen millions of Indians are looked down upon as mere human sheep. Though Japan was one of the poorest countries in the world, and though India, when it came into the hands of England, was one of the richest, India is now not only far poorer than Japan but it has become the permanent abode of famine, plague and malaria.

Is it not a strange phenomenon that the foremost Asiatic country, which is under the direct control of the foremost nation in Europe, is the home of starvation and pestilence, and the smallest country in this continent is a power strong enough to crush one of the strongest military nations in the world? Yet, the problem is easy of solution, Japan is the first consideration to a Japanese administrator; not so, however, is India to an Englishman ruling this country. To him India stands third in his estimation, he himself being the first and his country and sovereign being the second.

It is far from correct that England rules India in the same sense as it rules Ireland. If that had been the case there would have been very little cause for dissatisfaction and India would have grown fast enough under the enlightened rulers of Great Britain. But the

source of the seething discontent that prevails from one end of India to the other lies in the peculiar way she is governed.

England having acquired India forgot all her noble and solemn pledges and farmed it out to one thousand British officers headed by the Secretary of State for India. India really belongs to these English officers, and to England in name. The three hundred and fifteen millions in India are governed by them at their sweet will, and on principles which are absolutely despotic and some of them un-British and barbarous. The result is that Indians and the British Empire in India are decaying and India has become the property of a handful of Englishmen.

In short, these Anglo-Indian officers numbering a little over one thousand, are in the position of lease-holders of India. They serve themselves first, then their mother country. As for the Indians, they were of course, according to these selfless statesmen, created by Heaven only to minister unto their comforts and material prosperity. Thus they expelled the Indians from all offices in the higher services and they increased their own pay. They could have never done it if England herself, and not these lease-holders, directly ruled the country.

In days gone by the land-holders of Bengal had to lease out their estates to European Indigo planters. The latter never cared for the improvement of the property. Their sole object was to make indigo out of the lands in their temporary possession, and their only anxiety was whether or not the property would last the term of their lease.

It then comes to this. The forty millions of the British people derive very little benefit from the Empire of India. As for the Indians they are dying fast and the time is not far distant when the higher classes are likely to disappear altogether if the present mode of administration is not radically changed. A few thousand British officers and merchants to whom India has been farmed out are fattening themselves

out of the country. How India is faring under the present system was graphically described, twelve years ago, by one of the Anglo-Indian officers, Mr. Donald Smeaton, a former member of the Viceregal Legislative Council who had entered Parliament in one of his speeches at Edinburgh. We may refer to this speech in a future issue.

III (1).

Extract from the Bihar and Orissa Newspaper Selections, dated the 20th April 1918.

A poem contributed by one "Bidagdha" appears in the *Sri Kamla* (Bhagalpur) in which the writer says:—"We want *swaraj* only because we lost everything and have become miserable, the cows losing their lives bellowing and agriculture weeping to see the conditions of the peasants. We want *swaraj* so that no tax may be increased anywhere and our own wealth as well as land produce may always remain here. Peculiar is the power of the Press Act: it has emptied the country; the publishers and others are massacred. It is therefore that we desire *swaraj*. A couple of centuries have passed away, yet education is but confined. This is why we want *swaraj*. Whenever we think of America, our hearts shudder. Is the happiness of independence hidden from any one? Oh Creator! those who are fondled by their parents become coolies and live in nonentity in foreign countries! We have no courage to describe their troubles; let the renowned Gandhi relate these. We would not now live like coolies and so we want *swaraj*. We have lost all our valour by living without arms and hence we want *swaraj* so that our children may be furnished with weapons. We want *swaraj* so that our Hindi may be our own language and we may live on equal footing with others."

III (2).

Extract from the Madras Newspaper Selections, dated the 26th January 1918.

Adverting to the increasing death-rate in India and to the average age an Indian having become reduced to 26, the *Desabhaktan*, of the 11th January, says:—One of the main reasons for this state of affairs is the fact of Indians taking to the customs and habits of foreigners and of their consuming western liquor and meat. Other causes can also be mentioned such as the destruction of the huts of the poor people and huddling them in small houses built in rows, the consumption of western medicines, the congestion in towns, the destruction of forests, the use of electric lights and fans and over-eating. These and other causes have led to the sanitation of India being spoiled. The amount now spent by the Government upon sanitation is not sufficient. Will it be possible, under the present system of administration, to spend the amount on lines approved by the people? O brethren, who cry against the grant of Home Rule! How are you going to prevent the gradual reduction of the average age of the Indian? The poor people are suffering on account of want of sanitation. Realise that Home Rule is the only panacea for insanitation and other defects.

IV (1).

Extract from the United Provinces Newspaper Selections, no. 45, dated the 10th November 1917.

The *Nai Roshni* (Allahabad) of the 2nd November 1917, publishes a poem by Maulvi Muhammad Matin Shamshi Naziri urging the release of Messrs. Muhammad Ali and Shaukat Ali. The lightnings of sorrow and tyranny have struck the hearts of Muslims and the winds of oppression are blowing. Arise! our tender hearts

have been pierced by the lancet of oppression and our lives are now worse than death. For God's sake look at those who have fallen victims to the policy of indifference—our words are full of pain and grief and this song is such that it will create a furore in the world. The blooming rose of our national garden is wedded to trouble. O! plucker of flowers, what injustice is this in your time? Let us now go and search the house of the fowler and breaking open the bars of the cage release him. O! lovers of the nation, rouse yourselves and if need be sacrifice even your life for the sake of truth. Regard the wealth of grief as the secret of eternal life and consider the placing of the neck under the sword to be the custom of lovers—God will help your endeavours but be steady in your course and depart not from the path of Islam and loyalty. Walk fearlessly through this wilderness of calamities lest you be terrified by the storm of opposition. It is life to die at the altar of the country; leave behind you deeds which may serve as examples to those who come after you. Where are the devastating sighs of the oppressed? Advance and set fire to the house of tyranny and high-handedness. How strange it is that our brethren are in difficulties and their only crime is that their guilt is not proved. Their spirit of sacrifice for the nation has made them behold this evil day and their patriotism has involved them in this difficulty. If the people possess seeing eyes they will see that the locks of the jail are opened in this way—Muhammad and Shaukat are such servants of the country that they consider it an honour to sacrifice themselves for the nation. Even in confinement they think only of their country and constantly pray for the freedom of nationalities. Their breasts are always shielded against misfortunes and they are never cowed by the blows of fate. O God! release the votaries of truth from the restraints of misery. O Almighty! how long will we be deprived of Thy grace? There is a sinus in our hearts owing to the pain of separation from them. When will the desire

of the wounded heart be fulfilled in this garden of liberty? Alas! how long will the national star remain in the descendant?

IV (2).

Extract from the Punjab Selections, no. 22, dated the 30th May 1918.

The *Vakil* (Amritsar, Muhammadan), of the 22nd May 1918, states that commenting on Sir Subramanya Iyer's letter to President Wilson, *Al-Bashir* (Etawah) asks whether Indian Muhammadans ever sent a letter to the Sultan of Turkey, the Amir of Kabul or the Shah of Persia, requesting any one of them to intercede with the British Government to secure Muhammadan rights. That paper also complains—and the *Vakil* supports the complaint—that Muhammadan loyalty has not been valued at its proper worth and that owing to the Government's present policy Muhammadan young men are gradually getting out of the control of their elders and have been plainly saying to the latter that while Government has paid no heed to the Muhammadans, who have ever indulged in sycophancy, it always accepts the demands of the Hindus, who have openly carried on an agitation against it. *Al-Bashir* then refers to the internment of Messrs. Muhammad Ali and Shaukat Ali and Maulana Abul Kalam for their alleged treasonable connection with the enemy and goes on to say that no explanation has been called for from Sir Subramanya Iyer who writes a letter to a foreign Government informing it of the oppression practised by the British Government. The *Vakil* thinks that this difference in treatment is due solely to the fact that while Sir Subramanya Iyer belongs to a living and strong community, the Ali brothers and Kalam are the members of a dead nation.

V (1).

Extract from the United Provinces Selections, no. 26, dated the 30th June 1917.

The *Nai Roshni* (Allahabad) of the 27th June 1917, says that when the Defence of India Act was passed Indians were alarmed, but Lord Hardinge assured them that it would be used with caution. No one ever imagined that it would become a naked dagger in the hands of a man of ill-balanced mind, and that the throats of well-wishers of India instead of rebels would be cut. Who knew that its result would be the erection of a slaughter house to kill the hopes and aspirations of Indians? No one perceived that the constitutional political movement pricks like a thorn in the sides of the proud and self-conceited bureaucracy and that this Act was constituted to remove this thorn. We find this out through the actions of the bureaucracy who tried to sympathise with us at first. The only thought was that the black Indian should not forget the differences of skin and become proud of freedom and equality. They had this in mind all the time and Indians were deceived. Their unrest was quite natural, because no one gives away power easily. The Viceroy being affected by the bureaucracy said in Calcutta that no great changes can be made at present. He is the representative of the same Government which sent wires congratulating the Russians on gaining freedom. When self-government became the common talk of India and when the bureaucracy thought that peace was near they adopted plans to kill this Home Rule movement. The first move was made by Sir Michael O'Dwyer, Lord Pentland followed and the Government of Bombay prohibited students from joining political societies. We can imagine that the Government is at present favourably inclined towards this Home Rule movement, but it is sure to be against it immediately after the war. For this reason the Madras Government has interned Mrs. Besant who was the great power in the movement and for this rea-

son the Defence of India Act was passed. The diplomacy of Lord Pentland has never failed so deplorably as in this case. There is no doubt that the internment of Mrs. Besant is God's blessing on the Home Rule movement and the time is near when every child of India will shout "Home Rule." Indians should thank Lord Pentland for this action, which has benefited their cause. Their time of trial has come and if they are frightened by these ordinary threats then they cannot get self-government, but if this despotism makes them firm they are fit to obtain self-rule.

Our countrymen are overcoming these trials. Home Rule Leagues are being formed every day in the cities and towns. Indians will dream of Home Rule, and will be proud of becoming rulers. Mrs. Besant who belongs to another nation is undergoing the hardships of internment for our freedom and will we not be ready to give our lives for our country? India's millions will shout with one voice that all are ready to be interned for the sake of their country and freedom. We want Home Rule under the protection of the British Government and those who oppose this are the enemies of both Indians and British. We should remember that truth always conquers falsehood and Indians will very soon rub the noses of the opponents of Home Rule on the ground.

V (2).

Extract from the Bengal Newspaper Selections, for the week ending the 24th August 1918.

The *Naqqash* (Calcutta) of the 17th August writes:—No book of fiction or magic probably ever created so much sensation in any country as the publication of the Government's astounding and modern book of magic, *viz.*, the Rowlatt Committee's Report, as in this country. It seeks to prove that peace-loving India is the home of anarchy and sedition and to establish

that men like Mahmudul Hassan, etc., who are followed and respected by a large majority, are rebels. We fail to suggest the attitude which our countrymen should adopt towards it. Sometimes we are inclined to take it as a huge joke and sometimes to shower contempt over the falsehood which it contains. At one time we feel pity at the simple-minded gentlemen who, led by cunning persons, have declared a seventy-year old individual as the general of the anarchists, and at another we feel angry at those who have interned the oppressed ones and such tyrannous accusations against them. Why Government has published this report is the first question which arises in our mind. Since the time that Mahmudul Hassan has been interned the Moslems have been demanding the publication of the reasons for his internment, but without any avail. Is it not a matter for surprise that it was now made them public? Is not the public right in asking what has changed the opinion of Government? If you want an answer for this, study the history of Ireland. She is like India, under the British Crown, and her condition is of a more suspicious character than that of India. Those who have carefully studied her history know that whenever any reforms were introduced there, some report or communiqué was also published at the same time, which give the impression that Ireland was a rebel country which wanted to drive the English out. The result of all this has been that the reforms have never satisfied the Irish public. So the divulging of those secrets, which Government had sworn not to reveal, soon after the publication of Mr. Montagu's Report, has not come as a surprise to those who have studied Irish history. United India demanded reforms. Government admitted the justice of the demand. But the reforms which have been proposed fall short of her expectations. In a way they do not deserve the name of reform. Excepting those who welcome anything brilliant coming from Government, no Indian considers the reforms sufficient. Even the moderates take

the same view. Now these reforms will be placed before Parliament where their fate will be decided. Government has therefore felt the necessity of impressing Parliament that Indians are getting more than they deserve, Indians have stoutly protested against the Defence of India Act, the Arms Act and the Press Act. There is no mention of this in the Report where the necessity for granting India self-Government has been fully admitted. The Rowlatt Committee has made up for this by recommending that the Defence of India Act be placed permanently on the Statute Book. This Committee's Report has been published for establishing that India is a land of rebels and to create a feeling of horror in the mind of Parliament regarding her political demands.. This is why imaginary stories have been incorporated in it.

V (3).

Extract from the Madras Newspaper Selections, dated the 26th January 1918.

Commenting on two recent cases of assault by Europeans on Indians, *New India*, of the 24th January, writes:—"Times out of number we have had to refer in these columns to the gross abuse of justice that generally takes place in criminal courts in this country when an Indian appears as a complainant against a European or vice versa. The Government has apparently taken no notice of the criticism in the public press and on the platform, with the result that a conviction is growing in the mind of the Indian that he cannot secure justice in criminal cases if the opposite party is a European * * * Such magisterial vagaries have been allowed to go on for a considerable time, and we do not expect them to be put an end to unless the whole system of Government is changed, and the executive is made responsible to the people * * * Now the situation is hopeless. Law courts in this country provide no real protection to an Indian if he is assaulted by a European. * * * The Indian community has practically

no remedy in such cases. The only remedy under the present circumstances that we can think of is, as we suggested the other day, while dealing with the case of Rai Bahadur Lala Sultan Singh, that Indians should give blow for blow at the time and not depend entirely on law courts. * * * If they knew boxing and called it to their aid when thus assaulted, the Anglo-Indian bully would think twice before he deals a blow or otherwise behaves in a brutal manner towards an Indian."

VI (1).

Pratap, of the 19th June 1916, publishes a poem saying that the lions of India will ceaselessly work to free their revered mother from her troubles. They will not retreat through fear. Thousands will die in the service of the country. They will remove with the sword all the obstacles standing in the way of their union and nationality. Their enthusiasm will overcome all difficulties and they will bring cruel oppression to an end.

VI (2).

Extract from the Madras Selections, dated the 30th March 1918.

Prapanchamitran, of the 19th March, has a leader under this heading, in which the following observations occur:—As the mind of the Indians became dwindled, they became victims to illusion on all sides. On one side the illusion takes the form of the law, the police, the jail and the judge. On another, it is in the shape of the army, the European, the revolver, the bomb, and the war. *Vande Mataram*, which indicates patriotism, is the remedy for dispelling this illusion. It has failed to have any effect on patriots. The illusion which has been be-

wildering the selfish and the mean Indian has not influenced Arabindo Ghosh * * * The Government, fully armed to the teeth, could not show their strength to Mr. Gandhi, when he went to Motihari to relieve the distress of the coolies there * * * So, if all the thirty crores of us dispel this illusion, is there anything which we cannot achieve? The acquisition of *swaraj* will be a small matter then. Will the invidious distinction between a white man and a black continue then? We will then have the capacity to rule over the fourteen worlds.

VI (3).

Extract from the Independent, dated Allahabad, the 23rd March 1919.

SATYAGRAHA AND DISCIPLINE.

To the Editor of the "Independent."

Sir,—Lack of military training for the last two generations have developed in us, young and old, a want of discipline. We have so far been accustomed to protest against unrighteous measures through public meetings and representatives in Councils. The result has been what it is. The bureaucrats know that we agitate for a little while and then quietly submit.

Now that "Satyagraha" has been proclaimed by Mahatma Gandhi as the only remedy left to us, as a mark of protest we should follow it up in the way becoming a true Indian once you accept him as a General in the movement, let all follow his commands just as all from colonels down to privates follow the orders of a general in battle. Instead of making exhibition as usual of our orthodox ways of doing work through Committees, we should implicitly follow our leader Mahatma Gandhi.

Let every family offer an able-bodied person to sacrifice his or her life for the Motherland.

Though India has lost 60 lakhs of people in the last epidemic the country has survived the shock. Let, therefore, all who have any particle of self-respect come forward now and leave an example to the next generation.

Yours etc.,
AVINTAKA GAKHALE.

GIRGAON, BOMBAY;
The 18th March 1918.

VII (1).

*Extract from the Bombay Chronicle,
dated the 3rd June 1918.*

"We have no hesitation in describing this communiqué of Sir Reginald Craddock as a gross outrage on religious sentiment. Incidentally it is a grave violation of British policy in regard to the immunity of all religious and sacred institutions from interference by Government. That is bad enough, but we confess it is not so repulsive as the absolute indecency of Lieutenant-Governor Sir Reginald Craddock, in the name of British rule, actually invoking the law to aid him in perpetuating a practice which Burma Buddhists have decided should cease."

VII (2).

*Extract from the Bombay Newspaper
Selections, no. 10, for week ending
10th March 1917.*

"The people directly and immediately concerned have been treated with a studied disrespect and disregard, opposed in every way to the declarations of trust and confidence in the people and their representatives. Sir William Meyer suggested as the main reason for this magnificent generosity the resolution which

Sir Gangadhar Chitnavis moved in the Council in September 1914, with the approval of the Government of India, in respect of direct contribution to the war, and added that in their view 'the time has now come when we can safely put our wish into effect and thereby gratify still further the patriotic feelings unanimately expressed in this Council'. We do not wish to express any opinion whether this 'gift' is just or unjust or whether it is in consonance with public feeling in this country. But it must be pointed out that an altogether new meaning has been read into Sir Gangadhar Rao's resolution, which it originally never contemplated and to which the members did not certainly give their assent. Even assuming for the moment that the interpretation put upon it by the Viceroy was correct—we think it is not—it must be remembered that many of the members of the present Council were not there then and they had not committed themselves to any such course. Was it not fair, therefore, to have consulted the Council beforehand, before the Government decided upon any course of action? Had not the Viceroy and his colleagues many opportunities of meeting the Council before the Viceroy sent his telegram to the Secretary of State? Why were they not consulted at all, before a surprise was sprung upon them? We are not exaggerating in the least when we say that it came to the public as a veritable bolt from the blue. The justification which Sir William Meyer has given is the least convincing and gratuitously insulting to the intelligence of the people. Now, what is this justification that has been put forward? Sir William Meyer said in this speech, 'We have been subjected to much criticism in certain quarters for not contributing more than we have done.' We know what these quarters are. They are the organs of the Tory Press in England, which are the tools in the hands of the Northcliffe deal and that section of the press in this country which is in the leading-strings of that deal. The Government of India

have no manner of excuse to be influenced to far-reaching decisions by the mean, misinformed and misdirected criticisms of the Northcliffe deal in England and India, and the people have treated its venomous 'outpourings' with absolute contempt as it so richly deserved. There is the class of critics to which we have referred above. We do not think it will ever be satisfied until the last drop of India's blood is sucked. And then there are the British Government and the Parliament. We do not doubt for a moment their sincerity or integrity, and they have both recognised the value of India's services. If the situation is sufficiently made clear to them, we cannot believe that they will ever willingly consent to any arrangement that will still further weaken India's capacity to bear the already heavy burden. The duty of acquainting the Home Government primarily rests with the Government of India. But we say it with extreme regret that it has proved too weak in the hands of its blind critics. The Government could have assumed sufficient boldness to withstand its malignant critics, it could have done much to dispel the erroneous impression created by their mischievous activities. While it has shown remarkable activity in unjustly putting down the Indian press and platform, an impression prevails largely, that it is helpless before the strong and influentially backed organs of the English and Anglo-Indian Press. Whatever that may be, the fact remains that the Government has committed the country to a course, without even a show of formal consultation, and we believe it is the duty of the Indian public to submit to what is now inevitable with silent resignation."

VII (3).

Extract from the Bihar and Orissa Selections, dated 18th May 1918.

10. The *Sri Kamla* (Bhagalpur), publishes

an article headed "Torments of Hell" as follows:—"Firstly, it took only nine hours to pass the Defence of India Act (*lit.* Internment law); secondly, it was also said that it would be applied only to cases of offenders relating to the war. Some persons even say that the internees are sent to jail so that they may undergo more troubles there. But the manner in which internment is at present carried out, as we see, leads us to say that it is not internment, rather it is a slow process of killing.

The saddest part of the thing is that only the reports of such persons are taken to be authority as lack the ability of running about and thinking fearlessly in the matter of investigation. Many innocent persons to have consequently to suffer the troubles of the *kal kothri* (black hole). Recently two women of Bengal were arrested under suspicion that they were serving the purpose of letter boxes for the anarchists, but were discharged as innocent in the end. Howsoever well-behaved a man might be, no sooner the evil eyes of the Criminal Investigation Department fall on him then he is subjected to troubles.

Formerly it was heard that it was a practice with only the Company's Government to intern whomsoever it liked. But, when in 1896 the Natu brothers of Poona were interned without an open trial, the public doubt that no such practice existed under the direct rule of the Crown was removed, and a sensation spread among the people. However they got some consolation when they learnt that they (Natu brothers) had been accommodated comfortably in a bungalow and were not troubled in any way.

Now the Act has taken a different shape. The hair stands on end to hear of the fearful aspect of that Act and it creates indignation to hear of the condition of several of the unfortunate detenus. The proof of their sad condition lies in the very fact that some of them have committed suicide, some gone mad and died. They had not feigned lunacy, but had

really become mad on account of unbearable torments. If such persons as have passed a happy life be shut up in a black hole and (consequently) turn mad, what should we say to those who may call this madness to be a feigned one?

We say that considering the way in which the authorities keep these boys in the black holes, it would be far better if they were to be kept without food in jail so that their parents might get at least the satisfaction of knowing that their sons died as suspects. The suspicion itself is one aroused by those who look upon the whole world with suspicious eyes. And yet the reports submitted by them become gospel truth and a handle for our Government resulting in the execution of the suspects. It has often happened that some wretches of the police Department have got certain innocent persons hanged and after their execution strange facts have come to light about them. The Government ought to have at least hanged the reporters also on whose reports such persons were hanged."

"These days the blind faith of the Government in the Criminal Investigation Department has become so strong that in spite of the whole of India's unanimous voice that Muhammad Ali and Shaukat Ali are innocent it regarded as correct the only version which the detective Police gave it. The Police officers would take even the work of country's progress, patriotism, etc., to be disloyalty. Therefore the educated people are afraid of these ill-educated Police officers in taking part in the said noble works."

The paper then publishes the substance of a letter contributed under the head "Torment of Hell" to the *Amrita Bazar Patrika* by a Bengali gentleman after his release from internment in which he has given a pitiable description of the place of confinement called by him *kal kothri* (black hole) and the way in which the detenus are kept there. It concludes the article thus:—"May God grant us the day when this black hole may cease to exist in the world."

VIII (1).

Extract from a speech by Mr. P. B. Wadia, made in the Central Provinces in 1916.

"I want to prove to you that as a result of 150 years of British rule, poverty in the country has increased, and all that that poverty implies. * * * Indian Civil Service—it is neither Indian, nor civil nor service. Well, gentlemen, it is made up of our Anglo-Indian friends. Civil; you have bitter experience of it. As to service, you know how they lord over us. I know something of the grants-in-aid that come to the national institutions and to missionary bodies. I can lecture to you for two hours. But once again I might bring into hatred and contempt the higher classes, the ruling race in India. Let me pass on from education—the whole educational policy is one that makes the Indian patriot sick."

VIII (2).

Extract from the Madras Selections, dated the 6th April 1918.

Referring to the discussion in the Imperial Legislative Council on this subject, *New India*, of the 3rd April, says:—"The British element in the higher departments only draws the fat emoluments, knowing practically nothing of the actual conditions in India, for most of the men practically know not the languages of the country, and the smattering which they pick up is fruitful mostly of misunderstandings. The semi-British or partially British element in the lower grades of the department is generally drawn from the lowest ranks of society, and carries with it the stamp of its origin. Rudeness, foul and abusive use of language is usual with them; and this they do not hesitate to use against even respectable men and women. * * * The system needs a change, thorough and quick—which only means

that we must have Home Rule, * * * We cannot and will not put up any longer with the insolence of the foreigners or semi-foreigners, and we cannot see without pain our own men degenerating under the vicious system existing at present."

VIII (3).

Extract from the Bombay Selections, no. 8, dated the 4th January 1919.

In an article headed "Are the Police Department protectors or devils?" the *Anavil Sevak* writes:—It is a popular belief that ants destroy bugs. But if for that reason any one should resort to ants to be safe from bugs, he must know that the sting of the ant is not less painful than that of the bug. Formerly there were bugs in this land in the shape of Bhils, robbers, thieves, etc. Their place has been taken by the ants in the shape of the present Police Department. Those officials who think the police are doing very good work will not relish what we have said above. But if they care to know what the people think, they will find that the people look upon the police more as black-coated Yamas (deities of death) than as protectors. It becomes a serious question as to whom the public should resort to if a department maintained for the protection of the public should inspire terror like that of devils. If any complaint is taken to higher officials, the question of prestige arises. Is there any means of escaping from this terror? For death should be preferable to a life of constant terror. On one side there are laws and arms; on the other, not only have the people no arms, but even if they should use sticks or hands they would be held legally criminal. That one side can use arms against unarmed people while the latter cannot use even their hands or sticks in self-defence, can happen only in this country.

For even those who execute the law are also on the side of those who are armed. As the love of liberty grows among the people, some people will oppose this department even at the risk of life. As the lower ranks of the police consist of the vilest people, they are not likely to have any consideration for law or self-respect or people's rights. They will depend solely on their bludgeons or guns. As the people also are becoming more and more self-respecting, they will oppose the police in greater numbers, arguing thus:—"If the police can give five blows we can at least give one; but they will at least understand what it means to harass the people." [The paper in conclusion suggests remedies for this state of affairs, the chief among them being better pay for the lower ranks of the police, and the disarming of the force.]

VIII (4).

*Extract from the Bombay Selections, no. 4,
dated 25th October 1919.*

"The only reply which the members of the Indian Civil Service make to the Reform Scheme is a narrow and selfish consideration of their own immediate interests and their demand can be summed up in one word:—"Leave things as they are or buy us out by pensions and compensations and let us go.... A more barefaced and shameless demand we cannot imagine than is implied in all this, nor can a more gratuitous insult be given to the people of this country whose salt these men have been eating for all these years.... We must frankly say that we have not the slightest sympathy with these whimperings of an extremely selfish and unimaginative set of men who consider the privileges of governing this country as their birthright.... From the standpoint of popular liberty the monopoly of power enjoyed by the Indian Civil Service has never led to any good. In fact, the ideals which

have guided these men in the past have been always opposed to the most elementary principles of political liberty. Even now we find that the very greatest disservice is attempted to be done to the people of this country by the parting benediction which the Government by a service is preparing to bestow upon us. They are using even the last hour of their power for forging political fetters for the people of this land in the form of a Rowlatt legislation. Nothing seems to be too mean, so long as it would extend the undue and irresponsible power enjoyed by the members of the Civil Service.... In our opinion no agitator or seditious ever did as much 'to weaken and discredit an alien executive' as the authors of this Madras manifesto and men of their like would do if they persist in their fatal tactics. We all want that the political progress of this country should be as even and as peaceful as possible and it must be the ambition of all honourable Englishmen that if they have to part with this country, they should part leaving feelings of friendliness and gratitude amongst the people. But if such obstructionist manœuvres are resorted to by the Indian Civil Service as are foreshadowed in the movement now on foot in Bihar and Madras, then political progress must be jerky, involving embitterment on both sides forboding no good to the future to both races, who have been thrown by Providence in such circumstances. It is not too late yet to take warning and we would ask these stalwarts of the Madras Civil Service to read the writing on the wall."

IX (1).

*Extract from New India, dated the
1st May 1917.*

"Sir Michael O'Dwyer is not a son of whom Ireland can be proud. It is true that he crush-

ed out rebellion, as the Tsar crushed it in Russia, with the gallows and the Andamans, the latter a far more cruel punishment than that of exile to Siberia. Any man who has the necessary force and ruthlessness can crush, can make a desert of terror and call it peace. The poor little effort of rebellion which he killed out so harshly did not need so much judicial bloodshed and though a Viceroy may praise, the Indians condemn."

IX (2).

*Extract from the Bombay Chronicle,
dated the 14th June 1917.*

IMPERIAL DELHI!

We described yesterday the tenor of the executive policy that is being pursued by the present Chief Commissioner of Delhi. If one thing is more clear than another it is that Mr. Hailey may, with advantage to himself and to the community, be transferred to some other place. It is sufficiently known that so long as Lord Hardinge remained Viceroy of India his presence and influence assisted the Chief Commissioner of Delhi to moderate his ardour. Under Lord Chelmsford he has shown increasing signs of autocratic irresponsibility. An official who cheerfully announces to a deputation of women that he happens "to hold the handle of the knife",—as though he were engaged in a Corsican vendetta rather than in administering a British province!—who proclaims with undisguised petulance that he has "no time for argument" and that "no amount of argument would convince him", and who airily dismisses a matter of the highest public interest in the words: "It does not matter whether it is right or wrong, that is not the question; it is the opinion I have",—is hardly the fittest man at the present time to be left in supreme charge of an important province like that of Delhi. Apart from these general aspects

of Mr. Hailey's Chief Commissionership, however, it is necessary to give the widest publicity to the recent case of the Indraprastha Hindu Girls' High School in Delhi. The scandal is very fresh, and as there are elements in it of a dangerous innovation in the way of official punishment of entirely blameless educational institutions, it is necessary that public opinion should firmly resist the attempted coercion.

The Indraprastha Girls' High School was founded in 1904 with two lower primary classes only. Last year the school was raised to the status of a High School and students are being now prepared for the Matriculation Examination of the Punjab University and some for joining the Lady Hardinge Medical College, Delhi. It has 350 girls on its rolls, and had, until the unhappy difference with the Chief Commissioner arose, been in receipt of the Municipal grant-in-aid which including scholarships from the Provincial Funds, amounted to about Rs. 420 a month. The school by all accounts has been not only an efficient, but in some respects, a model institution. The late Lady Hardinge, Sir Rabindranath Tagore, the Gaekwar of Baroda, Lady Maclagan and other distinguished and competent persons have testified their appreciation of its work, and its annual reports have shown uniformly good work. Neither the Chief Commissioner, nor any other official, we may add, has at any time adversely criticised the school, its work, or its discipline. Yet because the Committee of the School declined to carry out the Chief Commissioner's arbitrary and peremptory order,—they were given two days to decide, to dismiss their trusted and experienced Lady Superintendent, Mr. Hailey promptly stopped the grant and also the payment of the scholarship money which happened at the time to be two months' overdue! This may appear incredible, but more was to follow. The affiliation of the School to the Punjab University which was pending was stopped,—although such recognition, according to the Punjab Education Code, depends alone

upon the academical standard of the institution, and has nothing to do with any other consideration. Technically, however, the withdrawal of the grant-in-aid automatically made the school an "unrecognised" one, on which ground the Chief Inspectress of Schools, Delhi, was unable to proceed with the affiliation of the institution. For the same pretence of being an "unrecognised" institution, the students of the Indraprastha School which is the largest girls' school in Delhi, has been deprived of the permission to visit the Delhi Fort Gardens one evening in the week which they shared, until they fell victims to the Chief Commissioner's wrath, with the other girls' school in Delhi. All this would be hard to beat for petty vindictiveness. But even so, the tale of melancholy meanness is not yet exhausted. The persecution of the students of the Indraprastha School is apparently to be systematic. "Bar-at-Law", whose letter appeared in our issue of yesterday, has described how the girls belonging to the institution were debarred from participating in the fête to school-children that had been organised on the occasion of the King-Emperor's birthday! On former occasions, our correspondent says, the Indraprastha School used to be included in the list of those participating in the entertainment. But this year, as our correspondent indignantly remarks, "the organisers of the fête, who pretended to get up an *unofficial* show, deliberately omitted the little girls from their list thereby indicating their sense of loyalty—*incomplete*."

IX (3).

*Extract from the Amrita Bazar Patrika,
Calcutta, dated the 28th June 1918.*

COLLEGE SQUARE MEETING IN
HONOUR OF DR. IYER.

BABU JITENDRA LAL BANERJEA'S SPEECH.

* * * * *

HONOUR TO SUBRAMANYA WHO FLINGS HIS
TITLES IN THE FACE OF THE BUREAUCRACY.

Gentlemen, I ask you to pay particular attention to the way in which the first resolution has been framed. This resolution consists of three parts. In the first place we express our appreciation of the conduct of Subramanya Iyer—I shall call him neither "Sir" nor "Dr." but simply Subramanya Iyer—the man who without titles is the greatest of the modern living Indians (loud cheers)—to express our deep reverence for his conduct in repudiating the insignia of his titles. This is the first part and I ask you to notice it particularly. There are other people, there have been other Indians, who have refused to accept titles—that is a different matter. There was the late Mr. Gokhale (cheers) who refused the title of K.C.I.E. There is Mr. Narottam Moraji Gokuldas of Bombay who also has refused to accept a knighthood. These things stand to the credit of the gentlemen concerned; but the case of Subramanya Iyer stands on a different and more remarkable footing. Here is a man who did not refuse to accept an honour but who flung it unhesitatingly (loud cheers) in the face of that unworthy bureaucracy which had granted it to him once. Viewed in this way, the thing was unknown among us before. When self-respect demanded it Subramanya Iyer flung it in the face of the Bureaucracy—flung them in the face of the English people, if you will allow me to say so: for Subramanya Iyer is nothing if not a genuine Indian—he knows that no foreigner, no alien, can honour a native son of the soil (loud cheers). Gentlemen, if we must be honoured, it is from ourselves that the honour must come: it is from the approbation of our countrymen—from the sanction which the country lends to our activities—not from anything else.

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MR. MONTAGU'S GENTLEMANLINESS

Gentlemen, so far about the chief part of the

resolution. As regards other points, I have little to say, there is for instance that portion where we condemn Mr. Montagu for his offensive language. To me it seems that this part of the resolution is almost superfluous, because I believe, that whatever an alien people may say or think, it does not matter. In fact, we shall be justified in going contrary to their opinion as a rule. If they praise one of their men, that will be a signal to avoid him; if they detest and hate a man, that will be an index that here is a man in whom there is stuff. This is the rule of interpretation upon which I ask you to go. As for Mr. Montagu, what better could you expect him to know or do? A Jew upstart! How could he have better manners? And how could you expect that he would appreciate the greatness and magnanimity of Subramanya Iyer?

TRUST NOT THE GREEKS EVEN WHEN THEY
COME WITH GIFTS IN THEIR HANDS.

As for the rest, I say to-day what I have always said: The Romans were wise when they said "Timeo Danaos et dona ferentes" "Do not trust the Greeks even when they come with gifts in their hands." And I say to you—do not trust bureaucrats even when they come with boons and promises in their hands (loud cheers).

IX (4).

*Extract from the Madras Selections, dated
the 24th August 1918.*

Referring to a speech said to have been delivered by Sir Reginald Craddock, the Lieutenant-Governor of Burma, in which he is reported to have threatened the people of Burma that he would crush every attempt by them to secure privileges, and spoke disparagingly of the Indians also, the *Desabhaktan*, of the 16th August, compares this Lieutenant-Governor to the "German Kaiser," and asking its readers

to judge for themselves as to the nature of the progress that the people of a province can attain, if the provincial heads under the British administration have the qualities of the Kaiser, observes:—To attempt to have the administration of either India or Burma carried on with the aid of officials of this type, will only pave the way for the overthrow of the British Government. If it is the wish of the Government that there should be amity between the rulers and the ruled, we will urge that it is the duty of the Viceroy to teach Sir Reginald and other officials of his like what it is to restrain one's tongue.

X (1).

*Extract from the Madras Selections,
dated the 9th March 1919.*

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New India, of the 5th March, states:—"A closer study of the operations, carried on by the Government of Assam and Burma to force the members of the Assam hill tribes to join the Labour Corps, leads one to some very interesting inferences, especially when one notes the War Aims of the Allies as stated by the most prominent statesmen of the world. Several German colonies are occupied by people as semibarbarous in nature as those whose villages have now been destroyed by the Government of Assam and whose houses have been set on fire. And Mr. Lloyd George has stated it as the opinion of all British and Allied statesmen that even those colonies must be given the right to choose what form of Government they would like to have, after the War. When that is the happy promise held out to those African people, what do we find the agents of the British Nation doing in India under the Union Jack? . . . As it is, we have abundant evidence showing that, apart from remembering the high sentiments of Mr. Lloyd George or President Wilson,

the Bureaucrats in India have been, with respect to these hill tribes, behaving in a way not quite different from what we have heard from Lord Bryce regarding the atrocities in Belgium. This comparison will perhaps sound unduly harsh. But what difference there is between the destruction in Belgium and the destruction in the Assam hills we fail to understand. The brute force in all its hideous nakedness is found perpetrating its havoc in both places. . . . We admit that the strata of society to which these miserable hillmen belong is not quite so high as that of the Bureaucrats themselves. But certainly that is no excuse for treating them in such a cruel fashion. To destroy villages on such a systematic scale and to harass people until, finding no other alternative before them, they surrender to any conditions of life that may be imposed upon them—are these practices to be tolerated by a civilized nation like England? We are confident that if the story should be revealed in all its tragic inhumanity to the British Nation, the real nature of the Bureaucracy will be known in a single day. Anyhow the mischief has nearly been done and we appeal to the Viceroy and to the Secretary of State to order an immediate cessation of the brutality, and institute a searching enquiry to find out who are actually responsible for initiating them.”

X (2).

*Extract from the Madras Selections, dated
the 23rd November 1918.*

(a) Police.

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The *Hindu*, of the 18th November, states :—
“The report of Mr. Paddison, District Magistrate of Madura, with the order of the Government thereon, dealing with the shooting incidents at Madura on the 27th September last, has now been published, and, we desire to say

with all deference, it throws a most lurid light on the proceedings of the authorities and the perverse attitude assumed by the Government in relation thereto. . . . We need not say at the same time that the extremely defective procedure and the entirely one-sided and biased material that has been dealt with by the District Magistrate have entirely vitiated the findings of the report. But no one would have been prepared for the surprisingly laconic and, in the circumstances, unsympathetic order with which the Government have wound up the whole of this painful affair, involving the death of two innocent people by the mishandling of the police by their superiors and by the admitted negligence on the part of police men in using dangerous fire-arms.”

X (3).

The *Hindu*, of the 20th November, observes :—“The resolution moved by the Hon'ble Mr. B. V. Narasimha Ayyar at the meeting of the Legislative Council held yesterday regarding the holding of a public inquiry into the shooting incident in Madura was supported by almost all non-official Indian Members, but opposed by Government with the result that it was eventually defeated. The public have been following the attitude of Government in respect of this question from the beginning of the deplorable episode and they could not feel surprised at this exhibition of indifference to popular feeling, but the statement elicited from the Government spokesman unmistakably proved on what slender basis their stout resistance to a public inquiry is founded. . . . We would ask, in all sincerity, how has the Collector's report helped the proper understanding of the criminal misdeeds of the Police on that day at Madura? There are no definite findings on the essential issues which may go to fix the responsibility for the awful

blunder committed and it is monstrous that the offenders, be they high or low, should not be discovered and brought to book because the Collector is not able with the materials at hand and by means of a defective and irregular procedure, to solve the intricate questions that he had to deal with. . . . It is one of the saddest features of this gruesome tragedy that while the Police, who misbehaved and killed two innocent men, are commiserated on the 'tight' position in which they found themselves placed—a fact which is denied—no warm words of regret have been forthcoming in respect of the unhappy people who were set on their march to the other world by the rifles of the Police constables. . . . The Government's reluctance to have the disgraceful shooting affair at Madura properly investigated has caused deep and widespread public indignation and their adamant attitude yesterday, in spite of the advice offered by non-official Indian members, is not calculated in the least to allay public dissatisfaction."

X (4).

Writing on this subject, *New India*, of the 20th November, says:—"The fate of the resolution on the Madras shooting scandal was sealed from the moment the Government of Madras decided to oppose it. . . . That the responsible Government of a large Presidency like Madras should itself be satisfied with so contradictory or paradoxical a report as that submitted by Mr. Paddison, or should expect the public to be satisfied with it, creates a situation which, we frankly confess, cannot but shock any impartial critic."

XI (1).

Extract from the Madras Newspaper Selections, dated the 19th January 1918.

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In the course of a leader under this heading,

the *Naradan*, of the 5th January, describes the Indians as having been asleep for a long time and as having woke up suddenly to find the country changed in many ways and says:—"They found youths following their religion, being converted to foreign faiths by artful devices of the foreign religionists and the parents of such youths paralyzed against taking any steps in the matter by the secret support which these religionists commanded. They found the people of their country being subjected to indignity in several ways in their own motherland and foreign countries by a set of people, who considered themselves heaven-born, and shedding tears, unable to remedy the situation. They found cattle, which were essential for agriculture and other purposes, getting bony day by day on account of want of pasture and being killed to serve as food for some inhuman and petty minded men. They found their countrymen dying of hunger, not being able to earn even for half a meal, though they worked throughout the day. Finding the country in this condition, they began to think over the method of improving the same. They saw other countries in the world throwing away a system of autocratic Government and either establishing or trying to establish a democracy. They also understood that the benign English Government have entered into this war only to root out autocracy and promote democracy. Seeing that all the income of India was spent against her will and that there was not sufficient money to do things which are beneficial to her people, they decided that, if India was to progress, the revenue of India should be spent for purposes beneficial to the Indians and that all fiscal responsibility should be transferred from the hands of narrow-minded bureaucracy into those of the representatives of the people. They concluded that the interests of Indians should be attended to first in India and that the country should be ruled sympathetically in the interests of the people. Those conclusions of the wise among the Indians are favoured by the English Labour

Party and also the Colonies. At this juncture some saintly people have cropped up admitting that they are not men and that they are fit for no other work than to hew wood or draw water and objecting to the advancement of others among their countrymen, however capable they may be, on account of the sin of their having been born in the same country. These can never be persuaded to realise the inaccuracy of their views by any reasonable arguments. But, as our Secretary of State for India, who is the very embodiment of knowledge and love, is now touring through the country and listening to the grievances of the people from popular representatives, we feel sure that, as soon as he reaches England, he will see that the hardships of the Indians are removed and they attain the same freedom as is enjoyed by the people in other parts of the world."

XI (2).

Extract from the Madras Newspaper Selections, dated the 19th January 1918.

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The *Swadesamitran*, of the 5th January, observes:—"India was not a poverty-stricken country before the advent of the British. The people of this country had an enormous amount of capital with them; for they sold several kinds of articles to foreign countries and received cash in exchange. Where has all this wealth gone now? The major portion of it has gone to England, and this not only strengthened the financial condition of England, but also made it easy for her to increase her wealth further. It has been stated so late as 1882 by eminent Europeans that the capital of the Europeans was gathered in India and that no capital was brought into this country from England. How can, then, the argument that the Europeans had invested their capital in India at the time of the East India Company hold

water! Every one should note that, about a hundred years ago, several industries were flourishing in India and Indian trade was carried on even outside India. These industries and trade were ruined on account of the selfishness of the English. It is after this that it became impossible for the Indians to invest their capital in industries to trade and they had, therefore, to deposit it in Government Banks for interest. These Banks lend their money mostly to European companies and such companies not only make immense profits by means of their trade, but also set afloat a theory that they have invested enormous sums of money in India."

XI (3).

Extract from the Madras Newspaper Selections, dated the 26th January 1918.

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The *Andhrapatrika*, of the 16th January, continues:—"After the battle of Plassey and before the battle of Waterloo, 150,000 lakhs of rupees went to England from India. Sir George Birdwood says: 'We got everything through India. It is India that raised to eminence the British Isles which lay in some neglected corner of the world like Japan, and established a big Empire never before known to the world. We ought to be very grateful to such India.' We cannot but say that Sir George Birdwood has written the truth. . . . Mr. T. Macan (?) said in reply to a question put by a committee in 1832: 'I believe that money is not in fact taken as capital to India from England. Money is collected in India and sent to England.' In those days it was deemed unbelievable that European industrialists should take money to India. Conditions might have changed since. But a committee like the Parliamentary Committee should be established to lay bare the real facts. . . . A century ago, Indian

industries must have been in a very flourishing condition. Internal and foreign trade also must have been thriving in India. It has been stated in this (*Modern*) *Review* how the commerce and trade and industries in India have declined on account of the selfishness of the British people of those days. There are no industries in this country in order that Indian money may be invested therein. So money has to be deposited only in banks. These banks were first established by the Government."

XI (4).

*Extract from the Madras Selections,
dated the 8th June 1918.*

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Remarking that in spite of the fact that the increase in the railway fares after the beginning of the war has brought in a large income to the Company, the third-class passengers who contribute a major portion of this income are put to a great deal of inconvenience of these railways, the *Vartakamitran*, of the 2nd May, says:—"The wealth of India is being drained through railways and merchants and in the shape of taxes and salaries of European officials. How long is this drain to continue? Famine and disease are increasing in the country, and the poor people are getting poorer day by day. What is the use of taking away the money of the poor in India and filling the pockets of the rich in Europe therewith? Is this just? Is there at least a larger measure of convenience in proportion to the increased fares paid? No. Under these circumstances, it is indispensable that the increase in the railway fares should be cancelled, as it affects only the poor."

XII (1).

*"Amrita Bazar Patrika," dated the 10th
March 1914.*

"If it is sin for a few 'black' men to study 'white' men's bodies on the ground that they will eventually have to practise among 'blacks', how is it that 'white' men, after having studied the bodies of their own countrymen, come out to India to practise the same sin? But it is not only white medical men and women who are flooding this country, but 'white' men in various other capacities are coming in hordes and battalions, into the 'black' men's country to take the bread out of the latter's mouths."

XII (2).

*"Amrita Bazar Patrika," dated the 27th
December 1915.*

"The surest way for a nation to grow poorer and poorer is to purchase foreign articles. This is the main cause of India's great poverty, the other important cause being the maintenance of the most expensive Government in the world which again is run not by the children of the soil but by a very highly paid body of aliens, holding all posts of power and emolument, civil and military. * * * Englishmen who flooded India with their manufactured things and denuded her of her wealth by selling them to her people could never realise the gross economic wrong they inflicted on them by their commercial drain."

XII (3).

*Extract from the Bengal Selections, dated
the 13th October 1919.*

Referring to the meeting of the European Association, the "Hitavadi" (Calcutta) of the 5th October writes as follows:—"The white merchants' demands." follows:—The European merchants demand that the administration of

the country should not be carried on either by the British Cabinet or by the Government of India but should be made over to them. They further hold that the people of the country should have no hand in the administration. The recent meeting of the European Association, however, differed from that held to protest against the Ilbert Bill in this respect, that it was carried on in a rather gentlemanly way. What they fear most is that any concession to the Indians may prove fatal to their interests. They say that this is no time for giving the people a hand in the Government of the country, for a majority of them is uneducated. But we may ask why they are so. Had the system of compulsory primary education been introduced here the case might have been otherwise and there would have been no ground for pleading such useless arguments. It is indeed vain to say that the progress of India depends on the co-operation of the European merchants. Had that been the case there would have been no progress either in China or in Japan. No doubt you have invested a large capital in India but we are sure you are not inspired with the idea of benefiting the Indians for in that case you might have felt shy to fix the price of jute exclusively for your own advantage. The network of railway lines in India is not constructed from a benevolent motive but for your own gain. You are draining India in every respect and getting fat with India's money. Our words might excite your anger, but a close examination of facts cannot lead to any other conclusion. When Germany began her submarine campaign you stopped the export of foodstuffs from Great Britain; but when Indians die in hundreds every day for want of food during famine time you preach the maxim of free trade. You say you belong to India, but your connection with India can never be very friendly. You come with the object of making money and the good of India is never uppermost in your mind. When you find anything happening that might affect your interests you lose your

temper and speak evil of the Government. Now if that be the case, how can we leave the administration in your hands? Cannot you carry on trade without a hand in the administration? Then how is it that thousands of Europeans carry on trade in China and Japan? You have come to trade and not to live here. Why then do you claim representation in municipalities and District Boards, and why are you afraid when there is a majority of Indians in Legislative Councils? You say popular opinion is on your side. But that is never the case. Some of your Indian employés may humour you with such vain flattery, but such things can never carry weight with the Government. You say you are not opposed to the legitimate aspirations of the people: then why are you so loud in your agitation when Government proposes to make some reforms in the administration? Would you lose or would Government lose by it? One of your speakers the other day remarked that self-government could not be given to Indians even by way of initiation; for if they failed the Europeans will have to set the system of administration right once again. But we know where your difficulty lies. If the people of the country get any political right your arbitrary power might receive a check. And it is for this that you say that the Queen's Proclamation and the decision of the Cabinet are but meaningless things. We are not opposed to your legitimate aspirations, but remember you cannot get more than what you really deserve. If this does not suit your purpose you might bid good-bye to the country. We are not haters of "white" people, nay we have the greatest regard for them, but we hate those who want to keep us in eternal bondage and treat us like beasts.

XII (4).

*Extract from the Madras Newspaper Selections,
dated the 19th January 1918.*

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In the course of a leader under this heading,

the *Deshabhaktan*, of the 5th January, writes:— It is unjust to make the people of a country work like slaves, ruin their industries and benefit the people of another country by carrying away all the raw products in the former. It is the European merchants that abound in our country. It is they that enjoy the pleasure of this land. Our people have perhaps been created by God only to cultivate cotton and packing it in bales, export it and be kicked and beaten by the Anglo-Indians. If our people had not learnt English, bought western articles and adopted western civilisation when the Englishmen came to India, they would not have come to this pass. We are ourselves responsible for our misery. If every Indian would follow the life of Mr. Gandhi for one year, our object will be achieved soon. If India has not advanced in trade now and is not in a position to help England at this critical juncture, the fault lies not on the Indians. It is not fair on the part of the Englishmen to suspect the Indians still. India loves England sincerely and her only prayer is that this feeling should be reciprocated. That would improve the industries and trade in the country. It is sure they cannot improve under the existing system of administration. Mercantile freedom can be obtained only under Home Rule. Artisans! Merchants! Try to acquire Home Rule soon. Co-operate with the leaders for this purpose and agitate for it on constitutional lines.

XII (5).

Extract from the Madras Selections, dated the 8th June 1918.

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In an article under this heading the *Vartakamitran*, of the 2nd May, dwells at length upon the innumerable difficulties the Indian merchants have to contend against and lays special stress upon the following points:—As all the

railways are under the management of Europeans, Indian merchants are not given the same facilities in the matter of the supply of wagons as are afforded for the European merchants. Institutions like the Madras Bank, which deal mostly with the money of the Indians, are not as helpful to the Indians as they are to Europeans. Then again as the European merchants move closely with the executive officials in India, they come to know beforehand of all the legal measures proposed to be undertaken by the Government. The Indian merchants have not this benefit. When the Government begin to help industries, the European merchants get a larger share of it. For example, though the merchants dealing in skins in South India are mostly Muhammadans, a larger number of the contracts of the Government were given to European merchants.

XII (6).

Extract from the Bombay Newspaper Selections for the week ending the 5th January 1918.

The address of the Bombay Chamber of Commerce is most 'illuminating' reading. It shows how thick-skulled some European merchants are, how impervious to facts, how incapable of reasoning, how irresponsive to the call of the Times. 'The present system of administration in this country is just, efficient and stable'. . . . Thus hold forth the inspired merchants from Europe. 'The vast bulk of the population' no doubt desire to be allowed to work under a just and stable Government. But the vast bulk no longer believe either in the justice or in the stability of the present Government. The unsophisticated Indian, the man of the masses if you can cultivate his confidence and get him to speak out his soul will tell you that in the British Raj injustice of various kinds has become 57

widespread and galling that not a soul exists but must with the present Raj radically mended. . . . Even the semi-inspired and wholly inspired anti-Home Rule Associations have, almost all of them, with negligible exceptions, directly or indirectly affirmed that the present Government is not a just Government. Stability of Government is dependent upon its justice, in no small measure. When, therefore, people lose their belief in the justice of a Government, they come naturally to lose their belief in its stability. . . . Every other claim that the Chamber has made in favour of the present system of administration is as baseless as the one we have dealt with. The bureaucracy is unjust, inefficient, intolerant and oppressive. It is transparently partial and has lost the confidence of the vast bulk of the population. Under it India has become poorer and poorer (we mean Indian India and not Anglo-Indian India), until now the load of poverty has become unbearable."

XIII (1).

*Extract from the "Bombay Chronicle,"
dated the 12th July 1917.*

ALLEGED REIGN OF TERROR AT DADAR.

To the Editor of "The Chronicle."

Sir,—It is with a heart sinking under the dead weight of sorrow, that I am now seeking adequate words of expression to describe the state of terror that has recently been established in Parel through military lawlessness. How can one control himself when he knows that poor innocent women, going to work in the mills, are being actually carried off by some inhuman military brutes? How can you control yourself if you understand that with all the blessings of British rule in this land, innocent poor women of this *Bharatvarsha* are being spirited away by some mysterious Tommies, and their chastity violated? Dear Editor, you may

take all these to mean, mere fables, but believe me, I am prepared to personally take you to the scene of occurrence and prove everything with evidence. During the last week about four women were forcibly carried away by some militarists near the Government House at Parel and as a result of this all the mill-hands of the Jacob Sassoon and Gokuldas mills collected together last Saturday near that locality determined to fight for the protection of their women's chastity, even if an army were to oppose them. The latest, so far as I am aware, occurred last Monday when a woman (a mill-hand) was actually carried away by force by a party of militarists who came in a motor car, just before the gates of the G. I. P. Stores, placed her in the car and spirited her away in broad day-light (at about 12 noon.) As a result of this the chivalrous reelers of both the above mills abstained from attending to their work that day as a protest against this sort of lawlessness. Dear Editor, my heart is so full of sorrow, pity and indignation that I know not what more to pen. I trust you will not fail to take up this matter in your hands in right earnest even as you did in the case of the "War Loan Ramp."—Your, etc.

Indignant.

XIII (2).

*Extract from the Madras Newspaper Selections,
dated the 19th January 1918.*

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112. The *Andhrapatrika*, of the 8th January, reports Diwan Bahadur P. Kesava Pillai to have written to the *Indian Patriot* regarding the condition of labourers in the Madras factories:—In the Buckingham and Carnatic Mills a pass is given to every 27 men to use a latrine, to answer the calls of nature. When one of the 27 men is in the latrine, no other man is permitted to enter it, however urgent his call may be. On one occasion a workman who was not

so permitted was obliged to answer his call of nature in the way. The matter having been reported, one of the Mill's authorities dragged the workman to the entrance of the latrine, kicked him two or three times, pulled him down on the workman's excreta and ordered that such things should not be repeated. Big officers may now say that there are no such rude men in the factory authorities. But there are reasons to believe that this account is true. . . . Good houses have been provided for Europeans and Eurasians. They have no troubles at all. . . . Indian workmen have heavy work to do. They are very much dishonoured. Their wages have not been increased to any the least extent. . . . It will be proper to enquire into the condition of workmen at once.

XIII (3).

*Extract from the Delhi Selections, no.
dated the 25th January 1919.*

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The *Vijaya* of the 6th January 1919 contains an article entitled "Listen to the voice from the jails." The editor desires to draw the attention of Government to the voice which comes from jails. This is the voice of those who have been incarcerated merely for political reasons, of the victims of the Criminal Investigation Department, of those who have been sacrificed at the altar of "Gora-Shahi." New victims are being jailed or interned daily and the voice is consequently swelling in volume every day. During the war Government might pretend not to hear this voice since the noise of the Great War drowned all their cries, but now they cannot pretend to be unaware of it. It is not merely the voice of the prisoners but the cries of their helpless women and orphans. These cries when combined with those of the prisoners make a heart-rending an intolerable sound.

The editor then discourses on the spirit of

liberty which has spread over the world and the freedom enjoyed by hitherto oppressed countries. He compares this pleasant state of affairs with the lot of political prisoners in India and warns the "Naukar Shahi" Government that it was inattention to such matters that caused the ruin of Aurangzeb and the Tsar of Russia.

The whole of India, he continues, has turned into a dreadful jail. A political prisoner is rotting in every town and village. This appalling stench is awful and we understand that even "Victorious Britain" (to quote the *Pioneer*) cannot ignore it. The intolerable troubles of the Rishis hurled even (Nahush?) from paradise to earth. Does our merciful white Government believe itself to be everlasting, immortal and eternal?

The sighs of the helpless and innocent cause even the greatest rulers to fall. It matters not whether one is black or white; whether one ties a turban or wears a hat. The mournful sighs of the innocent can overthrow mountains and bring oceans into being. This voice is heard to-day from every corner of India. Will the white Government of India not listen to it. If they refuse to hear it, and hear it soon, the result will be very bad for India and for those rulers who are responsible for this mournful voice. It should be remembered that where man's power can do nothing, God's power can do much; where the short arm of man cannot reach, the long arm of God can reach. Beware!

XIV (1).

*Citation from the "Pratap," dated the
19th June 1916.*

Oh slavery, why art thou relentlessly
pursuing us?
Have some pity at least now, why art
thou pecking at the heart?
Thou hast taken away wealth and glory
and hast deprived us of freedom.

What has been left with us now that thou,
 accursed one, art casting greedy looks?
 We are well covered with the robe of poverty.
 O Tyrant, why are thou slaughtering us
 starved though we are?
 Leaving the whole creation thou hast settled
 here;
 O accursed one, why dost thou intend to
 suck our blood?

XIV (2).

"Commonweal," dated the 18th August 1916.

"In every country that is ruled by a foreign power, patriotism is banned as sedition and love of liberty is a crime. Loyalty in India does not mean loyalty to the King-Emperor but the support of foreign domination, embodied in the administration as it exists."

XIV (3).

Extract from Bengal Newspaper Selections,
 no. 39, for week ending the 29th
 September 1917.

The *Nayak* (Calcutta) of the 24th September writes that as the "A white mutiny." rulers of India had to cope with the Sepoy Mutiny, the Sonthal rebellion, the Wahabi insurrection, etc., so they have to put down white mutinies also from time to time. Such white mutinies have occasionally broken out in India since the days of Earl Canning. The first white mutiny occurred when Lord Canning proclaimed a general amnesty and tried to restore good Government to the land. The whites called then for the summary execution of all blacks and deprecated any policy of clemency towards them. The second white mutiny took place during Lord Ripon's regime. That Viceroy wanted to grant self-government to educated Indians and remove the differences

between blacks and whites in regard to criminal procedure. This infuriated the whites. Mr. Branson, Barrister-at-Law, abused the Bengalis, and was in consequence forced to leave the High Court. The third white mutiny is just beginning. Mrs. Besant and her associates have just been released. Sir Michael O'Dwyer from his place in Council has abused Indians other than the Punjabis in unmeasured terms. Lord Chelmsford, fearing that a most unpleasant situation would arise if the Indian members of his Council were to reply to His Honour's speech, has made the Lieutenant-Governor apologise. And, finally, there is Mr. Montagu coming out to India to effect radical political changes in the country. These three things have driven the Anglo-Indian community frantic and they will hold a meeting at the Dalhousie Institute, abusing the blacks and setting up a tremendous agitation against the blacks securing Home Rule. They will also take the opportunity of abusing Mr. Montagu and Lord Chelmsford. As for the cause of this white mutiny whenever the rulers of the land propose to give the blacks any kind of political rights, whenever they intend to grant any prayer made by the conquered and dependent Indian people to treat them with benevolence, the Anglo-Indian community imagine that their own rights are threatened, and they set up a tremendous howl of protest. This has been the cause of all the three white mutinies since Earl Canning's days. The spokesmen of the whites have repeatedly declared,—(1) The blacks—the Indians—are their conquered, dependent subjects and they must therefore be trodden upon for all time. (2) They will never allow the blacks—the Indians—the conquered and dependent people—to be equals of their ruler in any respect. The slightest effort to that end infuriates the whites and drives them to mutiny. (3) The blacks—the Indians—a conquered and dependent race as they are—are not fit for anything better than carrying out a white man's behests and rendering him

service. These Indians must not be allowed to raise their heads. They must not be granted self-government, their wishes must not be conceded, they must not be encouraged to be self-reliant. However competent they may be, they must always have a European superior. (4) The blacks—the Indians—being a conquered dependent people, are like Sudras slaves, who must not be allowed to occupy an equal place with Europeans, to use the same railway carriages, to travel together in steamers, or to be tried equally with Europeans in the same law courts. Nay, even for the performance of the offices of nature there must be different places for Europeans and for Indians and they must not dine in the same hotels. The mere contact with them makes the white lose caste: while if they touch them ought to purify themselves by means of a bath, so they must keep them at a distance. Any deviation from the conditions set forth above converts the whites into a set of rabid dogs. In these critical times of war, on a review of all conditions, Mr. Montagu wants to confer political rights on Indians, so that the country may continue well-governed. The Anglo-Indian community are impervious to all such considerations, they think only of the immediate present, and like bulls which have managed to escape from restraint, they want to charge at the blacks with their horns. They have no thoughts of the future. Hence they are eager to conserve their own interests in the fullest measure. As for the blacks, the wiser orthodox Hindus are clearly of opinion that Indians should remain in the condition of conquered, dependent subjects. They do not want that they should be equals of the whites. In the eyes of orthodox Hindus and Moselms, the white Christian Englishman is untouchable, so they do not want by any means to assimilate their condition with that of the white Christian ruling race. These orthodox Hindus declare that they want to remain in their condition of slaves, of a conquered, dependent people. They do not want

Home Rule, or equal political rights with the whites. They do not want to travel in the same carriages or steamers with Europeans, to frequent the same hotels, to perform the offices of nature in the same places or to use the same dress. They wish that the widest distinctions possible should subsist between the two communities. As a conquered dependent people they hold that their duty consists in paying the taxes and obeying the laws. Consistently with the discharge of this duty they hold that they should keep themselves as far aloof from their rulers as possible rendering them no assistance whatever in ruling or defending the Empire by subscribing to funds, contributing to the War loan or sending their sons to fight on the battlefields. So much for the orthodox Hindu view. The views of Anglicised Indians are rather different. They point out that between them and their rulers, the only difference lies in colour, while in many respects they are superior to the latter. So they demand equal political rights with their rulers. They insist that Englishmen cannot govern India alone without the help of the blacks. So let both the races consecrate themselves to India's service, in the future as in the past. And let there also be equal rights between the two communities, a cessation of all political differences between the two. The rulers of India at times make some efforts, however halting, to grant the prayers of educated Indians. Many of them have instilled high hopes into the Indian mind. Home Rule is an idea which originated with them. In one of their aspects they intern Mrs. Besant and in another they release her. It is they who make us weep one day and laugh the next. If we laugh immoderately, the non-official Europeans come barking to bite us. And then we shrink within ourselves. Certain recent happenings might possibly have a tendency to make us indulge in immoderate exultation and hence non-official Anglo-Indians are frowning at us: Jackal-like, the Englishman and the Statesman have set up a tremen-

dous howl and Sir Hugh Bray's braying is tormenting our ears. These are signs of the outbreak of a white mutiny. But is it real or a mere make-believe? Is it a mere political trick on the part of the ruling race? The whites, official and non-official, are all bound together by a common sympathy. They frequent the same clubs and enjoy a common social life. There is the bond of kinship also frequently subsisting between official and non-official Europeans. So it is likely that they discuss the subject of Indian administration in common and that European merchants know many of the secrets of the ruling body. So it is not probable that these merchants have suddenly become angry and are raising this white mutiny. It is all merely a trick on the part of the ruling race. One set of Europeans want to conciliate us by means of sham concession, while another set reserves its favours for the non-official European community, and sets it against the blacks. It is by this mixed policy of conciliation and baiting that India is being ruled. It is all humbug. Tricks like this can no longer delude Indians who are now wide-awake. Since the Europeans have been found out, they should, if they are wise, change their tactics. If they do not, they will be cruelly deceived this time.

XIV (4).

Extract from the Delhi Selections, No. M. O.-8, dated the 9th March 1918.

The *Hindi Samachar* of the 19th February 1918 has an article entitled "White and Black." The editor says that the whites imagine that they possess a divine right to govern the blacks and that therefore any black who grumbles and demands liberty is mad. The whites think that there can be no greater disgrace than to be black or to be born of an Indian mother in India, and therefore the blacks cannot be

further disgraced whatever ill-treatment they get. Indian soldiers by shedding their blood and sacrificing their lives in lakhs have won East Africa for the British, but they are excluded from the southern part of the same continent. There the railway station has a special part into which only whites can go and separate railway carriages are kept for Indians, who are not allowed to travel 1st or 2nd class.

Continuing in the same strain the editor refers to the exclusion from Zanzibar of Messrs. Ghulam Rasul and Badruddin, Barristers-at-law, and says that when perforce they returned to India the Commissioner of Police of Bombay would not even let them remain in that city. The whites, he concludes, cannot bear to see the blacks make any progress, and the more the Indians weep the more the whites laugh. Swaraj is the only remedy.

XIV (5).

Extract from the Bombay Newspaper Selections for the week ending the 23rd March 1918.

Referring to the resolution of Pandit Madan Mohan Malaviya, on Police character'? Kesari service, in the Imperial (107), 19th March. Legislative Council, the *Kesari* says that the Public Service Commission could not debar Indians from the Police service when they were admitted to the Indian Civil Service, but that the reduction of the age limit and five years' previous residence in a public school virtually kept the bar intact. The paper further remarks:—Sir William Vincent who was already angry with the Commission for having allowed the small privilege was quite beside himself when Pandit Madan Mohan moved the resolution, and he began to make absurd statements. We do not wish to consider other points involved in Sir William's speech. We shall deal with the point of

'British character' which, he often reiterated with emphasis, was necessary to preserve in the Police service. This British character is a mystery to us. It is possible to examine and make some convincing statement about the character of an individual or about a group of individuals. As there is no similar test about a nation's character guarded statements should be made about it. Sir William said that there was everywhere disorder in this country a hundred years ago and that the peace which was reigning at the present time was due to the British character. We cannot take a particular period in the history of a country and fix its character without murdering logic and laws of inference. If 1818 is to be taken as the basis for the examination of Indian character, why should not the present war be selected for the examination of the character of the European nations? What were the views of the British about German character ten years ago and what are they now? Can we make a correct estimate of the British character from the statements occasionally made by many European nations about the perfidy of the English and from the German ideas about the British character that may be published in the German Press in these days? Peace may be of two kinds, with life and without life. Can Sir William say with certainty that the peace he boasts of having established in India is of the first kind? The peace that was established by passing laws of the kind of the Arms Act and by restricting military training may more correctly be described as the peace prevailing in a cemetery. The Indian people are mild, god-fearing and not inclined to override law, and the authorities naturally get the credit of preserving the peace in the country. But there is no reason to believe that they have extraordinary powers of maintaining peace, judging from their bewilderment when they have to deal with a strike or riot in England. Are all those that come under the term British possessed of the same qualities? If Irishmen

capture all the posts in the Police service, are we to suppose that the British character is maintained? Colonials can appear for the Police examination. If French Canadians and Dutch Africans enter the Police service, is the British character preserved? If it is not changed by such an admixture, why should it be changed for the worse by the inclusion of Indians? Why should Indian candidates be directly or indirectly excluded on the hollow ground of maintaining the British character? The word "Indian" includes as many or more elements than the word "British." Is it not rashness on the part of Sir William to say that the British character is superior to the character of the whole body of Indians? It would be a perversion of facts to say that British character is superior judging from certain instances alone. What do we find when we take a few instances of the conduct of Indians and Englishmen towards one another since their first contact? When Indians and Englishmen came together under Clive, the former drank gruel and gave the rice to the latter; did it prove that their character was inferior? Who is better, Omichand who helped the English or Clive who forged deeds and deceived Omichand? Who will be found to be on the lower level, the Begums of Oudh who entreated Warren Hastings not to persecute them as they had no money or Hastings who oppressed them? Who will have to hang their heads down with shame, when we compare Dalhousie who annexed State after State and the heroic Laxmibai maddened by disappointment? Let us look to present instances. If we compare white planters oppressing their labourers and Gandhi, or Casement, who rebelled in Ireland aided by German munitions and the Ali Brothers who ask for an open inquiry, the British character will be adjudged superior, will it not? It may be objected that we have selected bad instances from one country and good instances from another. But when it is pretended that the British character of any,

particular department is spoiled by admitting Indians into it, we have to show that among the British also there are many bad people and that the class now debarred contains many "hidden jewels." Where then lies the sense of raising a false cry of British character? The word "British" has become so very comprehensive that it bears no special meaning now. Those who object that Indians cannot maintain peace should look about them and see that there was no disorder in those districts in Bengal, the centre of anarchist outrages, which were managed by Indians. All will admire the way in which all officials are discharging their duties without any fear, though the anarchists have claimed so many Indian Police officials as their victims. Sir William Vincent himself admits that Indians possess detective skill. Nobody can raise any objections as regards the Indian intellect. Nobody can say that Indian officers take bribes and that Europeans are free from that vice. What then is the meaning of the cry that the British character of the Police Department will be spoiled, if Indians are admitted, in these circumstances? We can understand if we are plainly told that so many posts are reserved. But when the cry is raised that British character is destroyed, in order to hide selfish objects, it is necessary to ask what this British character is, what its qualities are, and in what part of the British dominion it is born and whether it is never produced in India.

XIV (6).

Extract from the Central Provinces Selections, no. 34, dated the 21st August 1919.

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While writing under the heading "A harrowing case," the *Maharashtra* (Nagpur) refers to the incident in which one railway passenger Khudabaksha was shot with a pistol by Lieu-

tenant Plunkett, and to the sequel in the case against the latter, and goes on to observe:— If Plunkett was discharged by the Judge, Mr. Broadway, on the plea that the accused was a mere stripling, ought not in justice the Martial Law Officer to have been hanged on the ground of his appointing such a "stripling" as a Lieutenant in charge of railway duty at the station? While, on the one hand, Khudabaksha was murdered for his fault consisting in not showing the railway ticket, a European murderer, on the other, was let off on the ground of his immature age! In his charge to the Jury in which the Judge, Mr. Broadway, stated that the mind of the accused had been highly excited at the time of committing of the murder on account of the riots in the province, the former spoke as if he were a counsel for the latter! We should now like to ask the Judge whether at the time of awarding capital punishment to hundreds of Indians before the Martial Law Tribunals he was aware that the minds of the several accused had also been excited! If he was how could he then have passed those sentences? Can it ever be called justice that whereas as many as six accused were sent to the gallows for their attempt to assault a European lady in the Punjab, Plunkett, against whom the charge of homicide was proved should, in the same province, be discharged on the plea of his youth? Did Mr. Broadway discharge any of the accused on a similar ground? If not, why should Plunkett have been left off? Because he is a white and an Englishman? One can safely count upon justice in a case as between two Indians in a British court. Would it, however, be wrong for one to infer from cases like Plunkett's that in a case as between a European accused and an Indian plaintiff there is a miscarriage of British justice to favour the former? Had Lord Curzon been the present Viceroy—let alone Lord Hardinge—he would never have allowed such a wrong to over-power justice! The present situation is different, however!

XV (1).

Extract from the Bombay Newspaper Selections for the week ending the 7th December 1918.

"The disposition of conquered and enemy territories remains an unsolved problem and that its solution presents formidable difficulties admits of no doubt, no equivocation. It has been proposed in well-meaning but ineffective quarters that such territories should be held in 'trust' by international powers for the benefit of the people inhabiting such territories. But others more especially the British chauvinists have a covetous eye to the possession of fresh fields and pastures new for exploitations. They want the German East African possessions, the Pacific colonies and the portions taken from Turkey, all for Britain and the Britishers. Good Government is an excellent thing, no doubt. But it must be remembered that good Government is no substitute of self-government. And at least we in India know by experience what this good Government means. Mr. Lloyd George, speaking at Wolverhampton the other day, said: 'if good Government were provided, Mesopotamia would be as rich as it ever was, and it was the duty of Britain to see that it was so.' We must emphatically demur to such a proposition unless a rider was added to it, *viz.*, good Government by its own people for its own people was provided. Good Government by a British bureaucracy would mean no more than the impoverishment of the masses and the accumulation of wealth in the hands of a few. The development of the country would be a pious fiction and would take place not with an eye to the real prosperity of the country but with a view to benefit most the dominant power. The history of India,

Egypt, even of Ireland completely bears out this view and when even such a journal as the *Manchester Guardian* goes to the length of publicly avowing in its columns grossly selfish intentions and designs for the dismemberment of Turkey, we cannot but pause and reflect. Reuter has suddenly discovered the 'we (meaning the British) are a wonderful people' and his imagination has by aerial flights, pictured for Mesopotamia, a future teeming with milk and honey under the benign dispensation of a bureaucratic Provident. We are even assured with an air of absolute infallibility that 'the inhabitants of the country who are already grateful to us for liberating their country from disorder and corrupt rule, will be absolutely content with our Protectorate.' On this we have our own opinions. In his book 'The War of Steel and Gold,' which every student of Indian politics ought to read, re-read and digest, Mr. H. N. Brailsford, throws an illuminating side-light on the British occupation of Egypt. 'The legend grew up,' says Mr. Brailsford, 'that on the Nile we were bearing the "white man's burden" and fulfilling unselfish mission, with the sole aim of delivering Egypt from despotism.' 'We remained in Egypt,' continues Mr. Brailsford, 'professedly with a single object --to train the Egyptians to govern themselves. In every annual report that object was avowed in every year's work it was ignored. . . .' I is not our object to follow Mr. Brailsford too closely in his indictment of the British 'Protectorate' over Egypt. It was the spirit of 'conquest and militarism' coupled with an extension of improproperty and 'capitalism' that has been responsible for the failure of British altruism to sustain itself. As Mr. Brailsford says, 'our fathers had their sympathies and their opinions it was their pride to express them boldly. But even on behalf of a small people struggling to be free crusading had no part in the policy of a mercantile community.' "

XVI (1).

Extract from the United Provinces Selections, no. 23, dated the 9th June 1919.

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The *Advocate* of the 5th June 1917, calls upon every Indian who hold self-respect and nationalism dear to protest against this decision which effects the honour of the Indian nation. Lord Hardinge laboured to point out that the Colonials directed their exclusion policy not against Indians alone but against English labourers also. He could emphasise that India should have "most favoured nation" treatment, because he could not see any colour or race prejudice in the exclusion policy adopted by the colonies; he enunciated a policy based on a scheme of complete reciprocity. The Congress, at which Sir S. P. Sinha presided, asked for equal rights with European emigrants, and he endorsed the resolution. Now he has agreed to the shameful compromise, which includes Indians in the category of Asiatic races, not of citizens of the Empire. He may tolerate a badge of inferiority on his countrymen, but they cannot put up with that insult.

The *New Era* (Lucknow) of the 2nd June 1917, says the recommendations of the Indian "representatives," in their memorandum on emigration from India to the colonies, may be based on practical statesmanship, but they hardly satisfy the fundamental Indian instinct for equality within the Empire. The invidious distinction retained by the Indian "representatives" between Asiatics and non-Asiatics is insulting to Indian's self-respect and reads like a grim satire on recent efforts to promote the sense of Imperial citizenship. After this it needed certain hardihood to declare that "it would be clearly recognised that exclusion was not motived by race prejudices but was the outcome of different economic conditions." Does reciprocity mean freedom to retaliate? If so, what was the need to cross the seven seas in order to agree to a scheme for a mutual

retaliation? The "representatives" have been praised for their "sanity and moderation," but the first tangible result of their labours is the production in the name of India of a basis of agreement which brands the Asiatic citizens of the Empire with the unnatural stigmas of colour and geography.

Without discussing the question of polygamy, it must be said that the Musalmans of India will repudiate entirely the agreement that Indians might bring their wives into the dominions, "subject to the rules of monogamy." The point is that polygamy is allowed by Islamic law and is practised, though in rare cases, among Muslims in the British Empire, and the penalizing of the practice means the abandonment of the vital principle of religious freedom which has been Britain's boast for generations.

 XVI (2).

Extract from the Madras Newspaper Selections, no. 41, dated the 11th October 1919.

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4. Characterizing the whites in the Transvaal as a wretched lot, who have come forward to spoil the fair name and greatness of the British Empire, the *Desabhaktan* of the 6th October, observes:—Their actions make us doubt whether they are fiendish devils in human form. Excepting a few good-natured men, all the whites in the Transvaal are causing innumerable hardships to our Indian brethren there. These Brutish and barbarous people have started an Anti-Asiatic Association at Pretoria with the object of preventing the Asiatics, which term includes Indians, from acquiring any rights in the colony and of ousting from the colony the Asiatics already there. We think the British Government and the Government of India would have noted those objects of

this Association, which clearly show how much the Transvaal whites hate the Asiatics. Considering the present situation, there is the likelihood of the Indians there being beaten and disgraced by the actions of white merchants. It is not known what fate awaits these mean-minded merchants, who are envious of the Indians. The Indians in South Africa are already being treated as slaves and attempts are being made now to deprive them even of their living there. How long will the British Government tolerate this? It is because of the services rendered by the Indians for the success of the Empire during the last five years that they are treated in this way in Transvaal? Is it the result of India's loyalty? We are enraged at the behaviour of the Transvaal whites. Do the British Government and the Government of India wish to keep aloof and enjoy this brutish scene or are the British Government going to allow the greatness of the Empire to disappear either through fear of these whites or to seek their favour? The Government of India should no longer keep quiet. They should adopt a policy of retaliation to save the honour of the Indians, without attaching any value to the words of some in India who may object to this policy. O Indian brethren! Wake up. A small band of merchants in the Transvaal have started a war of hatred against the Indians and the position of the latter is in danger. We should raise an unprecedented agitation now. It is not proper that the subjects of the Empire should be treated differently, nor is it just for the Government to be tolerating it. The Government of India are already evincing sympathy for the Indians in the Transvaal, but mere lip sympathy will not do. The Government of India should emphatically and firmly point out the opinion of the Indians to the Imperial British Government and the Union Government of South Africa. We trust that the Government of India will not lose their self-respect in this matter.

XVI (3).

*Extract from the Bengal Selections, no. 33,
dated the 16th August 1919.*

(A)—INDIANS IN COLONIES.

The *Viswamitra* (Calcutta) of the 2nd September writes:—The history of South Africa is full of injustices on, and repression, of the Indians residing there. We hoped that after the world war was over the selfish South Africans would change their angle of vision and would at least treat the Indians there as men. But our hopes have been frustrated. The passing of the Asiatic Trading and Land Owning Act by the Union Parliament means that Indians can no longer carry on trade and own land there. The law is intolerable. Without a violent agitation, neither Mr. Montagu nor the British Government will devote their attention to this matter. There are about a lakh and thirty thousand Indians in South Africa, and after so much agitation they have not yet been able to live there in peace and with honour. Indians cannot tolerate injustice done to their brethren in Africa, when they have shed so much blood for the principles of liberty for which the whole British Empire fought. When it is possible for any member of the British Empire to carry on any kind of trade and buy land in India, there is no reason why there should be so many race distinctions against Indians residing in South Africa.

XVII (1).

*Extract from the Bengal Selections, no. 16,
dated the 19th April 1919.*

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The *Moslem Hitaishi* (Calcutta) of the 11th April writes:—Reuter's message makes it clear that the situation in Egypt is still grave. Revolutionary outbreaks are occurring all over the

country, which is under martial law. Boorish and beastly soldiers are killing many people. Twelve divisions under General Allenby are now engaged in punishing the Egyptians. We ask with hesitation how the generous professions made at the Peace Conference can be reconciled with these measures of the British Government.

XVIII (1).

Extract from the New India, dated Madras, the 20th February 1919.

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EXIT DOWBIGGIN.

A Ceylon paper says that one Mr. Dowbiggin, the Inspector-General of Police of that fair and mismanaged colony, is about to go to England on what we may euphemistically call "permanent leave." He will go entirely unwept, unhonoured and unsung, for he carries with him the odium of having mishandled a situation in 1915, the anti-Moorish riots, so hopelessly as to create a panic among his fellow officials, so that martial law was declared and the most extraordinary severity exhibited under his direction and that of the Brigadier-General of the day (since "transferred" or "relieved" or "gone on leave," or something), who had men shot or hanged, or imprisoned for long terms, by daily groups. There is no need to recall those black days. Sir John Anderson, thorough gentleman and honourable Britisher that he was, damned himself in the eyes of subordinates when he was Governor, by righting as much of the wrong as he could, and killed himself with overwork, reviewing the long record of misdeeds in the Chalmers administration, when he was not really fit to work. A lady of trustworthy powers of observation who was in Ceylon when Sir John's body was buried, said that a female (for once the term exactly applies!), a wife

of an official living in the same hotel, remarked after the funeral, commenting approvingly upon the indecorous haste and lack of sympathy shown in that function. "We take our sorrows cheerfully, don't we?" and revealed in that malicious phrase the amount of meanness that unbridled power can cultivate in the human breast. But our business is with Mr. Dowbiggin.

Immediately after martial law was withdrawn, a move was made by the Ceylonese to get rid of Mr. Dowbiggin, and in 1917 the Hon. Mr. P. Ramanathan moved for his dismissal in the Legislative Council. Of course he was defeated. What the *Manchester Guardian* rightly called "monstrous proceedings" by civilians under supposed instructions from Mr. Dowbiggin during the riots, did not even secure the summary dismissal of this person, who is now, apparently, allowed to go "on leave" and quietly "retire" and draw, doubtless, a fat pension, derived from indemnities levied up to lakhs of rupees (parts of which Sir John Anderson had restored), taken largely from absolutely innocent persons, imprisoned during the riots and released on payment of extortionate fines. Horrible as this sounds, it is perfectly true, for these piratical sources of income, *additional* to a *pro rata* tax levied on the country to pay for the rioters' damages to property, went into the coffers of the Government.

It is no good wishing Mr. Dowbiggin well of it, for nothing but ill can come of it to him. "The tears of the weak undermine the thrones of Kings," and the blood of the slain and the terror of the imprisoned innocent taint the gains ill-gotten from them with an ineffaceable stain. It is sorrowful and would be depressing to those who love England, to think that in the name of this phantom "prestige" (a wraith seen only by Bureaucratic Macbeths and by no Indian patriot) such things are done — would be depressing, save that there are men killed in the tragedy of 1915, who will stalk the earth unseen until justice is done, false

doctrines of prestige offered up in expiration, and the spiritual balance restored in our fair Island neighbour.

XIX (1).

The *Azad* (Cawnpore) of the 1st March 1917, says that the fact that the system of indenture is still in vogue affords decisive proof of the colonials' belief that India is the home of savages, slaves and coolies, and can easily supply any number of labourers. The treatment accorded to Indians by the colonies must pain the heart of even the most shameless Indian and it is strange that Government has maintained silence so long. Even patience has its limits! How long will this dishonour to the country be perpetuated and how long will Indians be treated as savages and slaves? Does not a sensible heart palpitate within our breasts? Have we not sacrificed our lives for Britain? Alas! in spite of all, the colonies give no thought to our feelings and prestige. They have not as yet realized that Indians too are human beings. Mr. Gokhale was called by them the king of coolies, as if for them India was but a land of coolies. Government should consider whether a self-respecting race can put up with this. In spite of the unanimous demand of Indians for the early and total abolition of the system Government has taken no action, and this attitude is not only objectionable from the moral point of view but is also a blot on the glorious name of that nation which is said to be ready to sacrifice itself on the altar of liberty and through whose veins the spirit of freedom courses. Nothing can be more disgraceful for Britain than that Indians even after having been nursed for five decades under the protection of the British race, are not able to defend their honour and chastity. Indians should not be expected to show any consideration for the colonists who have treated

their countrymen so brutally and they should not be asked out of consideration for the colonies to wait for the abolition of the indenture system till they have made some other arrangement for the supply of labour. Indians will not be satisfied with any reform in the system; they insist on its absolute abolition. Indians are in every way entitled to be treated as the equals of the colonists and should therefore be allowed to adopt retaliatory measures. Government should bear in mind that if it persists in its present policy there will be risk of serious misunderstanding between it and the people and that it is not proper to force the people to resort to passive resistance in order to preserve their national self-respect and honour. In case Government proves obdurate Indians should create so much feeling on the subject in the country that recruiting of coolies may become an impossibility.

XIX (2).

*Extract from the Bombay Chronicle, dated
Bombay, the 16th March 1919.*

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INDIANS IN FIJI.

Planters' Heartless Conduct towards women.

Madras, March 12.

Mr. B. P. Wadia writes the following to the Madras papers:—

It was a happy coincidence that I met our good friend, Mr. C. F. Andrews last Saturday, shortly arrived from Fiji. He was on his way to the Central Station to catch the Calcutta Mail and it was already 4 p.m. I invited him to Adyar to stay with us for a couple of days, and tell the public of Madras all that he experienced on his noble mission on behalf of our down-trodden and much misused countrymen in Fiji. He could not, as he was hasten-

ing to his beloved Bolpur and his esteemed friend, Sir Rabindranath Tagore. However, I have Mr. Andrews' promise that he will come to us at the first opportune moment and tell us what to do. In the hurry of booking his seat and sending telegrams to friends and the very necessary cup of tea, Mr. Andrews told me that things in Fiji had not improved. Things are distinctly worse. The only good thing was that for a whole year men and women had not gone from India to that veritable hell; but the condition of those already there was as sad and ghastly and pitiable as before. He had no time to tell me details, but he spoke to me about a most important item of work. On his arrival at Fiji he found that in sheds erected for hospital purposes where Indian women were taken in as patients there was no women doctor, no matron and no nurse. Unqualified men, mostly young Australians, were in charge, and a qualified man paid occasional inspection visits. The condition of our women there was very precarious and pitiable. Mr. Andrews set to work and interviewed directors of the Sugar Refining Company, who were responsible for the hospital and the conditions; he requested and begged of them to put some women in charge of the hospital, where our Indian sisters went; but they refused. Mr. Andrews said that he could not leave things as they were. The honour of Indian women was too precious and he could not postpone handling in some manner this urgent problem. The white directors of the Company, who make money out of the labours of these ill-paid and badly treated Indian women, had not the good grace or

decency or moral responsibility to grant the prayers of a true Christian who begged for the protection of modesty and honour. Disappointed, he turned to the women of Australia. He toured the country and his efforts were rewarded. Two lady Theosophists, Miss Priest and Miss Dixon and two others, whose names I do not remember—four in all—are going to Fiji. Of course, they will not be admitted into the place which the directors call a hospital, but they will open homes and take in Indian women, who are ill and nurse them. The estimated expenditure will be a few hundred pounds sterling and Mr. Andrews has promised our noble Australian friends to collect this amount and our readers may remit to Mr. Andrews direct or to the undersigned at the *New India* office any sums towards it. The contemplated programme for Indian emigration is not at all encouraging and a watch will have to be kept on what is happening. Mr. Andrews asked me to remember him to his friends in Madras and said that he was sorry not to be able to halt for a time and tell us his views and plans. He looked tired and a little pulled down and had a journey to India which gave him one more experience of how Indian labourers on board the ship are treated. I had better leave it to be reported by him and I need only say that it brought home to me that for the sake of these poor country people of ours the earlier we get responsible Government in this country the better, for then we would protect their interests and maintain the dignity and respect of our Motherland and her citizens.

(B) Judgment in cases under the Press Act

1. Judgment on the *Amrita Bazar Patrika* case in the High Court, Calcutta.
2. Judgment on the *Comrade* case in the Chief Court, Punjab.

B

Judgments in cases under the Press Act

Woodroffe, J.—This is an application by the Keeper of the Amrita Bazar Patrika Press and of the Amrita Bazar Patrika Company, Limited, under section 17 of the Press Act (I of 1910), asking that this Court may, under section 19, set aside the order of forfeiture which was passed by the Government of Bengal in respect and in consequence of two articles published in the "Amrita Bazar Patrika" newspaper on the 10th and 20th April 1919, which are reproduced as annexures to the petition. The grounds of the forfeiture are that the first article was, in the opinion of the Governor-in-Council, likely and had a tendency directly or indirectly by influence, suggestion, implication or otherwise, to bring into hatred and contempt the Government established by law in India and the officers of the said Government recruited in England, and to excite disaffection towards the said Government, and that the second was likely and had a tendency, directly, or indirectly, by inference, suggestion, implication or otherwise, to bring into hatred the Government established in British India and to excite disaffection towards the said Government. The Government therefore acted under the provisions of section 4, clause (c).

I will deal at once with a contention of Mr. C. R. Das, counsel for the applicant, that the order was bad in so far as it does not state that the "officers of the said Government recruited in England" were in India. It would have been more formally correct if this had been expressly stated. It is, however, obvious that the reference is to officers in India and not as suggested to officers in Mesopotamia,

England or elsewhere. Further, whatever the order may say, we have (as pointed out by my brother Mukherjee, J., during the argument) in disposing of the application, to see whether the article is not obnoxious to the provisions of section 4 which include, amongst others, attacks upon any class or section of His Majesty's subjects in British India. Further again under section 22 of the Press Act the only ground upon which the Court, can set aside a forfeiture is that the matter which is the subject of it does not contain words of the nature described in section 4, sub-section 1. No objection can be taken against the forfeiture itself, but it may be set aside under section 19. I hold, therefore, that this objection fails.

The substantial question is whether the articles, or either of them, fall within the provisions of section 4, clause (c), or are excluded therefrom, on the ground that they are comments expressing disapproval of the measures of Government with a view to obtain their alteration by lawful means, or if the administration or other action of Government established in British India without exciting or attempting to excite hatred, contempt or disaffection towards the said Government, or hatred and contempt towards a class or section of His Majesty's subjects in British India, *viz.*, the officers of the said Government in India recruited in England.

No one I think reading these articles could come to the conclusion that they were not likely and had not a tendency to excite hatred and contempt towards the Government and class against whom they were directed. But

it is urged for the applicant that even if, standing by themselves, the articles have this effect, it is open to the applicant to show, and he offers by evidence to show that they were written without seditious intent. He then says that if he can show this alleged absence of seditious intent the forfeiture must be set aside. The argument involves the following considerations:—

Is the question of intention immaterial in any, or is it material in every case coming under section 4? If the answer is in the negative to both propositions, then as regards what proposition of section 4 is intention to be investigated, and do the articles in question come under that provision or not?

If I were dealing with the matter as *res integra* and without reference to two of the decisions to which I later refer, I should have been disposed to hold that the intention of the legislature was that the court should look at the articles and say whether the meaning of them was such that they were likely or had a tendency to have the effect mentioned in clauses (a) to (f) of section 4, and that upon a consideration of this question, the enquiry into what was the intention of the writer or publisher was not material, though in judging the nature or tendency of the words used, evidence of the particular character mentioned in section 20 might, if it were necessary, be admissible.

Here I may interpose to point out that the word "intention" is often loosely used. Thus we hear the expression "intention of a document". A document cannot have an intention nor a motive nor can it "attempt" to do anything. Intention, motive, attempt have reference to persons and denote psychological facts of which a document may be evidence. The so-called "intention" of a document as distinguished from the state of mind of its author is nothing but its meaning. So far as the document is concerned, its so-called "intention" is its meaning. The Press Act in my opinion

was framed to enable the Government and the Court to deal with the meaning of documents and not with the intentions of their authors and publishers. It is the criminal law of sedition which deals with the latter. So on an application to set aside a forfeiture it was intended, I believe, that the Court should (apart from section 20) look at the document and ascertain on a fair reading what was its meaning and should then say whether the words used, when properly understood, were of the nature or tendency mentioned in clauses (a) to (f) of section 4. If it is not shown that they are not of this character then the forfeiture is upheld. If, however, on the true construction of a document the court is of opinion that it is a disapproving comment on the measure or actions of Government or the administration of justice which is not likely and has no tendency to excite the hatred, contempt or disaffection referred to in clause (c), that is, if it is a temperate and allowable criticism of such measures or actions then the forfeiture is to be set aside. The Court in every case is, on this view, concerned with the meaning of the writing and not with the intentions of the writer. Intention is in this view the subject of criminal proceedings for direct sedition under section 153-A of the Penal Code and not of forfeiture of security given and document issued by a printing press.

It is true, however, that the wording of Explanation II to section 4 does not raise a difficulty, for it uses words which have been relied on, and have been held, to show that the question of intention is, in certain cases material; that is, the applicant may in the case of disapproving comments on the measures (which in my opinion means legislative measures) or administrative or other action of Government, or the administration of justice, show that in the making of such comments there was no attempt (which implies intention) to excite the hatred, contempt or dis-

affection mentioned in clause (c) of the section. Not improbably the wording of this explanation is due to careless drafting, the draftsman overlooking the fact that he was importing into a section dealing with documents of a particular nature or tendency an explanation taken from section 124-A of the Penal Code which deals with an offence by individuals for the establishment of which a seditious intention is necessary. This was pointed out by Abdur Rahim, J. (39 Madras at page 1120), in his observation that the explanation imported the question of intention, while clause (c) of section 4 to which the explanation is attached is not concerned with the intention of the writer of the words charged. It may be as was argued on behalf of the Crown in Mrs. Besant's case (I. L. R. 39 Madras, 1085 at page 1130) that "attempting to incite" is a loosely worded equivalent of "tending to incite" but this construction was overruled, and we must, as Abdur Rahim, J., says, read Explanation II as we find it.

However this be, this view of the section is no longer open, for it has been held by the Madras High Court in the case cited that whilst intention is immaterial so far as clauses (a) to (f) of section 14 are concerned, it is material if the case falls within Explanation II, when the Court is judging whether there was an attempt to excite hatred and contempt by comments coming under that section. It follows, therefore, that intention is only material if we have to deal with comments on the measures or actions of Government or the administration of justice, and it is not otherwise material. These comments again are not protected if they in fact excite or attempt to excite hatred, contempt and disaffection but are protected if the disapproving comments on the measures of Government are made with a view to obtain their alteration by lawful means, or if they are made on the actions of Government or administration of justice, and if in both these cases there is no attempt to excite

hatred, contempt or disaffection. As "attempt" implies intention, an enquiry whether there has or has not been such an attempt involves, it has been held, consideration of the question of intention.

This view must be taken to have been approved by the Privy Council which in the appeal from the decision of the Madras High Court observed as follows:—

"Upon careful perusal of the several judgments their Lordships find that weight has been properly given to the several portions of the section. They do not find that the section has been misconstrued."

Mr. C. R. Das has argued that the Privy Council overruled the distinction which the Madras High Court drew between the operative part of section 4 and the explanation to clause (c). I am unable to accept this contention. It is true that their Lordships say that it is not easy to see how Explanation II adds to, or detracts from the direct language of clause (c) but it does not therefore follow that the question of intention which is material in the particular cases mentioned in the explanation is thereby made material as regards either other cases under clause (c) or all other clauses of section 4. I think, however, a legitimate argument may be raised as regards the subsequent passage of the judgment of the Judicial Committee which commences with "In substance the question under clause (c) of section 4" and which is relied on by the applicant to show that the Privy Council did not draw any distinction between an attack on the Government as such and comments on its measures and actions, and that it treated an attack on a class as involving intention though no mention is made of a class in Explanation II, and though as the Judicial Committee point out, the words in clause (c) which refer to the hatred or contempt of a class or section are not limited by Explanation II. On the other hand the judgment of the Madras

High Court, which is affirmed, clearly holds (page 1120) that section 4 allows less scope to criticisms of the measures of Government, and that (as already stated) the operative portion of section 4 does not make the intention of the writer material when considering whether the words are not of the nature described in section 4. Attacks on a class or section are not mentioned in Explanation II, and the Judicial Committee point out that the words in clause (c) which refer to the hatred or contempt of a class or section are not limited by Explanation II. Finally they say that "the section has not been misconstrued" by the High Court of Madras which very clearly distinguishes between the cases where intention is, and is not, material. Mr. C. R. Das has suggested that the Judicial Committee in making the last observation was referring to the manner in which the Madras High Court had applied the section, but this is not so, as the Judicial Committee then go on to deal with the application in detail of the principles of the law to the language of the various articles then before the Court.

These observations are sufficient to dispose of the argument that the question of seditious intent is material in every case coming under clauses (a) to (f) of the body of the section. But as the point is of importance and has been argued at great length I will further examine it.

Put in the most condensed form the contention of the applicant's counsel is, that before the Press Act can be put into operation in any case, it must be shown that the offence of sedition has committed, or to put the matter more accurately with reference to the terms of sections 17 and 19, the forfeiture must be set aside if the applicant shows that no sedition has been committed through the matter which is the ground of the forfeiture. In this view of the case the Act would mean that the Government may judge whether the offence of sedition has been committed and if it thinks

that there has been such an offence, then it may make an order of a forfeiture. Then the applicant may come in and show that there has been no sedition, and the hearing of the application would take the form of a criminal trial, with this difference that the burden of proving that an offence has been committed would lie not on the Crown, but on the party whose property was forfeited, and the penalty would not be imprisonment of any person, but a forfeiture of security and copies of the newspaper. In such a trial all evidence would be admissible which was admissible in a criminal trial.

I do not think that such was the intention of the Legislature.

It may be said that proceedings under the Press Act partake of a criminal character in so far as they involve forfeiture. It may also be that the matter forfeited might make the party responsible for it, liable to a criminal charge of sedition or a charge under section 153-A of the Penal Code, but the Act itself was not enacted for the punishment of such offences, but as its title and preamble show for the better control of the press. It is essentially a preventive measure: a measure with a view to prevent crime, that is crime imperilling the existence of the States, the safety of its officers, public order and the like. It is to be observed that under section 21 the procedure, until the framing of rules by the High Court, is ordered to be that of the practice of the court in proceedings other than suits and appeals. The only evidence for which direct provision is made by the Act is the admission of other copies of the newspaper in aid of the proof of the nature and tendency (section 20) and section 21 states that nothing contained in the Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act. An offence under this Act is not sedition as such, but the printing or publishing of matter of the nature

and tendency mentioned in section 4, which attracts to itself the penalty of forfeiture. If the Crown is desirous in any case of proceeding against any party for sedition it will doubtless do so under the provisions of the Penal Code and according to the ordinary criminal procedure. Something may be said for Mr. C. R. Das' contention on the ground of thoroughness, for it may be argued either that intention is material in every case or in no case, but the other circumstances I have mentioned are in my opinion against it and the question is concluded by precedent.

We must then, in my opinion, follow the decision as to the interpretation of the section given by the Madras High Court and affirmed, as I understand it, by the Judicial Committee.

The question then is, are the articles before us merely disapproving comments on the measures or actions of Government? If they are not that, that is, that if they are not such comments at all, or if besides being in part such comments, they are also an attack on the Government itself, or on a class then in so far as they are not such comments no question of intention arises. For it is to be observed that a writing may in part constitute an attack on the Government itself and in another part be a comment on its measures and actions. If it is the former, and of the nature specified in clause (c), or if it is an attack on a class, then it is not covered by the explanation, which alone, according to the Madras decision, imports the consideration of intention.

The first article in the order of forfeiture is alleged to be likely or to have a tendency to bring into hatred and contempt the Government established by law in British India and the officers of the said Government recruited in England and to excite disaffection against the said Government. I am unable to hold that this article does not con-

tain words of the nature described seeing that it alleges among other things, that England in breach of her pledges farmed this country out to English officers, who govern the people of India according to their own sweet will, on principles which are absolutely despotic and some of them un-British and barbarous, who serve themselves first and then only their mother country and increase their own pay, looking down upon the people as mere human sheep, created only to minister to their (the officers) own comforts and material prosperity, the officers fattening themselves out of the country, whilst the Indians decay; the officers again governing India as their own property in such a way that from being one of the richest countries, it has become a permanent abode of famine, plague and malaria.

The second article is alleged in the order of forfeiture to be likely and to have the tendency to bring into hatred and to excite disaffection towards the Government. This article may be said to be in part a comment on the action of Government with respect to the proceedings taken with reference to the recent riots and there is a reference to the so-called Rowlatt Act "which has robbed the people of many of the elementary rights of human beings". But it is more than this, as it is an attack upon the Government itself which is described as a "common enemy". It suggests that the people were provoked to violence, that on some pretence or another the Police picked up a quarrel, that the people were shot at like cats and dogs. The article then speaks of unprovoked aggression and says "we believe the Government of India will treat this awful incident with the same apathy as they have done with regard to the outrage at Delhi". Towards its close it says that as a result of what is said in the article "the masses have at last been roused to realise that the reign of law is gone and people can be shot down at the sweet will of the Executive". I am unable to hold that this article does

not contain words which are of the nature above described.

On this part of the case dealing with "nature or tendency" (corresponding to the words "are likely or may have a tendency" in section 4) certain evidence was tendered under section 20 of the Act. It may be a question whether the provisions of that section are equally available to the Crown and the accused. It speaks only of evidence in aid of the proof, and not disproof, of the nature and tendency of the words complained of. But this contention was overruled by the Madras High Court, and in the absence of any words of direct exclusion of evidence, it is fairer to assume that if an article is ambiguous or doubtful and therefore the Crown requires to supplement it by the evidence of other articles from the same newspaper, the persons against whom the order of forfeiture is passed, should have the right to give evidence in rebuttal. I am, however, of opinion, that the section only applies where, if the article stood alone, there may be doubt or ambiguity, as to the character, nature or tendency of the words used, and not when the meaning of the article is apparent on its face, as is the case here.

Besides other leading articles in the newspaper extending from the year 1917 to 1919, a number of extracts from the newspaper were tendered, which in my opinion do not in any case come within the scope of the section, namely, reports of events from press or private correspondents, proceedings in Council, His Excellency the Viceroy's speech, the Bishop of Calcutta's sermon, Mr. Jinnah's (former member of Council) letter of resignation, Right Hon'ble Mr. Montagu's speech in introducing the Reform Bill and on the Mesopotamian Commission, message of His Majesty the King-Emperor, letter of resignation of Moulvi Mazarul Huq, dissentient minute of Sir Sankaran Nair on a Government despatch, a speech of Mr. B. Chakrabarti and the dissentient minute on the Industrial Commission. All such matters

are rejected whether it is claimed that they are admissible under section 20 of the Press Act or otherwise. We also rejected (after first fully reading them) the various leading articles tendered. In my opinion they do not aid in proof of the nature or tendency of the words used which are quite intelligible on their face. Nor are they admissible as evidence of policy of the paper, for policy is a matter of intention and for the reasons given such evidence is not admissible. Nor if they were admitted would they, in my opinion, have helped the plaintiff's case or affected my judgment as to the nature and tendency of the articles which have been selected by the applicant as supporting his case.

The articles tendered are many and lengthy and I give only their essential gist. Issues tendered in connection with the first article, the subject of these proceedings profess the following sentiments:—In the first place there are expressions of the loyalty to the Throne sacred as the symbol of the collective life and of loyalty to the true or ideal Empire, wholly different from the reality, namely, the present British Empire which is the product of conscious pursuit of lower ends as a determined effort to repudiate the true ideal of Empire (24th May 1917). At present there is only a "white imperialism," a confederacy of white men for the exploitation of the non-white members of the present Empire (*ib*) Independence is not sought, but Home Rule within the Empire, that is a combination of National freedom with Imperial subjection. Many passages insist on the fact and this is the general tenor of the articles, as a whole, that the obstacle in the way of Indian political well-being is the self-interested hostility of the bureaucracy or Indian Civil Service which one issue (20th January 1918), says means the Government of India. All this is the "psychology of selfishness (27th September 1917) which, the writer says, has produced a dangerous discontent in the masses (*ib*). The

Viceroy, it is said, has protected the interests of the foreign bureaucracy and foreign exploiters (19th February 1919). In one issue (26th March 1919) it is even suggested that the Government is provoking some sort of physical conflict (26th March 1919). The foreign bureaucracy which governs India is striving to retain powers (3rd August 1917). This absolute power of the alien official must be broken (14th July 1917) in order that there may be a transfer of power from the alien bureaucracy to the people. But loyalty to the Crown and the "Ideal Empire" is professed and anything but constitutional methods of agitation are discouraged.

There is no allegation in the order of forfeiture of disloyalty to His Majesty, the King-Emperor. What is alleged is that the articles are likely and have a tendency to bring into hatred and contempt the Government established by law in British India and to excite disaffection towards the said Government and, as regards the first article, that it contains words which are likely or have the tendency to bring into hatred and contempt the officers of the said Government recruited in England. It has been held that the words "Government established by law in India" in section 4 are not to be construed as indicating only the supremacy of the British Crown in India and the British connection with it, as opposed to independence (39 Madras 1085). For the rest the articles tendered do not assist the applicant, or disprove the alleged nature or tendency of the words used, the meaning of which is plain on their face. Because on previous occasions language has been used which was either not obnoxious to the section or was, under the circumstances, passed over by the Government, does not in any sense disprove the nature or tendency alleged in this case. What however they do show is that for about two years previous to the first article in question, the paper has been writing against the so-called bureaucracy, which it speaks of

as being the Government and which that article has now attacked in terms which have led the Government to make the forfeiture, although there was, according to one of the previous issues (27th September 1919), a deep, widespread and dangerous discontent in the masses in this country which should have led the paper to be careful of what it said and published.

Some further articles tendered deal with the recent grave riots in this country. The "Delhi outrage" is described (2nd April 1919) as a wanton outrage. It speaks of the enormity of the police action in shooting unarmed people like sparrows of the hecatombs in which natives were victims, of the resultant disappearance of "natives" from the arena of their unfortunate "native" land. It points out that the unarmed people of this country are neither Germans nor Turks. Mr. C. R. Das says as to this that no enquiry was held and that this explains the reference to the "apathy" of the Government of India in the second article in question. An article on the "Delhi Tragedy" (4th April 1919) speaks of grave provocation. The issue, however, of the 11th April 1919 exhorts the public to behave with composure which the writer is sure that they will do. There is nothing in all this which disproves the alleged nature and tendency of the words of the second article in question. What they do show is that for two years the paper has been strongly criticising the so-called bureaucracy and for a short time previous to the second article also the action taken as regards the recent riots without any intervention by Government. When, however, violent and inflammatory language was used at a time which, owing to the late riots, was one of public danger, then the Government felt itself compelled to take action under the Press Act with a view to prevent the spread of further disorder.

These findings dispose of the application, but I will now deal with the case on the

assumption that evidence of intention was (as argued for the applicant) relevant and will record and deal with the evidence tendered on his behalf on this part of the case. The argument was that, over and above nature and tendency of the words used, the Court must be satisfied that there was a particular seditious intention otherwise the order of forfeiture must be set aside.

Evidence was tendered of "time, place, circumstance and occasion of the article." On this head we were invited to enter into an extensive historical enquiry from the year 1833 to the present time with a view to show the rights of the Indians as set forth in charters, proclamations, official despatches and statements made by Ministers of Crown, that from time to time various reforms had been proposed by the Government Act, and the Minto-Morley proposals, substantial as they left England, which are said to have been defeated or obstructed by the activity of Government officials in this country. It was proposed to tender the Public Service and Industrial Commissions to show that the development of the country had been prevented by Government officials and the industrial interests of India had been sacrificed to Manchester. Promises made had thus, it is said, not been allowed to be fulfilled. We were invited to receive evidence of the questions agitating the mind of the public and of the general "political environment." Secondly, evidence was offered of the state of the country and of public feeling. It was argued that evidence, oral and documentary, of political questions agitating the people and their feelings in general and of recent events in the Punjab was relevant to show that it was necessary in the interests of Government itself that such an alleged state of things should be brought to its notice. It was argued that the object being to ventilate a grievance a seditious intention was negatived.

Thirdly, evidence was offered of the character and description of that part of the public who

might be expected to read the article. Mr. Das proposed to call evidence to show what effect the reading of the articles in question had upon the readers, and then to show the class of persons who read the "Amrita Bazar Patrika." These are said to be (and evidence was offered to show it) the politically-minded class amongst educated persons who were all engaged in bringing about a lawful change in the Administration, which change had been practically promised. Fourthly, evidence of the previous general policy of the newspaper. Fifthly, evidence from other sources of the meaning of the whole articles. To explain the articles applicant's counsel desired to refer to various legislative enactments, Government resolutions and utterances of Ministers of the Crown and other statesmen. Mr. C. R. Das in response to the question of the Court—"What were the passages in the articles, the subject of these proceedings, which he said that these documents explain", replied that they were tendered to explain the whole of the articles, and any point made in them, and on the rejection of the above mentioned evidence closed his case.

In the first place it is to be observed that the truth of the facts alleged is no answer. Even if there were the "compact" and promises alleged, and even if they were broken, and even if this were due to the alleged self-interested hostility of the class to which the first article refers this would be no answer.

We must then distinguish between the meaning of an article and the intention of its writer. The construction of a document is a question of law to be determined by grammar or logic, the primary organs of interpretation aided when necessary by evidence to make the words which are used fit the external things to which the words are appropriate (Evidence Act, section 92, proviso 6), and by evidence of the character mentioned in sections 95-98 of the Evidence Act where the words of the document are (as in my opinion is the case here) plain

and unambiguous we must look to the document alone. Extrinsic evidence to explain a document is not admissible because not needed in such a case. In my opinion there is no ground in this case for the admission of explanatory evidence. Passing then to evidence of intention, this should be gathered from the language employed when the meaning of a document itself is evidence of the intention of the writer. Intention is a psychological fact and can be proved under section 14 of the Evidence Act when the existence of intention is in issue or relevant provided that the collateral fact is not too remote. If then intention was rightly in issue in this case, that is, if for instance the existence of intention were relevant in the case of an attack on a class under clause (c) of section 4, though under that clause intention is not material, and though the explanation to that clause which imports intention has no reference to words directed against a class, then speaking generally evidence of intention would be, according to the Madras decision, admissible. Seshagiri Ayyar, J., there said:—"It is true that in the vast majority of cases the intention must be gathered from the language employed, but it is possible to show that what *primâ facie* appears objectionable should not be given the meaning attributable to the words employed. The difference is very thin no doubt, but I think that the Legislature was contemplating in Explanation II the possibility of proof by the person proceeded against that the intention to create disaffection was not in the mind of the writer" (39 Madras, page 1152). If then it be assumed, for the purpose of this judgment, that evidence of intention was relevant, then in my opinion such evidence as has been offered to us and tendered would not, if admissible, and if admitted, have established the applicant's claim to relief. Let it be assumed (without adjudging it to be so) that political promises have not been kept, but have been thwarted by either the Indian Government or its officials

or both, and that the motive of the writer or writers of the articles was as alleged to carry out the reforms said to have been promised, and to change the present political system, thus putting an end to the power of the Indian Civil Service, even then that would not justify the use of language likely or tending to create hatred, contempt or disaffection. Whether, notwithstanding such likelihood or tendency, there was or was not an actual intention to create hatred, contempt or disaffection must be primarily determined upon a perusal of the writings themselves. As the Judicial Committee say in judging the question of intent the publisher must be deemed to intend that which is the natural result of the words used. The words used in these articles are, in my opinion, likely to produce hatred, contempt, and disaffection. This must then be presumed to have been intended until the contrary is shown. If the words upon their true construction do not show the nature or tendency alleged, then there is no need to enquire into the existence of seditious intention which the true construction of the words negatives. If on the other hand the words used naturally clearly and indubitably have such tendency, then it must be presumed that the publisher intended that which is the natural result of the words used and no other evidence is (to say the least) likely to rebut the existence of such intention. If, however, the words used leave the nature and tendency in doubt, it is not likely that Government action would be taken thereon, but if it did it is not likely again that the Court would uphold the forfeiture, or that it would do so it any rate in the absence of strong evidence of seditious intent. Once therefore seditious intent is clearly inferred from the language used, other evidence on the question of actual intention becomes in practice of little moment. As suggested by the passage cited from the judgment of Seshagiri Ayyar, J., the distinction between intention inferred from the document and as otherwise existing is thin. However,

this may be, and dealing with the particular facts of this case, nothing of the political history and argument and other matter which have been opened to us and offered as evidence in this case would if accepted as evidence have shown that if the existence of the particular intention was necessary that intention was not present. If intention is necessary then I think it is soon to exist.

To sum up:—In my opinion, whatever else there is in the articles we are also dealing with a case outside Explanation II which, it has been held imports intention, for there is here in both cases an attack on the Government itself, and not merely a comment on the measures or actions of Government, and in the first article there is also an attack on a class which is not covered by Explanation II. An enquiry into intention is therefore not material and it cannot be said that the words used are not of the nature described in section 4, sub-section (1), clause (c). If, however,

intention were material then some of the evidence tendered is inadmissible and even if all that was opened to us and proffered in evidence had been admitted, it would not have rebutted the intention to be gathered from the articles themselves. The writer or writers must be deemed to have intended that which is the natural result of the words used, namely, the hatred, contempt and disaffection alleged.

The application therefore must be dismissed. As I see no reason in this case for departing from the usual rule that an unsuccessful party shall pay the costs, the order will be that the applicant do pay the Government's costs of these proceedings as of hearing on scale no. 2.

JOHN G. WOODROFFE.

I agree with the judgment of Mr. Justice Woodroffe.

E. E. FLETCHER.

The 28th July 1919.

Mookerjee, J.—On the 10th April 1919, the "Amrita Bazar Patrika" published an article headed "To whom does India belong". Two days later, the paper published another article headed "Arrest of Mr. Gandhi—More Outrages". On the 15th April, the Government of Bengal in Council took action under section 4, sub-section (1) of the Indian Press Act, 1910, and the Keeper of the Printing Press where the paper was printed was thereupon served with a notice in the following terms:—

"Whereas it appears to the Governor in Council that the printing press known as the 'Amrita Bazar Patrika' Press, Limited, located at nos. 19 and 20, Baghbazar Street, Calcutta, in respect of which security to the amount of Rs. 5,000 has been deposited in accordance with the provisions of section 3 (2) of the Indian Press Act, 1910, has been used for printing and publishing the issues of the newspaper

called the 'Amrita Bazar Patrika' bearing date April 12th, 1919, and whereas the said issue of the said newspaper dated April 10th, 1919, contains an article entitled 'To whom does India belong' the whole tenour of which article, and in particular the passage from the words 'England having acquired India' to the words 'they increase their own pay', are, in the opinion of the Governor in Council, likely and have a tendency directly or indirectly by inference, suggestion, implication or otherwise to bring into hatred and contempt the Government established by law in British India and the officers of the said Government recruited in England, and to excite disaffection towards the said Government and whereas the said issue of the said newspaper dated April 12th, 1919, contains an article entitled 'Arrest of Mr. Gandhi—More Outrages' the whole

tenour of which article and in particular the passage 'The masses have at last been roused to realise that the reign of law is gone and people can be shot down at the sweet will of the executive', are, in the opinion of the Governor in Council, likely and have a tendency directly or indirectly by inference, suggestion, implication or otherwise to bring into hatred the Government established in British India and excite disaffection towards the said Government.

"Now therefore take notice that the Governor in Council in pursuance of section 4 (1) of the Indian Press Act, 1910, declare the security of Rs. 3,000 deposited in respect of the 'Amrita Bazar Patrika' Press, Limited, Calcutta, and 30 all copies of the issues of the newspaper called the 'Amrita Bazar Patrika' having date of April 10th and 12th, 1919, wherever found to be forfeited to His Majesty."

The security thus forfeited had been deposited pursuant to a notice issued on the 29th May 1913 under section 3, sub-section (2), in respect of an article which appeared in the paper on the 12th April 1913. On the 13th June 1919 the Keeper of the Press applied to this Court to set aside the order of forfeiture made on the 15th April. The application was heard by a Special Bench constituted under section 18 and we have now to determine the matter in controversy. Under section 19, sub-section (1), the High Court is competent to set aside the order of forfeiture on one ground and this ground alone, namely, that the words contained in the newspaper in respect of which the order in question was made, were not of the nature described in section 4, sub-section (1). In view of the elaborate arguments addressed to the Court, it is necessary to examine the scope of the relevant sections of the Indian Press Act.

The preamble states that the provisions were

enacted, because it was necessary to provide for the better control of the Press, and section 1, sub-section (2) makes it clear that in the opinion of the Legislature such necessity extended to the whole of British India. Section 2 contains the interpretation clause and defines a newspaper as a periodical work containing public news or comments on public news. Section 3 provides for the deposit of security by keepers of printing presses. The first sub-section refers to deposits to be made at the time of the declaration under section 4 of the Press and Registration of Books Act, 1867. The second sub-section refers to presses in respect of which a declaration had been made prior to the commencement of the Act, in this class of cases, a deposit may be demanded only if it appears to the local Government that the press is used for any of the purposes described in section 4, sub-section (1). It was under this provision that security to the maximum amount (Rs. 5,000) was exacted from the "Amrita Bazar Patrika" Press in 1913. We now come to section 4 which invests the local Government with authority to declare the security as also copies of the offending newspaper forfeited in certain cases. The section is in these terms:—

"Whenever it appears to the local Government that any printing press in respect of which any security has been deposited as required by section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which are likely or may have a tendency directly or indirectly whether by inference, suggestion, allusion, metaphor, implication or otherwise,

- (a) to incite to murder or to any offence under the Explosive Substances Act, 1908, or to any Act of violence, or
- (b) to seduce any officer, soldier or sailor

- in the Army or Navy of His Majesty from his allegiance or his duty, or
- (c) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any Native Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty, or the said Government of any such Prince or Chief, or
- (d) to put any person in fear to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally entitled to do or to omit to do any act which he is legally entitled to do, or
- (e) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or
- (f) to convey any threat of injury to a public servant or to any person in whom that public servant is believed to be interested, with a view to inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of his public functions, the local Government may, by notice in writing to the keeper of such printing press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above, declared the security deposited in respect of such press and all copies of such newspaper, book or other document wherever found to be forfeited to His Majesty.

Explanation I.—In clause (c) the expression

“disaffection” includes disloyalty and all feelings of enmity.

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

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

It is plain that the power to declare the security forfeited can be exercised only with regard to a press in respect of which the security has been deposited under either of the two subsections of section 3. In respect of such presses the provisions of the section may be utilised, when it appears to the local Government that the press is used for the purpose of writing or publishing any newspaper, book or other document which contains any words, signs, visible representations which are likely to produce the effects mentioned in clauses (a) to (f) or which may have a tendency directly or indirectly whether by inference, suggestion, allusion, metaphor, implication or otherwise (that is, in any other way or by any other proviso) to produce any of the effects mentioned in the six clauses. Notwithstanding the able argument of Mr. Das, I am not convinced that a question of intention at all arises in regard to that portion of sub-section (1) of section 4 which precedes the six clauses. A faint attempt was, indeed, made to deduce intention as a material element from the use of the word “purpose,” but there was obviously no force in that contention. The Press is used

for the purpose of printing and publication; that clearly does not indicate that intention is a material factor in the determination of the question of the legal effect of the words, signs or visible representations contained in the newspaper, book or other document. Reliance was next placed upon the expression "tendency," but clearly intention and tendency are entirely different things. Intention has reference to the state of the mind of the actor; tendency, on the other hand, has reference to the possible result of the act. The "tendency" of an act may, in fact be exactly the reverse of the result which the actor intended should follow from the measure taken by him. Intention is one of the decisive elements in determining the moral character of an act and is an essential element in many a criminal offence. The tendency of an act implies that the act may tend to cause a particular result, but may or may not actually lead to that effect. I can discover no solid ground for the contention that the use of the word "tendency" shows that intention is an essential element in the determination of the true character of the words, signs or representations. We have next to consider the six clauses, but before we proceed to them, we may note that in the introductory words of this clause, the legislature has used every conceivable expression which could widen its scope. Thus, the legislature was not content with the word "likely", but used as an alternative the expression "may have a tendency, directly or indirectly whether by inference, suggestion, allusion, metaphor, implication or otherwise". Of the six clauses, we are concerned primarily with clause (c) in the case before us. This clause contemplates five clauses of possible effect:—

- (i) to bring into hatred or contempt or to excite disaffection towards His Majesty;
- (ii) to bring into hatred or contempt or to excite disaffection towards the

Government established by law in British India;

- (iii) to bring into hatred or contempt the administration of justice in British India;
- (iv) to bring into hatred or contempt or to excite disaffection towards any Native Prince or Chief under the suzerainty of His Majesty;
- (v) to bring into hatred or contempt any class or section of His Majesty's subjects in British India.

If the words, signs or visible representations contained in a newspaper, book or other document are likely to produce any of these effects or may have a tendency to produce any of these effects, the question of intention is immaterial; we are concerned not with the intention of the author, but with the effect with which they tend to produce or are likely to produce. In my opinion, if the section had stopped with the first paragraph of what is now sub-section (1) the question of interpretation would thus have been fairly simple; the sub-section includes, however, the explanations which must be taken into account; the second of these has formed the subject of much discussion and comment.

The object of the second explanation is to exclude from the scope of clause (c) comments of certain classes which may be enumerated in three groups as follows:—

- (i) Comments expressing disapproval of the measures of the Government of any Native Prince or Chief under the suzerainty of His Majesty.

Provided also that such comments are made without exciting or attempting to excite hatred, contempt or disaffection.

- (ii) Comments expressing disapproval of the administrative or other action of the Government or of any Native Prince

or Chief under the suzerainty of His Majesty.

Provided that such comments are made without exciting or attempting to excite hatred, contempt or disaffection.

(iii) Comments expressing disapproval of the administration of justice in British India.

Provided that such comments are made without exciting or attempting to excite hatred, contempt or disaffection.

In each of these cases, the question of intention is material; in the first case, we have to ascertain the purpose with which the comments have been made, and in all the three cases, we have to determine whether an attempt has been made to excite hatred, contempt or disaffection. In the language of Stephen (Digest of Criminal Law, article 50) an attempt to commit that crime and forming part of a series of acts which would constitute its actual commission if it were not interrupted. To put the matter differently, attempt is an act done in part execution of a criminal design, amounting to more than mere preparation, but falling in short of actual consummation, and, possessing, except for failure to consummate, all the elements of the substantive crime, in other words, an attempt consists in the intent to commit a crime combined with the doing of some act adopted to but falling short of its actual commission; it may consequently be defined as that which if not presented would have resulted in the full consummation of the attempted (Reg. v. Collins L. and C. 471-479 Cox 497). The effect of the second explanation thus is to exclude from the operation of clause (c) three clauses of comments, subject to the qualifications formulated above. Consequently where a case is alleged to fall within the scope of the second explanation, it is incumbent on the Court to examine the question of intention. But even though the question of intention is found in favour of the person whose security has

been forfeited, he cannot obtain the benefit of the explanation, if the comments do in fact excite or constitute an attempt to excite hatred, contempt or disaffection. The stringent provisions of the substantive portion of the sub-section are consequently relaxed only to a very limited extent; comments of the character mentioned in the second explanation may be permissible, even though they are likely or may have a tendency to produce the corresponding result mentioned in clause (c), but they must not excite or constitute an attempt to excite hatred, contempt or disaffection. The difference between the clause and its explanation of the distinction between likelihood and tendency on the one hand and realisation or attempt on the other hand, this though appreciable in theory, is likely to be valueless in practice to the person concerned. The exception to the all-comprehensive general rule, contained in the so-called explanation, still further loses its effect, when it is borne in mind that comments may in one portion be protected by the second explanation, but may, in another portion, fall within the scope of clause (c). In such an event the passage as a whole must plainly be deemed obnoxious.

The section 17 authorises the person against whom an order of forfeiture has been made under section 4 to apply to the High Court within two months from the date thereof to set it aside on the ground that the newspaper, book or other document in respect of which it was made did not contain any words, signs, or visible representations of the nature described in section 4, sub-section (1), section 18 provides for the hearing of the application by a Special Bench of the Court, section 19, sub-section (1) provides that the Special Bench shall set aside the order of forfeiture if it appears to the Bench that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1).

Two propositions indisputably result from these provisions, namely, first, that the validity of the order of forfeiture can be questioned only on the ground, namely, that the words, signs or visible representations in question are not of the nature described in section 4, sub-section (1); and, secondly, that although the order may have been made by the local Government on the ground that the words, signs or visible representations were of the nature described in one or other of the six clauses of section 4, sub-section (1), the High Court can set aside the order of forfeiture only if satisfied that they do not fall within any of those clauses. In this connection, a question of burden or proof was raised in the course of argument, and reference was made to the decisions in *Protoble v. Empress* 11 C. L. R., 25 (29), *Rahimuddi v. Queen Empress* I.L.R., 20 Cal. 353 (357), and *Milan Khan v. Sagar Bepari*, I.L.R., 23 Cal. 347 (349) to show the true functions of a Court of Criminal Appeal. These cases affirm the doctrine that a Court of Criminal Appeal should approach the case before it with a view to determine whether the conviction can be sustained on the materials on the record. That principle clearly has no application to a hearing under section 18 of the Indian Press Act, an order is made by the local Government in exercise of the powers conferred by the Statute. The person affected thereupon applies to the High Court to set aside the order on the allegation that the words, signs or visible representations are not of the nature described in section 4, sub-section (1). It is manifest that Court does not approach the case with the presumption that the order is erroneous; the burden lies upon the petitioner to establish the validity of his contention. If he fails to satisfy the Court that the words, signs or visible representations are not of the nature described in section 4, sub-section (1), the application must be dismissed. There is no force in the contention that this interpretation

compels the petitioner to prove a negative the argument is based on a superficial view of what must take place at the trial. The Court is invited by the petitioner to examine the true nature of the words, signs or visible representations; he expounds his version before the Court, if he is able to persuade the Court, to accept his exposition as the correct interpretation the construction adopted by the local Government stands displaced with the result that the order of forfeiture is cancelled. The burden of proof thus clearly lies upon the petitioner.

We have next to consider section 20 which is in these terms "on the hearing of any such application with reference to any newspaper any copy of such newspaper published after the commencement of this Act, may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper which are alleged to be of the nature described in section 4, sub-section (1)". There has been considerable discussion at the Bar as to the object and meaning of this section. In my opinion, the object of the section was to widen, for a specified purpose, the rule of evidence embodied in section 14 of the Indian Evidence Act. Illustration (c) to that section shows that when A is accused of defaming B by publishing an imputation intended to harm the reputation of B, the fact of previous publications by A respecting B is relevant as proving A's intention to harm B's reputation by the particular publication in question. Section 20 of the Indian Press Act lays down a more comprehensive rule in the case of newspapers, in as much as it allows any copy of the newspaper, published after the commencement of the Act, to be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representation. Section 14 of the Indian Evidence Act, on the other hand, would not make the evidence relevant, unless the existence of a state of mind or state of

body or bodily feeling was in controversy. It must be observed, however, that the wider rule embodied in section 20 of the Indian Press Act does not apply to publications other than newspapers; in other words, if a question arises as to the nature or tendency of the words contained in a book, previous books by the author cannot be given in evidence under section 20. But it has been argued that section 20 has, at the same time, a restrictive effect in two directions, namely, first, that evidence of the type contemplated by section 20, can be adduced only on behalf of the Crown; and, secondly, no evidence other than what is admissible under section 20, can be adduced at the trial either by the petitioner or by the Crown. I am convinced that these propositions are not well founded. The first contention is based on a very narrow interpretation of the expression "in aid of the proof" of the nature or tendency. In my opinion the matter before the Court is the determination of the question of the nature or tendency of the words, signs or visible representation. The parties come forward with counter allegations, and, each side relies upon copies of previous issues of the newspaper in support of the construction favoured by it. If the copies produced are relevant, plainly the language of the section is not unduly strained when we hold that the materials produced, whether by the one side or by the other, constitute evidence "in aid of the proof" of the nature or tendency. Besides this is a manifestly just interpretation. The contrary view which seeks to confine the privilege of production of evidence under the section to the Crown alone, would lead to a position so obviously unjust that I cannot persuade myself to believe that such a departure could really have ever been intended by the Legislature, to be achieved indirectly by the disguise, as it were, of section 20. I hold accordingly that section 20 may be utilised by the person affected by the order of forfeiture precisely in the same man-

ner as by the Crown (*Amer Singh v. Emperor* 16 L. J. R., 555, *Ghulam v. Emperor* 15 Cr. L. J. R., 493). The second contention is equally groundless. If the Legislature had intended that no evidence of any description whatever other than what is contemplated by section 20 should be admissible at the trial, an express provision to that effect might no doubt have been easily framed. Besides, cases can be imagined without difficulty where evidence other than what is admissible under section 20 might be indispensable to enable the Court to discharge the duty imposed upon it by section 19. To take one instance: if the order of forfeiture relates to signs or visible representations, evidence may be essential to enable the Court to determine their meaning before their tendency could be adjudged. Again, where the order of forfeiture relates to words, they may, it is not inconceivable, belong to a language not known to the members of the Special Bench; or their tendency to produce a specified effect may be by suggestion, allusion or implication which may stand in need of exposition by evidence. It is not necessary for our present purpose to attempt an exhaustive enumeration of the classes of evidence which might be admissible; but what appears to me to be clear is that section 20 was not enacted with a view to exclude all evidence other than what is rendered admissible thereby.

Section 21 requires the High Court to frame rules to regulate the procedure in the case of applications under section 17, the amount of the costs thereof and the execution of orders passed thereon; until such rules are framed, the practice of the Court in proceedings other than suits and appeals are to apply so far as may be practicable. The requisite rules have been framed by this Court, and are set out in the Volume of Rules and Orders edited by Mr. Hechle.

Section 22 provides that every declaration of forfeiture, purporting to be made under the Act, shall, as against all persons, be conclusive

evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under the Act shall be called in question by any Court except the High Court on such application as aforesaid, that is, the application mentioned in section 17. This section makes the declaration of forfeiture conclusive evidence of the factum of forfeiture; further the legality of the forfeiture can be questioned only by the method mentioned in section 17 and to the extent provided thereby. To take one illustration: when an order of forfeiture has been made in respect of a book, the order if not set aside in a proceeding under section 17, is conclusive evidence of the fact in a civil suit between the publisher and the author. Section 26 provides that nothing contained in the Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against the Act. Consequently, the fact that an order of forfeiture has been made under the Indian Press Act, does not stand in the way of a possible prosecution for sedition under the Indian Penal Codes, in respect of self-same writing.

I have so far analysed the relevant provisions of the Indian Press Act without the aid of judicial decisions. The object of the legislation was to secure control over presses, publishers and means of publication, as also the suppression of seditious or objectionable newspapers, books or other documents wherever found. It might legitimately have been expected that the provisions in a statute of this character, so comprehensive in its application and so far reaching in its consequences, would be carefully couched in language which leave no possible room for doubt as to their meaning and legal effect. The fact, however, is otherwise, and reference has consequently been made to judicial pronouncements on the subject, which themselves are not always easy to reconcile (*In re Mohamed Ali*, I. L. R. 41 Cal. 466, *Purusottam v. Government of Bihar* 4 Patna

Law Journal 174, *Besant v. Emperor*, I. L. R. 39 Mad. 1085, and *Besant v. Emperor* 35 I. L. R. 500). The views expressed in *In re Mohamed Ali*, I. L. R. 41 Cal. 466, were, on many vital points not accepted by the Madras High Court in *Besant v. Emperor* I. L. R. 39 Mad. 1085, and as the latter decision in *In re Mohamed Ali*, can no longer be treated as binding in so far as it is inconsistent with the decision of the Judicial Committee. I do not wish to examine minutely the judgment of the Judicial Committee as if it were a statute, but it is worthy of note that there are passages in it, which are in appearance at least, of contradictory import. One of the controverted questions is, whether the second explanation covers the whole of clause (c) and thereby makes intention an essential factor in all cases comprised in the clause. There are four passages in the judgment of the Judicial Committee which bear directly on this point:—

- (i) "It is perhaps not easy to see how explanation (ii), with its qualifications, adds to or detracts from the direct language of paragraph (c). A similar observation might be made upon section 124-A of the Penal Code. The utmost that can be said is that the addition of the explanation, with its apparent repetition of the positive enactment in the guise of a qualification of the explanation, shows an almost meticulous care by the Legislature to balance the two considerations"—(consideration of freedom of argument and consideration of the preservation of law and order or of harmony).
- (ii) "In substance, the question under clause (c) of section 4, sub-section (1), comes to this: Are the passages such as in fact to excite or do they disclose an attempt (which implied intention) to excite hatred, contempt or

disaffection towards the Government or of any class or section of His Majesty's subjects in India.

- (iii) "It must be remembered that those words in clause (c) which refer to the hatred or contempt of a class or section are not limited by explanation 4, and that there has been in this respect some departure from the policy of the Penal Code, which super-added a qualifying explanation which has not found place in the Press Act.
- (iv) "All the (Madras) Judges thought that several passages were calculated to bring the Government into hatred and contempt, and this after giving due weight to explanation II."

Nothing would be gained by an endeavour to harmonise these passages, but taken together and read with the judgments of the Madras High Court, in which, according to their Lordships, they do not find that the section has been misconstrued, the Judicial Committee may be taken to have affirmed the view that no question of intention arises under section 4, sub-section (1), apart from the second explanation which does not cover all that comprehended in clause (c). In this view, I find myself unable to accept the contention pressed by Mr. Das with much learning and ingenuity that we should interpret section 4, as if it were a re-enactment of the Indian and English Law of sedition. I do not overlook that towards the conclusion of their judgment their Lordships of the Judicial Committee describe the proceedings as a "Criminal Case" nor am I unmindful that in an earlier passage, they refer to the cases of *Queen-Empress v. Tilak*, I.L.R., 22 Bom. 112 (528) and *Queen Empress v. Ramchandra* I. L. R., 22 Bom. 152 and *Queen-Empress v. Amba Prasad* I. L. R., 20 All. 55, wherein section 124 (a) of the Indian Penal Code was construed, and proceed to observe that these judgments are of considerable

assistance towards the construction of section 4 but they also point out, in that very passage, that the language of section 124 (a) is not precisely the same as the language in the Press Act, and in another passage, they add that there has been in the Press some departure from the policy of the Penal Code.

It may be pointed out further that, in the Indian Penal Code, the provision in respect of sedition is contained in section 124 (a), which finds a place in the sixth chapter of the Code, devoted to offence against the State, whereas section 153 (a) which relates to cases of promoting enmity between classes, finds a place in the eighth chapter devoted to offences against private tranquillity. In the Press Act, on the other hand, what corresponds to, but is not identical with, the Law of sedition is contained in section 4, sub-section (1), but what might have corresponded to section 153 (a) does not at all find a place in clause (c), as a matter of fact the provision was in the Bill as first published, but was omitted from the final version. We cannot also overlook, what indeed is obvious on a comparison of the terms of section 924 (a) of the Penal Code and section 4 of the Press Act, that the two provisions cannot be completely assimilated, far less can they be treated as identical. The scope and purposes of the two legislations are fundamentally different and however helpful the decisions under section 124 (a) of the Penal Code may be, we cannot import into section 4 of the Press Act a meaning not justified by its language. No useful purpose would thus be served by any termination of the principles enunciated in the cases of *R. v. Duffy* (1846) 2 Cox. 45, 9. I.L.R., 329; *R. v. Sullivan* (1868) 11 Cox. 44; *R. v. O'Brien* (1888) 15 Cox. 180, 12 I.L.R., 29; *E. v. Burns* (186) 16 Cox. 355; *R. v. Freeman's Journal* (1901) 2 L.R., 569; *R. v. Aldred* (1909) 22 Cox. 1 which were relied upon by Mr. Das with a view to enumerate the elements of seditious intention under the Law of England (*Stephen Digest of*

Criminal Law, 6th edition, article 98). It would indeed be against all recognised canons of interpretation to import into the Press Act the provisions of the Law of sedition as enacted in the Indian Penal Code or as administered in England. If the Legislature had intended to make section 4 an exact reproduction of the Law of sedition, the section might have been materially shortened; the purposes would have been served if a simple provision had been framed to the effect that an order of forfeiture might be made wherever a newspaper, book, or other document was found to contain matter such as would justify a conviction under section 124 (a) or section 153 (a). I cannot subsequently accede to the contention that the text of the validity of an order of forfeiture under section 4 is whether the offending article justifies a conviction under section 124-A.

A preliminary point must next be noticed before the subject matter of the offending articles is scrutinised. It has been argued that the terms of the notice of forfeiture are defective in as much as section 4, sub-section (1), clause (c) refers to "a hatred or contempt of any class or section of His Majesty's subjects in *British India*", whereas the notice mentions "the officers of the Government recruited in England". It cannot be disputed that this variance between the language of the statute and the terms of the order should have been avoided, and there is no reason why the notice should not have adhered to the exact language of the section.

This variance, however, even if it were treated as material cannot be made a ground for cancellation of the order of forfeiture. There is one ground and one ground alone on which the validity of the order can be attacked under section 17 which can be set aside only under 19, a defect in the form of the notice under section 4, sub-section (1), is not included in such ground. The articles must consequently be now examined with a view to determine,

whether the words are not of the nature described in section 4, sub-section (1).

It is necessary to keep before us the precise issue which requires investigation because the question of the admissibility of the evidence tendered under section 20 or under the general law must be decided from the point of view of its relevancy. The questions, then, are as follows:—

- (i) Are the words contained in the newspaper likely to produce or have they tendency to produce any of the five categories of consequences mentioned in clause (c) as analysed above.
- (ii) If the answer is in the affirmative the article falls within one or more of the three classes of comments enumerated in the second explanation as analysed above.

As regards the first question, the opinion I have formed is that both the articles, read without elucidation, have a tendency to bring into hatred or contempt or to excite disaffection towards the Government established by law in British India. Besides this, the first article has also a tendency to bring into hatred or contempt a class or section of His Majesty's subjects in British India, namely, the officers of that Government recruited in England. The language of the articles is plain and unambiguous and does not admit of a commentary and exposition. There is in both articles an open and incisive attack, of the most direct and straightforward character imaginable on the Government established by law in British India; in addition to this, the Anglo-Indian officers are described in the first articles as the lease-holders of India, who serve themselves first, then their mother country, and next the three hundred and fifteen millions in India who are governed by them at their sweet will on principles which are absolutely despotic and some of them un-British and barbarous. I shall not attempt a summary of an analysis, because

in the process of condensation, many a choice phrase and expression would be left out. To appreciate fully the articles they must be read in their entirety. In my judgment when they are so read, there can be no doubt as to their tendency. But Mr. Dass has made an ingenious attempt to adduce evidence to elucidate their probable effect and to prove that their real tendency is the reverse of their apparent tendency. He foreshadowed the classes of evidence he would tender for this purpose.

- (1) Documentary evidence contained in charters, proclamations, official despatches, pronouncements by ministers of the Crown from 1833 to 1919 on the subject of the methods of administration of India.
- (2) Documentary evidence to prove that various reforms in the mode of administration, proposed to be inaugurated from time to time by the Government, have not been realised or have been delayed or restricted by reason of the activity of Government officials in India, such as the Local Self-Government scheme of the Marquis of Ripon, the Morley-Minto Reforms and the Montagu-Chelmsford plan for responsible Government.
- (3) Reports of Royal Commissions inclusive of dissentient minutes, such as the Industrial Commission and the Public Service Commission, in order to show how the development of Indian industries has been retarded, if not sacrificed and how the pledges of successive Sovereigns for the good government of India have remained unfulfilled.
- (4) Documentary evidence to show that the British Parliament has exercised little effective control over the affairs of the Indian Government with the result that officials in this country have been

responsible neither to the Parliament nor to the people.

- (5) Oral and documentary evidence of events in the Punjab mentioned in the second article and the public feeling created thereby.
- (6) Oral evidence to prove the actual effect produced on the minds of those who have read the offending articles.
- (7) Evidence as to the general policy of the paper.

The ostensible object which this evidence has tendered was to establish the tendency of the articles in question, but the real purpose was two-fold, namely, first, to prove the absence of seditious intent; and, secondly, to establish the truth of the allegations made in the articles. Now, as I have already explained, the absence of seditious intent is not a material factor in the determination of the very specific issues we are called upon to try, an article may well be beyond the bounds of the Indian Penal Code; but may yet be drawn into the net of the Indian Press Act. We are thus concerned with the tendency of these articles.

That tendency is manifest to every reader of ordinary intelligence. The evidence of witnesses on either side stating the impression produced on their minds by a perusal of the articles would, even if it were admissible, be of little assistance; the Court has to determine, for itself, in a case like the present (where there is no doubt or ambiguity as to the meaning of the words), what effect they are, by their nature, likely to produce on the normal average reader understanding them in their plain natural meaning. Nor would it be useful, even if it were permissible, to investigate what class of people subscribe to the newspaper, for the actual readers may well be assumed to be far more varied and numerous than the subscribers themselves. The evidence to prove the truth of the allegations made in the articles is equally irrelevant. Justification

cannot be pleaded to take the case out of the operation of section 4, sub-section (1); and in one of the numerous cases cited by Mr. Das himself, *R. v. McHugh* (1901) 2 I. R. 569, an eminent Irish Judge, Lord O'Brien, L.C.J., pointed out that there were cases where the maximum prevailed "the greater the truth, the greater the libel". Consequently the historical documents, formidably arrayed, which Mr. Das offered to put in evidence (and which by the way, are familiar to all students of British Indian History) were inadmissible, for the simple reason that they were irrelevant for the determination of the question of tendency of the two articles. Nor was evidence of intention admissible, on this part of the case, for, as already explained, the question of intention does not arise in relation to that portion of section 4, sub-section (1) which precedes the explanation. We are thus left with the evidence tendered by Mr. Das under section 20, namely, copies of the "Amrita Bazar Patrika" published after the commencement of the Indian Press Act. Such evidence could be given only in aid of the proof of the nature or tendency of the words which are alleged to be of the nature described in section 4. Here, again, the evidence must be tested from the standpoint of relevancy. Some *prima facie* connection must be made out between the offending articles and the matter contained in the copies of the newspaper tendered in evidence; if no such connection is established, the evidence must be rejected. On this ground we rejected, forthwith, extracts which embodied a sermon by the late Bishop of Calcutta, speeches by the Secretary of State on the Reform Bill and the Mesopotamian Commission, minutes of dissent by Pandit Madan Mohan Malaviya and Sir Sankaran Nair, letters of resignation by additional members of the Imperial Legislative Council, such as Mr. Mazharul Huq and Mr. Jinnah, speeches by His Excellency the Viceroy, reports of the public meetings and speeches delivered,

the reports from Press correspondents and like matters. They had no relevancy whatever to the definite question under investigation, namely, the true nature and tendency of the two articles. The same remark is applicable to the other numerous articles published in the paper during the last two years on a variety of political topics. They had no bearing on the question of nature or tendency of the articles under consideration; some of them might have been of assistance, if the question of seditious intent had been material, but it must not be assumed that all of them would have tended in favour of the newspaper. The position thus is that although evidence of the kind contemplated by section 20 was admissible in aid of the proof of the nature and tendency of the articles, and other evidence, if available might conceivably have been used for the same purpose, the evidence actually tendered was wholly irrelevant for the determination of the question of nature and tendency. I hold accordingly that apart from the second explanation, the words contained in both the articles have a tendency to bring into hatred or contempt or to excite disaffection towards the Government established by law in British India, and the words used in the first article also tend to bring into hatred or contempt a class or section of His Majesty's subjects in British India, namely, the officers of the Government recruited in England. This leads us on to the next question.

The second question raises the issue, whether the articles in their entirety fall within the scope of the second explanation and are excluded from the operation of clause (c). It must be stated at the outset that in so far as the first article has a tendency to bring into hatred or contempt a class or section of His Majesty's subjects in British India, it cannot be rendered immune by the operation of the second explanation. A comparison of the five categories included in clause (c) with

the three comprised in the explanation, makes it abundantly clear that the fifth category in clause (c) has no counterpart in the explanation. With regard to this aspect of the first article, then, no question of intention can possibly arise, and this by itself would be sufficient to justify the refusal of the application with regard to that article. We have next to examine whether, apart from this, the two articles can be deemed to consist exclusively of comments of one or more of the three types mentioned in the explanation. The answer must be in the negative. As regards the first class of comments, namely, those expressive of the disapproval of the measures of the Government, it is plain that the term "measures" was intended to apply to legislative measures; the analysis of the explanation set out above shows that the comments were regarded by the legislature in three aspects, namely, the legislative, the administrative and the judicial functions of the State. Mr. Das has contended that the articles contained comments expressing disapproval of the legislative measures as also the administrative acts of the Government. If it be assumed that some of the comments may fairly be regarded in this light, it is obvious upon a perusal of the articles that they contain a great deal which cannot possibly be deemed as comments of this description. On this part of the case, according to the Judicial Committee, the question of intention is material. Consequently, evidence would be admissible to prove the intention, but the evidence tendered was irrelevant. No portion of that evidence had any bearing upon the question of intention of the author of the articles. The question of intention comes in, as we have seen, from the use of the expression "with a view to obtain" and "attempting to excite". These expressions are hardly applicable to "comments"; but the explanation is ill-expressed, and in view of the decision of the Judicial Committee as to the materiality of intention in this connection, it would be fruit-

less to speculate as to the real intention of the framers of the Act. But, as the Judicial Committee point out, in judging the question of intent, the publisher must be deemed to intend that which is the natural result of the words used, having regard, among other things, to the character and description of that part of the public who are to be expected to read the articles. From this point of view, there can be little doubt as to the intention. The articles themselves speak of "the scathing discontent that prevails from one end of India to the other" and state that "now the whole country is ablaze; it is not the educated Indians alone who are indignant at these gross outrages, but the masses as well". If this be a correct description of the condition of the people and the writer of the articles is most emphatic in his assertion the effect of comments of the character contained therein would plainly be to excite hatred, contempt and disaffection. The position then is that even if the two articles had not contained an attack upon the Government, and had consisted exclusively of comments expressing disapproval of the measures of the administrative action of the Government, the explanation would have been of no avail in as much as they constitute an attempt to excite, even though they do not actually excite hatred, contempt and disaffection amongst a people, who, on the unimpeachable testimony of the writer, were already in a state of excitement. But, as I have stated before, even if some of the passages can be treated as disapproving comments on the legislative measures and administrative actions of the Government, they contain a great deal not comprehended in that description. The result consequently is that the nature and tendency of the articles taken as a whole bring them within the operation of section 4, sub-section (1), clause (c) and they cannot be excluded therefrom by the application of the second explanation.

In this view the conclusion follows that the

application under section 17, fails and must be dismissed with costs; as directed in the judgment of Woodroffe, J.

(Sd.) ASUTOSH MUKERJEE.

In the Chief Court of the Punjab
JUDICIAL DEPARTMENT

Criminal Miscellaneous Case No. 12
of 1915.

FAROOQ ALI. *Petitioner,*
versus
THE CROWN *Respondent.*

JUDGMENT.

Date of hearing 3rd, 4th and 5th March 1915.

Petitioner.—By Mr. Beechy and Mr. Asad Ali.

Respondent.—By Mr. Bevan Petman, Government Advocate.

This is an application under section 17 of the Indian Press Act I of 1910, to set aside an order passed by the Governor-General in Council on the 2nd November 1914, against the applicant Farooq Ali, keeper of the *Comrade* and the *Hamdard* Press, Delhi, declaring the security of Rs. 2,000 deposited in respect of the said press to be forfeited under section 4(1) of the Act in consequence of an article entitled "the Choice of the Turks" published in the *Comrade* on the 26th September 1914, and further declaring forfeiture of all copies of the *Comrade* newspaper issued on that date. It is unnecessary to recite the order in full as both it and the article in question have been printed in the paper-book.

The article is very long, covering some 20 pages of print, and is objected to by Government in respect of (1) the whole tenor of the article, and (2) particular passages indicated in a schedule. The virtual applicant is not the keeper of the press but Mr. Muham-

mad Ali, the Editor of the newspaper and the admitted writer of the article. This gentleman appeared before us in person as well as by Counsel, and gave a very full explanation of the circumstances under which the article was written and of the motives by which he professed to have been guided. He also in reply to questions gave us an interesting sketch of his previous career both in India and in England. It is understood that after many years in the Aligarh College he took his degree at the Allahabad University in 1898, and then went to Oxford where he again graduated, with honours in the School of History. Returning to India in 1902 he served in various capacities in the Rampur and Baroda States, and in 1911 he started the *Comrade* in Calcutta. From September 1912 the newspaper has been published in Delhi, and he has continually edited it except for a short period during which he returned to England in the autumn of 1913. For the manner in which he conducted a good part of the proceedings before us we recognise that he is a highly educated man of considerable journalistic capacity.

The order of forfeiture is framed with special reference to the last portion of clause (c) under section 4(1) of the Act, the allegation being that the article is "likely or has a tendency, directly or indirectly, whether by inference or suggestion or otherwise, to excite disaffection towards His Majesty and the Government established by law in British India." Explanation I to the section amplifies the expression "disaffection" as including disloyalty and all feelings of enmity, while Explanation II prescribes the extent to which newspaper comment on the administrative or other action of Government is permitted. The main line of argument adopted by Counsel and by Mr. Muhammad Ali himself, is that the article under discussion cannot be treated as one tending to excite disaffection and that its publication is therefore protected by the

terms of the Act. We have been asked to hold that the article is nothing more than a straightforward criticism of the foreign policy of Government in England, and that in so far as the writer advocated a different policy he was actuated by a genuine desire to save both the British and Turkish Governments from the risk of war, which was imminent at the time and which actually broke out some six weeks later.

Mr. Muhammad Ali has already had trouble under the Press Act at Calcutta in connection with the case reported as I.L.R. XLI. Cal. 466, and he readily admits that he himself knew quite well that his article was of a risky nature, giving this as his own explanation of the sentence. "We have launched out our bark on this perilous sea for another and a more practical purpose"—at page 4 of the paper-book. His professed object was to put forward the case of Turkey in a new light as a rejoinder to an article also entitled "the Choice of the Turks" which had appeared in the *Times* of London on the 29th August.

Taking the warnings of the *Times* to Turkey as his text the scheme of his article was to point out that Turkey had serious grievances against Russia and France, against various other countries with which we are not immediately concerned, and to some considerable extent against the British Government. As regards the latter sins of commission were alleged with reference more particularly to the continued occupation of Egypt, the attack by Italy on Tripoli, and the recent exercise of a right of pre-emption over certain Turkish warships, and sins of omission in so far as the British Government had failed to check the repeated spoliation of Turkey by other powers. It was urged that in order to save Turkey from the risk of drifting into war against Great Britain and her Allies, and to win her over entirely to the side of the Allies, Egypt should be immediately evacuated by the British as an act of grace. Turkey was

at the same time warned that she must be on her guard against allowing herself to be treated as a cat's paw by Germany, and was informed in the clearest manner, in terms to which no exception can be taken, that it would be the duty of India to stand aside altogether and to refrain from coming to her assistance in any way.

We do not know what pretention Mr. Muhammad Ali may have to intimate knowledge of Turkish affairs, or to influence with the authorities at Constantinople, but he has admitted that as regards Egypt he has no firsthand knowledge and that he has never even stayed in the country except once for twelve hours during the night. It was a little difficult to understand precisely what he meant by the evacuation of Egypt, and he had apparently never considered what view the Egyptians themselves might have on the subject, but his contention seems to have been that the British civil and military administration should come to an abrupt end at once, and that the country should be made over unconditionally to Turkey. Whatever may be thought of the lack of political insight indicated by views of the kind, more especially at a time like the present when the security of Egypt means so much to the Government and people of India, it is quite possible that an article could have been framed on these lines without giving offence or inviting anything more in the way of hostile criticism than caustic reflections on the writer's sanity of judgment and either knowledge or capacity to educate his readers on such grave topics. The charitable view would then have been that the writer had much overestimated his ability to discuss high politics of the kind with discrimination, and had allowed his zeal for the wrongs of Turkey to obscure his discretion as an Editor. We were told that the article was written hurriedly against time in view of the emergent crisis then developing so that too much should not be made of the occasional

slips of an over-fluent pen. The natural reply would be that a prudent man who felt impelled to write on these lines would weigh his words with great care and avoid saying anything in any way liable to misconstruction in India.

Unfortunately the course taken by Mr. Muhammad Ali appears to us to have been the unmistakable opposite, and after considering the article as a whole with the greatest care we feel obliged to say that we are not surprised at the action taken by Government. There are many passages in the article, some of them not scheduled, which appear to us wholly incompatible with the writer's good faith.

Turning to a long section at pages 12 to 15, of which the head note in particular has been scheduled, probably as indicating that the entire section is objectionable, it is observed that the writer starts with the intention of refraining from going over old ground once again with reference to the British occupation of Egypt, lest he might be thought desirous of exciting the Turks and Egyptians or the Musalmans of India with a view to embarrass the authorities in India and in England. Immediately after, however, he proceeds to string together a whole series of quotations from speeches and documents with the object of doing precisely that which he professed his unwillingness to do, by suggestions that the British Government had broken faith in regard to Egypt not once but many times, special care being taken to omit reference to the well-known facts of Egyptian history during the last thirty years which have rendered it impossible to leave the country to the serious risks involved in relaxation of British control.

Following up this method of stating the case the article goes on to contend plainly enough that the Turks and Egyptians were entitled to demand the evacuation of Egypt by force. It is true that the writer qualifies his opinion by saying that force is wholly inexpedient at

this juncture. He does so however solely because he thinks that Turkey is for the moment too exhausted by recent wars, and he suggests that the better policy would be for her to defer the pressing of her demands by force till England in her turn may become exhausted by the present war. Throughout these sections of the article there are passages which go far to neutralise even this suggestion of postponement of forcible interference by Turkey. She is told for instance to beware of peace at any price; to make sure that she fights her battles on her own account and not as a tool of Germany; to refrain from her "clamant revenge", but from motives of expediency only; and in short to beware how she makes her choice, but if it should be for war to pursue it "till the claims both of honour and self-interest are satisfied". Mixed up with all this there are protestations that it is impossible for India to assist her, which are again neutralised by a suggestion that in India public opinion is not what it appears to be on the surface and that the writer's opinions are shared by a vast majority of Indians. This is followed by the words "Had the country not been demoralized by the constant condemnation of unpalatable truths and the repeated rewarding of cheap lies, every one in India would be confessing such admiration and sympathy (with the German nation) openly." The passage last quoted has been dragged in after a diatribe against vilification of Germany, with the suggestive comment that however badly the Germans may possibly have behaved they have not yet descended to the plane on which the dead are robbed of their last resting place, words which were explained by Mr. Muhammad Ali as containing an allusion to the Mahdi's tomb incident after the Battle of Omdurman in 1898.

We do not wish to lay too much stress on isolated passages put together in this way, but the writer's views are conveyed under such a cloud of verbiage that we find it difficult to

arrive at the tenor at the whole article without extracting portions which appear to convey the real meaning from a mass of more or less irrelevant context. We are entirely unable to accept Counsel's explanation that the tenor of the article is commendable for its sound sense at a critical time, and that at least it was an honest expression of personal opinion given in the interests of Great Britain. Mr. Muhammad Ali's personal explanation was indeed on somewhat different lines. He represented that he was writing for a comparatively small community of highly educated persons, who would be incapable of misunderstanding his article as an incitement to disaffection in India. He told us that the circulation of the *Comrade* was about 3,000 copies only, and that writing of this class could have no possible effect upon the masses in India. This is no doubt literally correct in the sense that the *Comrade* is caviare to the general, but we do not think it unjust to assume that a man of Mr. Muhammad Ali's ability and pretensions as a writer hoped that the limited circle of his readers would take their cue from him and in their turn do their best to spread similar ideas throughout the country. The contagious process by which Indian communities assimilate misleading doctrine is liable to work with unexpected rapidity.

No useful purpose will be served by quoting at greater length from the article, and I do not myself think that matters can be made any clearer by elaborate discussion of the exact meaning of the word "disaffection" as used in the Act. Counsel for the applicant referred to certain rulings on this point quoted in Donogh's Law of Sedition but they hardly take us further than the statutory explanation under section 4 of the Act that "disaffection" includes disloyalty and all feelings of enmity. These are wide words and our duty under section 19 of the Act is strictly limited to consideration of the question whether the Government order of forfeiture is justified by the

words and tendencies of the article. In the ruling I.L.R. XLI, Cal. 466 it has been pointed out by the learned Chief Justice of Calcutta that the Court has by law only the narrowest power of intervention. Government has sources of information which are not available to Courts, and an applicant for relief under section 17 of the Act must always be in the difficult position that it is nearly impossible for him to disprove the correctness of the conclusion at which Government may have arrived. Our own difficulty in these cases is enhanced by the irrelevance of a writer's intentions or motives. Even if we assume that they may be unobjectionable in themselves it is the possible results and not the intentions which have to be considered. To use a homely illustration, a man who carries a lighted candle into a powder magazine to search for something which he wants may so far as his intention goes be free from blame, but in view of possible and even probable results his act constitutes criminal negligence. In estimating the results of writing of the kind before us we are necessarily guided, to so large an extent, by the conclusion arrived at by Government under its wider knowledge of all that may be going on beneath the surface in India that we could hardly interfere with propriety unless it was obvious that there had been some palpable misunderstanding of the writing called in question.

In putting the case in this extreme form I do not wish it to be inferred that serious doubt is entertained as to the tendency of this particular article. It appears to me to be impossible to justify writings of the kind at a time when the feelings of the Mussalman population in India were already being excited and strained under the grave development of the present war. Any responsible Editor in India who seizes such a time and opportunity for ventilating his personal opinions in the manner described, does so at great personal risk. He must know perfectly well that the diaffected

in India will disregard his own protestations and advice of loyalty, however well expressed, and will be stirred only by those portions of an article which appeal to their passions. It is not for us to say whether the appeal has any chance of success or not. If we are satisfied that the tendency, direct or indirect, is to excite disloyalty we should not interfere with the action of the Executive Government. In the present case there appear to be grave reasons for thinking that Government has not taken an exaggerated view of the harm which can be done in this way either by direct suggestion or by the still more pernicious use of innuendo. My conclusion is therefore that this is emphatically not a case for interference by the Court even if our powers of interference were wider than we conceive them to be.

The applicant has in support of his case prepared a supplementary paper-book with reference to section 20 of the Act. As regards this all that need be said is that in so far as the reprint is confined to prior or subsequent articles in the *Comrade*, it does not take the case further to any material extent. The rest of the subject matter reprinted lies outside the scope of section 20 and is so entirely irrelevant that we declined to allow any use to be made of it at the hearing.

Subject to anything which my learned colleagues may desire to add I must hold that the applicant has failed to convince us that there is even much to be said in his favour. The writer of the article has deliberately gone out of his way to promulgate his views in a form which directly tends to excite disaffection towards Government both in England and in India. The application for relief should therefore be dismissed. The Government Advocate has asked for costs, and though we have not allowed costs in previous cases of the kind we should do so here, considering the importance of the case and the persistence and acerbity with which it has been argued

on the applicant's behalf. I would fix Counsel's fee at Rs. 250.

A. KENSINGTON,
Chief Judge.

11th March 1915.

In this case which has been argued before us for more than two days we have anxiously listened to a lengthy discussion by Mr. Beechey, also by his client Mr. Muhammad Ali and on behalf of Government by Mr. Bevan Petman, Government Advocate. I have had the advantage now of reading the judgment written by the learned Chief Judge, and as I find myself in agreement with him in every point which he has taken, it is not necessary for me to write much. I should like, however, to make a few observations explaining the aspects of the case which strike me as specially important.

The article under consideration has been objected to by Government as being likely or having a possible tendency to excite disaffection towards His Majesty or the Government established by law in British India. In order to be successful with this application under section 17 of the Act it is necessary for the petitioner to show that the article in question did not as a matter of fact contain "any words, signs or visible representations" of the kind described above. As the learned Judge has successfully shown, the petitioner has hopelessly failed to prove his case.

The learned Chief Judge in his judgment has set forth some of the important matters dealt with in the article; but I think it is not out of place for me to repeat as well as I can remember the general abstract of the article given to us by the learned Government Advocate, in the whole of which I entirely concur. Put very briefly, Mr. Petman says the

gist of the article is as follows: Turkey has been oppressed and hated by Russia, the Ally of Great Britain. She has been spoiled by France and Britain. There is a considerable estrangement between Turkey and England due to the acts of British Statesmen. Turkey has many grievances against Russia and France, the friends of England. The occupation of Egypt by the English affords a good *casus belli* for Turkey against England. There is a suggestion that the English intend to seize the Muhammadan holy places, and that Germany, at present at war with England, is entitled to "admiration and sympathy" on account of the gallant fight which she is making against great odds. All Indians would openly say this if they were not "demoralised by the constant condemnation of unpalatable truths and the repeated rewarding of cheap lies." No doubt, the Germans have committed many outrages in the course of the war but after all they are not so bad as the English, whose General ordered the destruction of the Mahdi's tomb at Khartum. This is Mr. Bevan Petman's version of this article as it would affect the minds of readers. He very properly argues that, after expressing such views as these, it is useless for Mr. Muhammad Ali to talk in the article of the inexpediency of Turkey making war with England at the present time or of the duty of the Muhammadans in India to remain loyal to the British Government.

It was strenuously argued by Mr. Beechey that the section under which the security had been confiscated by Government refers to disaffection against His Majesty and the Government of India, and that therefore nothing said against the Government of England and much less against individual ministers or officers of that Government, should be taken into account. It appears to me to be important to show that this argument will not hold water. In practice it is impossible to separate the Government of England from the Government of India. Everybody who is acquainted with

the constitution of the British Empire knows well that the supreme Government of India is, in the last resort, the Government in England. The Secretary of State for India is a member of the British Cabinet. The Governor-General in Council has no doubt great and extensive powers, but in the last resort the real Government is the British Cabinet. The Secretary of State for India is, of course, only one member of that Cabinet, but according to all correct views of the English constitution, a pronouncement by the Secretary of State for India is a pronouncement by the British Cabinet, that is to say, by the Government of Great Britain. Therefore, anything which tends in India to excite disaffection against the Government as represented by the British Cabinet must be taken as tending to excite disaffection against the Government established by law in British India; and apart from this constitutional way of looking at the matter it must be obvious that, if a writer succeeds in exciting in the minds of persons in this country bad feelings against the King, Lords and Commons and the British Cabinet, in which their power is concentrated, he does thereby excite feelings hostile to British rule in India. In this connection I would like to refer to the remarks in the summing up of Mr. Justice Batty in the case under section 124-A, Indian Penal Code, to be found in 4, Criminal Law Journal, at page 16.

And it is also idle for Mr. Beechey to pretend that the article simply criticises the policy of successive ministers in England and not the Government as a whole, for the policy pursued in Egypt is the policy of the Government of England, though of course pronouncements were made from time to time by individual ministers. Similarly, when the destruction of the tomb of the Mahdi at Khartum was carried out that also must undoubtedly be taken as an act of the British Government, though the authority on the spot may at the moment have acted on its own responsi-

lity, a point regarding which we have no information. The British Government accepted the measure, and, so far as the public is aware, never expressed any disapproval of it.

The learned Chief Judge has not thought it necessary to discuss the word "disaffection" at length, and indeed it may be better not to attempt an exhaustive definition; but at the same time it seems to me highly important that this Court should give the public some clue as to its views on this subject. I have read remarks upon this word in various rulings and various books, but I am quite content to accept in full the discussion of the word in I. L. R. XXII, Bom., page 152. There it is said that:—

"An attempt to excite feelings of disaffection to the Government is equivalent to an attempt to produce political hatred of Government as established by law, to excite political discontent, and alienate the people from their allegiance."

This is the general *placitum* but very significant remarks are made by Parsons J., and Ranade J., which I think should be published far and wide. Parsons J. said:—

"The word 'disaffection' used in section 124-A of the Indian Penal Code cannot be construed as meaning an absence of or the contrary of affection or love, that is to say, dislike or hatred, but is used in its special sense as signifying political alienation or discontent, that is to say, a feeling of disloyalty to the existing Government, which *tends to a disposition not to obey*, but to resist and subvert the Government."

And Ranade J., expressed the following opinion:—

"Disaffection' is not mere absence or negation of love or good will but a positive feeling of aversion which is akin to disloyalty, a defiant insubordination of authority, or when it is not defiant, *it secretly seeks to alienate the people and weaken the bond of allegiance and prepossess the minds of the people with avowed*

or secret animosity to Government,—a feeling which tends to bring the Government into hatred or contempt by imputing base and corrupt motives to it, and makes them *indisposed to obey* or support the laws of the realm, and which promotes discontent and public disorder."

I have italicised certain phrases in these quotations because it must always be borne in mind in such cases as the present that it is not necessary for the Crown to show that disobedience has actually been caused by the obnoxious writings.

We have heard a good deal of argument about the supplementary paper-books, one printed by Government and the other at the instance of the petitioner. The former is a complete single issue of the *Comrade* including the article now in question. It is unnecessary to say anything more about it than it certainly in no way helps the petitioner. But as to the other supplementary book my opinion is that the petitioner has damaged his case by bringing it to our notice. As the learned Chief Judge has pointed out, a great part of that book is irrelevant, but the first article printed, namely, "an extract from the *Comrade* of 26th August 1914" shows the spirit in which Mr. Muhammad Ali writes when he sets out to discuss the foreign policy of Great Britain. Can he in his wildest dreams suggest that a sentence like the following is innocent of seditious intention—"Unscrupulous aggressors have despoiled her (*i.e.*, Turkey) of her territories, intriguers have battered at her expense, wicked wars of spoliation have been forced upon her, while *England's ministers have looked on with apparent indifference and allowed the most solemn treaties and obligations to be cast to the wind.*" I wish to point out here that cases like this are sometimes argued as if the truth of a statement regarding the Government is sufficient justification for the statement in all circumstances, or as if an honest belief on the part of a writer in the truth of what he

is saying is in all cases sufficient justification. This view, of course, is wholly incorrect. To take an instance, even if it were the case that destruction of the tomb aforesaid was an unnecessary sacrilege, it would be in my opinion extremely improper for any newspaper in India at such a time as the present, after the lapse of 15 years, to say so. This and the following points taken from the article proscribed by Government, out of many that might be taken, show to my mind this that Mr. Muhammad Ali in writing this article intended to create bad feelings against British rule; namely, first, page 17, the words "clamant revenge", which Muhammad Ali admitted before us meant revenge against her enemies *including England*; secondly, page 16, the phrase "However weak the present day statesmen's sense of the solemnity of promises", and again, "The Turks will pin her (England) down to her promises *even if she showed the least disposition to wriggle out of them*"; and thirdly, it is impossible to ignore the wilful travesty of history in the sketch of British dealings with Egypt from the time of its occupation to the present day. We find not a single word about the Dervish rule in the Sudan, and the constant menace it involved against the liberties and existence of Egypt, until that rule was entirely through the exertions of the British Government, finally destroyed in 1898. Mr. Muhammad Ali, being a student of history, must be well aware of the fact that after 1884 it was only through the presence of the British armies in occupation of Egypt, and in consequence of the strengthening of the Egyptian Government by the presence of British statesmen and British officers that Egypt was not overrun by savage hordes. It is impossible to acquit him of bad faith, when, in professing to give to his readers a true account of British dealings with Egypt, he deliberately omitted all reference to these things.

Lastly, it has been constantly insisted upon before us that nowhere is there any sugges-

tion in the article that the Muhammadans in India should under any possible circumstances take arms against the English. Mr. Muhammad Ali, as his article shows him to be, is a shrewd and crafty man, and after his experience in the Calcutta High Court, he is not likely to give himself away openly. But even he has been unable entirely to stifle his real ideas. On page 19 of the article there is a section headed, "What may England do." Like a great deal of this article the style is involved and turgid; but, if the last 20 lines of the page mean anything at all, they certainly mean that the British Government may overstep the line, nay has probably overstepped the line, and may lose all right, according to the maxims of the Quran, to exact obedience from Indian Mussalmans. Of course, it is always possible, when a writer chooses to wrap up his meaning in vague and ambiguous words, to say that a passage means anything one chooses; but after reading this section of the article repeatedly and with all care and attention, this is the opinion I have arrived at regarding it.

With these remarks, which I regret are more lengthy than I had at first intended, I express my full concurrence with the decision of the learned Chief Judge.

16th March 1915. D. C. JOHNSTONE,
Judge.

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I agree with the learned Chief Judge and my brother Johnstone, whose judgments I have had the advantage of reading, that this application must be rejected, and I have nothing to add.

The application is accordingly rejected with costs, which for purposes of pleader's fee are fixed at Rs. 250.

17th March 1915, H. A. B. RATTIGAN,
Judge.

(C) Speeches in the Legislative Council on the Newspapers (Incitement to Offences) Act and Press Act.

1. Speeches in the Legislative Council on the Press Act, 1910.
2. Speeches in the Legislative Council on the Newspaper (Incitements to Offences) Act, 1908.
3. Speech by Sir C. Paul on the Vernacular Press Act, 1878.

C

Speeches in the Legislative Council on the Newspaper (Incitement to Offences) Act and Press Act

Extract from the proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 to 1909 (24 and 25 Vict., c. 67, 55 and 56 Vict., c. 14, and 9 Edw. VII, s. 4).

The Council met at Government House on Friday, the 4th February 1910.

PRESS BILL.

The Hon'ble SIR HERBERT RISLEY said :—
“My Lord, I have the honour to move for leave to introduce a Bill to provide for the better control of the Indian Press, or in other words to confine the Press—the whole of the Press, European or Indian, English or vernacular—within the limits of legitimate discussion. The subject is a large one and I have considered carefully how it should be presented to this Council, so that the essential issues may be clearly brought out and may not be obscured by history that has ceased to be relevant and principles which no longer apply. In the first place let me state as simply as possible what the Bill proposes to do.

“It will be convenient if I first describe the kind of matter which may not be published. This is set out in clause 4 of the Bill under six separate heads.

“The first of these relates to incitements to murder or to any offence under the Explosive Substances Act or to any actual violence. Incitements of this nature are already covered by the Newspaper (Incitements to Offences) Act, 1908, but we think it advisable to include them in this Bill in order that we may, if necessary, take action of a less severe kind than that prescribed by the Act of 1908.

“The next kind of writing which is forbidden is that which is likely to seduce any officer, soldier or sailor from his allegiance or his duty. That calls for no comment: it is obvious that such writings must be dangerous to the public welfare.

“Then under head (c) we come to writings which are likely to bring into hatred or contempt His Majesty, or the Government, or any lawful authority or any Native Prince or Chief under the suzerainty of His Majesty, or which are likely to excite disaffection against His Majesty, or the Government or such Princes or Chiefs or to excite antipathy between members of different races, castes, classes, religions or sects. The greater part of this head is covered by the terms of sections 124-A and 153-A of the Indian Penal Code; but we have made two additions of some importance. In the first place, we have included what I may describe as the preaching of sedition against the Princes or Chiefs of our Native States. We have had not a few instances of newspapers published in British India containing seditious matter of that kind. The Government of India cannot tolerate this; they cannot allow their territories to be used as a safe asylum from which attacks can be launched upon Indian Princes. The other direction in which this heading goes beyond the terms of the two

sections I have quoted is that it includes the bringing of any lawful authority into hatred or contempt. There have been many venomous attacks upon Magistrates and Judges, even upon Judges of the High Courts, and this must be prevented.

"The fourth heading relates to intimidation and blackmailing. It will cover the case of the blackmailing of Indian Princes against which the corresponding clause of Lord Lytton's Act of 1878 was directed.

"The fifth heading prohibits matter which is likely to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order. Under the Indian Criminal Law Amendment Act, 1908, the Government have power to declare that an association which has these objects is an unlawful association, and a newspaper should not be allowed to do what an association may not do.

"The last sub-clause deals with the intimidation of public servants and is taken *verbatim* from the Act of 1878. The protection which this sub-clause will give is certainly more necessary now than it was thirty years ago.

"I will now show how we propose to prevent the publication of matter of the kind I have described. Hon'ble Members are no doubt aware that under the Press and Registration of Books Act of 1867 every person who wishes to keep a press for the printing of books or papers must make a declaration to that effect before a Magistrate. Another provision of that Act requires that every printer and publisher of a newspaper must make a similar declaration. These declarations are registered and are available for the information of anyone who wishes to take proceedings against the press or the newspaper. Clause 3 of our Bill provides that every person who makes a declaration hereafter as the keeper of a press must deposit security for an amount to be fixed in each case by the Magistrate, but not being less than Rs. 500 or more than Rs. 5,000.

Clause 8 contains a similar provision in respect of the publisher of a newspaper. The printer of a newspaper is not required to deposit security as his case is already covered by the provision requiring security from the person who keeps the press. These provisions, as I have said, apply only to future registrations. In the case of existing presses and existing newspapers no security can be demanded until the press or paper offends by printing or publishing matter of the prohibited kind. But when a press or newspaper has printed or published such matter, the local Government may at once call upon the person registered as the keeper of the press or the publisher of the newspaper to deposit security to an amount to be fixed by the local Government subject to the same limits as are prescribed for fresh registrations.

"The next stage in the procedure provided by the Bill is that the local Government can order the forfeiture of the security deposited if it appears that the press has printed or the newspaper has published any matter of the prohibited kind. If the keeper of the press or the publisher of the newspaper wishes to continue his business after such an order has been passed, he is at liberty to do so, but he must make a fresh declaration under the Press and Registration of Books Act and the Magistrate may then demand enhanced security up to a maximum of Rs. 10,000. Should the keeper of a press or the publisher of a newspaper again publish prohibited matter after enhanced security has been taken, the local Government may order the forfeiture of the enhanced security in the case of the newspaper, and of both security and press in the case of the printing press. I wish to make it quite clear to Hon'ble Members that no keeper of a press who is registered at the time of the passing of this Bill will be affected by its provisions unless and until he offends by printing prohibited matter; but if he does that, he may be called upon to deposit security. If

he again offends, his security may be forfeited, while for a third offence both security and press may be forfeited. For persons who are now registered as publishers of newspapers the procedure is the same. That is to say, no interference at all until one offence is committed; then a demand for security which may be forfeited for the second offence; next the taking of enhanced security; and the forfeiture of this enhanced security for the third offence. In the case of new registrations security is demanded from the beginning. This is necessary to provide against an evasion of the law by new registrations which are new only in name.

"It will be readily admitted that if we take security at all we must take it from the keepers of printing presses; for the law, to be effective, must cover not only newspapers, but also books, pamphlets, leaflets and every other kind of document by which seditious matter can be disseminated. But it may be asked, why take security from the publisher of a newspaper in addition to taking it from the keepers of presses? The answer is that we cannot always be certain of getting at the newspaper through its press, for difficulties have arisen in ascertaining at what press a newspaper is printed. Many of the small newspapers, which are notorious offenders, have no presses of their own, but are printed at a job press which may be changed from month to month, and it is by no means easy to learn with certainty at which particular press an offending issue of the newspaper was published. Moreover, if security were not demanded from the publisher of a newspaper, he might continue to offend with no greater penalty than the demanding of security from each of the different presses at which successive issues of his journal were printed.

"We have fixed a minimum as well as maximum for the security to be demanded in order to give an indication which will guide officers in all ordinary cases. But to meet the

exceptional cases of the petty press which publishes only trade circulars, bill headings and the like, and the case of the school or college magazine and other similar publications which are not newspapers in the ordinary sense of the term, though they cannot be excluded from the definition—in order to meet these cases we have given the Magistrate power to take reduced security or to dispense with security altogether.

"The provisions which I have described so far relate to the cases of newspapers and of matter which is printed at presses that are known. But we have also to deal with books and pamphlets; especially the matter, which are printed out of India or secretly in India. To meet these cases power is taken for the local Government to declare by notification that such publications are forfeited and to issue search-warrants for their discovery. In aid of this provision power is also given to customs officials to detain suspected packages pending examination of their contents by the local Government, and to post office officials to open and detain with a like object any suspected packet which has been transmitted by post. We have also prohibited the transmission by post of any newspaper in respect of which the necessary declaration and deposit of security, when required, have not been made.

"Finally we have laid an obligation upon the printer of a newspaper to deliver to Government at the time of publication two copies of every issue. This has been rendered necessary by the failure of certain newspaper proprietors to send punctually the copies for which the Government subscribe, while in one case a subscription equal to ten times the ordinary subscription was demanded from the Government.

"So far I have dealt with the powers which are given by the Act. I will now turn to the check which we have provided. This consists of an appeal to a special tribunal of three Judges of the High Court against any order of

forfeiture passed by the Government. If it appears to the High Court that the matter in respect of which the order was passed does not come within the terms of section 4 of this Bill, then the High Court will set aside the order of forfeiture. I think it will be admitted that that is a very complete check upon any hasty or improper action by a local Government. We have, therefore, barred all other legal remedies.

"There are two other clauses that I must mention. One provides that the penalty for keeping a press or publishing a newspaper without making the deposit of security shall be the same as that imposed upon a person who keeps a press or publishes a newspaper without making the declaration required by the Press and Registration of Books Act. The other is a provision which saves the operation of other laws.

"I have explained the scope of the Bill, what it proposes to do. I will now mention its limitations, what it does not propose to do. In the first place, it does not create a censorship. It imposes no antecedent restraint on the Press: a man may publish what he pleases; he has the widest range for every form of intellectual activity within the limits laid down by the law. Secondly, it is not like the Press Act of 1878, a purely executive measure. The initiative, indeed, rests with the Executive Government, but ample security against hasty or arbitrary action is provided in the form of what is virtually an appeal to a highly competent judicial authority. Thirdly, it is not a measure of universal licensing with power to the Government to withdraw or refuse a license at discretion. The liberty of unlicensed printing, for which Milton pleaded three centuries and a half ago, and at the time pleaded in vain, is untouched by this Bill. Security is demanded only from papers established after the passing of the Act. That is necessary to guard against the Protean changes of identity of which we have had

illustrations in Bengal. But security is one thing and a system of licensing is another. Security may rightly be required in the interests of the community in order to guarantee that those who undertake for the first time the important task of instructing the people regarding public affairs shall at any rate be fully aware of the responsibility they incur.

"I do not set much store by precedents and parallels drawn from foreign sources. As Lord Morley has pointed out, no political principle whatever is capable of application in every sort of circumstances without reference to conditions in every place and at every time. Each country has its own problems and must solve them in its own way. India has hers, of which this is one of the gravest. We too must travel on our own road with such guidance as our necessities give us; we cannot walk by borrowed light. But if there is any European country upon whose experience we might draw upon and whose example we might follow, it would be Austria, where there exists much the same kind of medley of nationalities, classes, languages and religions as we find in India, and where (as Bismarck pointed out long ago) a certain section of the Press has exercised an influence of evil tendency. Yet what a contrast there is between this Bill and the regular practice in Austria. In that country not only can the business of printing not be carried out without a license, but every number of a periodical must be submitted to the police before publication so that it may be confiscated if it contains anything contrary to the law. All periodicals, whether they have offended or not, must deposit money, on pain of suppression, as a guarantee for the payment of fines. The police frequently order a newspaper to leave out of its columns an article which they deem offensive and give notice to the daily Press that some particular subject had better not be touched upon for the present. Finally, whatever constitutional rights newspapers may possess may be sus-

pended at a moment's notice by the Ministry declaring a state of siege. This is the practice in a country where the Press is subject to the wholesome check of public opinion. Each political party has its organs, and the Government have theirs. Statements made by one side are promptly rebutted by the other, and no editor can be wholly irresponsible. In India none of these restraints exist to any extent worth mentioning. Yet the Bill does not propose to confer any powers on the police. They will be absolutely outside it and will have nothing whatever to do with its administration.

"I have explained, my Lord, what our proposals are and also what they are not. It is my present duty to justify them and for this purpose I must review as concisely as possible the history of the subject and must answer the question, why is any special law necessary; why cannot the Government be content to rely upon the ordinary criminal law? To do this I must go back to the beginnings of the present evils. The Press in India has been free (except during two periods) for the last 75 years, in fact ever since Sir Charles Metcalfe repealed the Licensing Act which was in force up to 1835. The two periods which I have referred to were, first the period of the Mutiny when the entire Press was under absolute control for one year and no more, and the second was from 1878 to 1881 when a portion of the Press was subject to the virtually nominal control imposed by the Vernacular Press Act of 1878. I will not touch upon the earlier years, but I will begin about the middle of the period which I have marked off and I will endeavour to show what use the Press has made in comparatively recent times of Lord Metcalfe's famous concession. Thirty-three years ago, I was present, as Under-Secretary to the Government of Bengal, at a notable Durbar held by Sir Ashley Eden at Belvedere on the 12th August 1877. In addressing that Durbar the Lieutenant-Governor

denounced in strong terms the disloyalty and sedition which were frequently published in the Native Press of Bengal. Even then rank treason was preached and a war of independence was talked of, and Sir Ashley Eden thought it necessary to warn those whom he addressed that the character of the Vernacular Press was creating an unfavourable impression in many quarters of the loyalty of the Bengalis. The warning was not heeded, and in the following year the tone and tendencies of the Press led to the passing of the Act of 1878, the object of which, like the object of the present Bill, was to prevent, not to punish, sedition. As everyone knows, the Act was in force for only three years during which time recourse was only once had to its provisions. Its defects, from our present point of view, are palpable. It applied only to the Vernacular Press and left untouched journals published in English, whether owned by Indians or by Europeans; its machinery was purely executive, judicial intervention being expressly excluded, and it contained an impracticable provision for censorship which was soon repealed. The whole Act was repealed in 1881, and from that time till now the Press has been left to the operation of the ordinary law. Up to the year 1907 the policy of the Government was one of extreme forbearance and prosecutions were of rare occurrence. Indeed, during the 37 years from 1870 to 1907 the law was put in motion only sixteen times. Among these cases there is not a single case of acquittal. On two occasions the jury disagreed but the offenders would have been tried again if Government had not thought fit to accept their apologies. I have described our forbearance as extreme; many people may think it excessive. But the ingrained instincts of all Englishmen are averse to interference with the Press, even by way of prosecution, and we continued to hope that time and education would bring wisdom. Our hope was vain, the Press did not mend its ways; it went

continually from bad to worse, and at length it produced its inevitable results in the cruel and oppressive methods of the boycott. It was clear, moreover, that matters were not going to stop there and that worse things were in store for us. As every one knows, we had not long to wait. Accordingly on the 3rd June 1907, after careful and anxious consideration, the Government of India issued the following resolution :—

‘Certain circumstances attending the recent outbreaks of lawlessness in the Punjab and Eastern Bengal have forced upon the attention of the Government of India the deliberate efforts made by a number of newspaper, both English and Vernacular, to inflame the minds of the people, to encourage ill-will between classes, to promote active hostility to the Government, and to disturb the public tranquillity in many different ways. The Governor-General has no desire whatever to restrict the legitimate liberty of the Press to criticise the action of the Government, and he would be most reluctant to curtail the freedom of the many well-conducted papers because of the misbehaviour of a few disloyal journals. But he is responsible for the maintenance of law and order among a vast and heterogeneous population, and he is unable to tolerate the publication of writings which tend to arouse the disorderly elements of society and to incite them to concerted action against the Government. On these grounds he has determined that the dissemination of sedition and the promotion of ill-will between classes must be repressed by firm and sustained action under the penal law. Accordingly, in supersession of previous orders on the subject, His Excellency in Council empowers Local Governments to institute prosecutions in consultation with their legal advisers in all cases where the law has been wilfully infringed. He hopes that the warning now given may, in great measure, avert the necessity for numerous prosecutions, but if this hope should unhappily not be realised, he relies upon the local authorities to deal with the evil effectively.’

“Up to the end of last year 47 prosecutions had been undertaken under these orders. Not one of these cases has failed, although in some instances the editor, manager or proprietor has escaped, and only the registered printer or proprietor has been convicted, while in

others the Government have accepted an apology and withdrawn the prosecutions. Nevertheless we have to acknowledge defeat. We have succeeded in the minor object of punishing a certain number of offenders; we have failed in the major, the vital, the all-important object of curing a grave evil. We have proved that the law as it stands is sufficient to enable convictions for sedition to be obtained; but we have also proved that it is not sufficient to restrain the Press within the limits of legitimate discussion. In spite of our successful prosecutions we see the most influential and most widely read portion of the Indian Press incessantly occupied in rendering the Government by law established odious in the sight of the Indian people. The Government is foreign, and therefore selfish and tyrannical. It drains the country of its wealth; it has impoverished the people, and brought about famine on a scale and with a frequency unknown before; its public works, roads, railways and canals have generated malaria; it has introduced plague, by poisoning wells, in order to reduce the population that has to be held in subjection; it has deprived the Indian peasant of his land, the Indian artisan of his industry, and the Indian merchant of his trade; it has destroyed religion by its godless system of education; it seeks to destroy caste by polluting, maliciously and of set purpose, the salt and sugar that men eat and the cloth that they wear; it allows Indians to be ill-treated in British Colonies; it levies heavy taxes and spends them on the army; it pays high salaries to Englishmen, and employs Indians only in the worst paid posts;—in short it has enslaved a whole people, who are now struggling to be free.

“My enumeration may not be exhaustive, but these are some of the statements that are now being implanted as axioms in the minds of the rising generation of educated youths, the source from which we recruit the great body of civil

officials who administer India. If nothing more were said, if the Press were content to

'let the lie
Have time on its own wings to fly',

things would be bad enough. But very much more is said. Every day the Press proclaims, openly or by suggestion or allusion, that the only cure of the ills of India is independence from foreign rule, independence to be won by heroic deeds, self-sacrifice, martyrdom on the part of the young, in any case by some form of violence. Hindu mythology, ancient and modern history, and more especially the European literature of revolution, are ransacked to furnish examples that justify revolt and proclaim its inevitable success. The methods of guerilla warfare as practised in Circassia, Spain and South Africa; Mazzini's gospel of political assassination; Kossuth's most violent doctrines; the doings of Russian Nihilists; the murder of the Marquess Ito; the dialogue between Arjuna and Krishna in the *Gita*, a book that is to Hindus what the *Imitation of Christ* is to emotional Christians—all these are pressed into the service of inflaming impressionable minds. The last instance is perhaps the worst. I can imagine no more wicked desecration than that the sacrilegious hand of the anarchist should be laid upon the Indian Song of Songs and that a masterpiece of transcendental philosophy and religious ecstasy should be perverted to the base uses of preaching political murder. The poison, however, is widely diffused by a variety of methods, and antidote there is none. The side of Government is represented in the Indian Press by a few papers of small circulation which never reach the persons whose minds are prejudiced by the attack. Sedition has the monopoly of its audience, and that audience is large and is increasing daily. No means are left untried to swell its numbers and to infect the masses of the people. The peaceful life of the village has been invaded by youthful enthusiasts who read out to an illiterate audience, attracted by natural curiosity, articles preach-

ing the doctrines which I have described. Emissaries disguised as religious devotees travel about the country and spread the gospel of anarchy among simple folk who believe that whatever is printed must be true. Worst of all, attempts are being made to enlist the women of India on the side of rebellion by disseminating in the zenana libels upon the Government—among them that infamous story about the introduction of plague. Was there ever such sacrilege as this—that the renaissance of Indian womanhood, their awakening to a new intellectual life, should be threatened at its outset by influences such as these? In all ages—from the time of your own Epics and the old Roman legend of the Sabine girls—women have been the peace-makers of the world. Their mission has been to heal race-enmity, not to foster it. Is the Sakuntala of the future to grow up in an atmosphere of treason, plotting, murder and designing bombs? If she does, she will certainly not be the Sakuntala of the Indian poet.

"The consequences of this ever-flowing stream of slander and incitement to outrage are now upon us. What was dimly foreseen a few years ago has actually come to pass. We are at the present moment confronted with a murderous conspiracy, whose aim it is to subvert the Government of the country and to make British rule impossible by establishing general terrorism. Their organisation is effective and far-reaching; their numbers are believed to be considerable; the leaders work in secret and are blindly obeyed by their youthful followers. The method they favour at present is political assassination: the method of Mazzini in his worst moods. Already they have a long score of murders or attempted murders to their account. There were two attempts to blow up Sir Andrew Fraser's train and one, of the type with which we are now unhappily familiar, to shoot him on a public occasion. Two attempts were made to murder Mr. Kingsford, one of which caused the death of

two English ladies. Inspector Nanda Lal Banerji, Babu Ashutosh Biswas, the Public Prosecutor at Alipore, Sir William Curzon-Wyllie, Mr. Jackson, and only the other day Deputy Superintendent Shams-ul Alam, have been shot in the most deliberate and cold-blooded fashion. Of three informers two have been killed, and on the third vengeance has been taken by the murder of his brother in the sight of his mother and sisters. Mr. Allen, the Magistrate of Dacca, was shot through the lungs and narrowly escaped with his life. Two picric acid bombs were thrown at His Excellency the Viceroy at Ahmedabad and only failed to explode by reason of their faulty construction. Not long afterwards an attempt was made with a bomb on the Deputy Commissioner of Umballa.

"These things are the natural and necessary consequence of the teachings of certain journals. They have prepared the soil in which anarchy flourishes; they have sown the seed and they are answerable for the crop. This is no mere general statement; the chain of causation is clear. Not only does the campaign of violence date from the change in the tone of the Press; but specific outbursts of incitement have been followed by specific outrages.

"And now, Sir, I appeal to the Council in the name of all objects that patriotic Indians have at heart to give their cordial approval to this Bill. It is called for in the interest of the State, of our officers both Indian and European, and most of all in the interests of the rising generation of young men. In this matter, indeed, the interest of the State and the interests of the people are one and the same. If it is good for India that British rule should continue, it is equally essential that the relations between Government and the educated community should be cordial and intimate, and that cannot long be the case if the organs of that community lay themselves out to embitter those relations in every sort

of way and to create a permanent atmosphere of latent and often open hostility. In the long run people will believe what they are told, if they are told it often enough, and if they hear nothing on the other side. There is plenty of work in India waiting to be done, but it never will be done if the energies of the educated classes are wasted in incessant abuse and suspicion of Government.

"As regards the officers of Government, the case is clear. At all costs they must be protected from intimidation and worse. And it is our Indian officials who stand in most need of protection, for they are most exposed to the danger. The detailed work of investigation and detection necessarily falls upon them, and they are specially vulnerable through their families. They have done most admirable work during the troubles of the last few years and have displayed under most trying conditions courage and loyalty that are beyond all praise. We are bound in honour to protect them from threats of murder and outrage which sooner or later bring about their own fulfilment.

"To my mind, Sir, the worst feature of the present situation is the terrible influence that the Press exercises upon the student class. I was talking about this about a month ago with a distinguished Indian who is in close touch with schools and colleges in Bengal. He took a most gloomy view of the present state of things and the prospects of the immediate future. According to him the younger generation had got entirely out of hand, and many of them had become criminal fanatics uncontrollable by their parents or their masters. As an illustration of the spirit that is abroad he told me that one of the examiners for the last Matriculation of the University had received a threatening message that if he reported to the authorities a particularly gross case of cheating 'a Browning pistol was ready for him'. I may set by the side of this, as a companion picture, the following passage in Sir Lawrence Jenkins' judgment in the Ali-

pore Appeal. Speaking of the *Jugantar*, his Lordship says:—

‘Perhaps no more striking illustration of its pernicious and insidious influence can be found than in the postcard, Exhibit 1079, addressed to Abinash and found in the course of the search at 4 Raja’s Lane. It runs as follows:—

‘Bande Mataram,
Mirasi, 7th September 1907.

‘SIR,

From your advertisement, articles and your bold writings, I understand that he alone, who has the subversion of the Firingee (British) Government at heart, should by all means read the *Jugantar*. I, a schoolboy, living in a hilly country, don’t feel any oppression of the Firingees, and I give way before people for want of information. I am, therefore, in need of *Jugantar*. For it acquaints us to a great extent with the devices of driving away the Firingees and also make us alive to wrongs. I am extremely in straitened circumstances, hardly able to procure one meal a day; nevertheless my desire for newspaper reading is extremely strong. Hence I approach you as a beggar. Ah! do not disappoint such an eager hope of mine. Please grant my prayer. I shall pay the price when I shall have the means. Please ever oblige me by sending a sample copy with

an expression of your intention. I hope you will favour me by enlisting me as a subscriber. Further please don’t fail to send a sample copy.

Submitted by
Sree Debendra Chandra Bhattacharjee,
P. O. Muchikandi, Mirasi,
Sylhet.’

“It is very dreadful, but it is also rather pathetic, and it throws a great light on the enthusiastic, impressionable and at times rather hysterical temperament of the Indian student. We must do what we can to save these boys. We cannot look on passively at the progressive demoralization of the youth of India. I believe, Sir, that this Bill will prove to be a wholesome and beneficial measure of national education, that it will in course of time prevent a number of young men from drifting into evil courses and ruining their prospects in life, and that in passing it this Council will earn the lasting gratitude of many thousands of Indian parents.”

The motion was put and agreed to.

Extract from the proceedings of the Council of the Governor-General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 to 1909 (24 & 25 Vict., c. 67, 55 & 56 Vict., c. 14, and 9 Edw. VII, c. 4).

The Council met at Government House on Tuesday, the 8th February 1910.

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The Hon’ble Mr. LYON said:—“My Lord, I am sure that many of those who support the present Bill will be fully prepared to sympathise with those Hon’ble Members who have expressed regret that the first measure passed in this new Council should affect the public Press. Indeed, it is probable that the sentiments that have been expressed in this connection would find many echoes in any assembly of His Majesty’s subjects in India. But at the same time it seems essential that in the circumstances

in which we find ourselves placed we should as an assembly of practical men face the problems with which we have to deal and descend from the heights to which some Hon’ble Members would wish to lead us. We have no hope that by this measure we shall extirpate anarchy, but we do believe that we shall strike at treason in its beginnings by trying to control seditious teachings in the Press.

“I think, my Lord, that many others must have waited, as I did, in the expectation that

in the speech of the last Hon'ble Member who spoke, and in some of the other speeches, we should have found some acknowledgment of the firm and unwavering adherence to the great principle of the liberty of the Press which has been exhibited by the Government of India during the past three years, and some indication that the fact had been realised that, in spite of great provocation and serious abuse of the privileges which that liberty carries with it, any curtailment of those privileges had been steadily refused. But although this outstanding factor in the present position has been ignored, and although the Government's previous record appears to have been forgotten, I think that there is ample evidence in this Bill of the scrupulous care with which these privileges have been regarded by Government and of the reverence for the principle of the liberty of the Press which it has shewn. Since the Bill has been introduced it has been examined by the public Press and it appears to have satisfied the most jealous scruples of liberal critics after a most thorough examination. Indeed, I think it would be difficult to find a measure which would combine any effective power to combat the present evils with such absolute security for honest and temperate critics. The Bill is in all essentials entirely preventive. It warns; it takes security; it does almost everything it can to prevent the commission and repetition of offences, before it raises its hand to strike. In the first place it asks for security from those who wish to start a new press. The privileges of which I spoke just now carry with them responsibilities which have hitherto been ignored. Persons who wield them should have some stake in the country, something to lose, and, in view of the present exceptional circumstances, it seems hardly too much to ask that they should give some security for good behaviour. There is no need to prove in this Council the necessity for such a provision, or to quote any of those articles which have given rise to this legislation. The methods of

distilling the poison of race hatred are well known. These privileges have been used to blackmail the wealthy, to intimidate the weak; to extort subscriptions from zamindars and to enforce the boycott by means of social persecution, and the cruelty of that social persecution is not always present to those who have received training in Western methods. Ample security is given in the Bill for small presses which are to be started for literary, educational or religious purposes, and I doubt whether any Magistrate would be restrained in the exercise of his powers if he grants exemptions to such laudable undertakings. But Government ask that the responsibility attaching to public journalism should be enforced when it is employed to generate sedition, and I venture to suggest that the old theory of the public Press as a safety valve is no longer tenable in India. The papers with which we have to deal too often generate steam which can only find an escaping valve in crime.

"The second object of the Bill is to meet offences in the large majority of cases with a warning and the taking of security. Surely these are lenient methods of dealing with such difficulties. Jurisdiction to deal with such cases is given to no less an authority than the local Government, and the local Government is answerable to the Government of India, and also I would note to its own Legislative Council; and I do not think that those Hon'ble Members who would deprecate any importance being attached to the control of the Legislative Council can be counted to be in the right, as all who have studied the methods of Parliament in England know what control, what pressure, what influence can be exercised by a reasonable and reasoning minority, however small, in that Parliament.

"As for the offences which are made penal under this Bill, they were carefully hedged round from the very commencement by the carefully drawn section which deals with them, and they have come back to us from the Select

Committee reduced in number and even more strictly defined. Read with the explanations which accompany them, I do not believe that there is one which Hon'ble Members will not hold sufficient to disqualify a printer or a publisher from his work, and it will be observed that it is only the repetition of such an offence which will find punishment under this Bill. In such circumstances, my Lord, I believe we shall be wise if we discount all the gloomy forebodings as to the results of this legislation which we have just now heard and if we look forward to a future when the youths of this country shall have been protected from the greatest danger that now assails their manhood, and when a healthier and more sane public opinion shall have rendered inoperative even the mild precautionary provisions of the present Bill."

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The Hon'ble MR. S. P. SINHA said:—"My Lord, as a Member of your Lordship's Government, who has had a great deal to do with the preparation of the measure now under discussion, I feel it my duty to make a few observations on the Bill, for certain misconception which apparently still exist with regard to its scope and purpose should, if possible, be dispelled though I had hoped that after the lucid speech from my Hon'ble friend the Home Member it would hardly be necessary for me to have to transgress upon the attention of the Council today.

"My Lord, I ask Your Lordship's leave to begin by expressing the regret that I share with most Hon'ble Members of the Council, and speaking personally for myself, the humiliation that I feel that we should to-day have to take part in the passing of a measure—which undoubtedly, I do not for a moment seek to conceal it—which undoubtedly, places greater obstacles than have hitherto existed upon the freedom of the Press. But, my Lord, while I feel the pain and the humiliation, I also feel conso-

lation in being able to take part in a measure which I believe will have a great influence for good on the future of my country. It is because I believe this to be a wise, fair and just measure that I have agreed to take part in the introduction of this measure.

"My Lord, I call upon my countrymen—whose confidence I claim to have earned—I call upon them to give their cordial support to this measure and to do the utmost that lies in their power to make it a success and to show that the Government is not called upon to enforce the Act either by their executive or judicial powers; for the matter rests entirely in their hands. My Lord, I will not deal—I am not able to ascend to the sublime heights to which some of my learned friends in the Council have invited us today—with the disquisitions about the freedom of the Press, about the inestimable boon of a free Press, and matters of that description. However appropriate they may be on general grounds, I confess I am not fully convinced of their relevancy with regard to a Bill of the particular nature that we are considering. The question, and the only question, to my mind is this. Is there a necessity for the measure that we are considering to-day? And if there is, are the means which we are proposing adapted to the end which we have in view? Now, if I have understood my friends who have spoken before me aright, it seems to be universally conceded that the liberty of the Press, the freedom of the Press for which we all have a great affection, has been in many cases most grossly abused. Is that, or is that not so? I have not heard any of my friends, I have not heard my learned friend Mr. Gokhale, for whom I have the greatest regard, I have not heard my friend Babu Bhupendranath Basu, with whom I have worked for many years, I have not heard either of them deny that the liberty of the Press has been grossly abused. If that is so, are we not to try and find a remedy? I can understand the argument, 'why not have recourse to the

existing law? Are not the provisions of the Penal Code, the Seditious Meetings Act, the Newspapers (Incitements to Offences) Act, which were passed only the other day, are not these stringent enough, are not these sufficient?' Well, if I cannot satisfy the Council that they are neither stringent nor sufficient, I will accept their verdict and say that the Bill which we have introduced is unnecessary and probably inexpedient. But let us see if as a matter of fact the provisions of the existing law are sufficient. Now my Hon'ble friend Mr. Gokhale has urged with characteristic force, that we have in the provisions of section 108 of the Criminal Procedure Code a weapon and an instrument ready to our hands which we have neglected to work, which we might have worked to greater advantage, and, if we had, there was no necessity whatever for a measure of the kind before us. Now my Hon'ble friend is not a lawyer himself. Fortunately or unfortunately, I have been for many years a lawyer, I have had practical experience of the working of section 108, and I have had a good deal of practical experience of the working of the sections dealing with sedition in the Penal Code; and I feel perfectly certain when I explain to the Council the difficulties of prosecutions under this sedition section and of prosecutions under section 108 of the Criminal Procedure Code, they must inevitably come to the conclusion that those provisions are neither sufficient nor stringent enough. Now let us deal first with section 108 which is of the same nature, the remedy is of the same nature, as the one we are now trying to provide, namely, preventive. Sir Harold Stuart, I think, pointed out its inefficiency and I desire only to add that in my experience I found it to work in that way. Thus when you call upon a man to furnish security under section 108 because he has been publishing seditious matter or because he has been publishing matter which excites race hatred or because he has been publishing matter for the

purpose of intimidating Judges, supposing you succeed in proving that that is the man who has published or printed the matter in question—it is not always easy to do so—but supposing you succeed in proving that the man you hauled before the Magistrate under section 108 is the man who has printed or published or disseminated seditious matter; what is done? All that he is required to do is to enter into a bond or to give security, in other words, that he will not do it again. Well, when I have got that, how far have I got towards my end? Assume I prove it. I can prove it if he is a publisher, because he has to make a declaration under the Act of 1867 that he is a publisher. But he goes home and makes a declaration that he is no longer a publisher of that paper, so that the law cannot touch him. No, more, he puts up a friend of his, a man of straw, a dummy editor, to write, or rather to copy out what he has written himself. How do I benefit by the bond which I have taken? How do I prove that the man who engaged solemnly before the Courts of Justice to be of good behaviour in the future has transgressed? Humanly speaking, it is impossible to prove it. It is difficult enough to prove that the man is actually responsible for the dissemination of the poison. But when you have proved it and when you have got an order punishing him, when you have got it, you are no further than you had been before you ever came into Court. Well, that is the section that we are referred to, saying, Why don't you work that? It has been worked, it has been in practice found to be unsuccessful, and with the explanations which I have given is any one surprised that it should be unsuccessful?

"Well, then, I will deal now with the section with regard to sedition, the section which we are unfortunately so familiar with for the last few years, section 124-A. My Hon'ble friend refers with great force to the observations of Sir Herbert Risley and says that we confessed

ourselves that during the last two years we have had 40 prosecutions, and that in these prosecutions we have had cent. per cent. of convictions. What more do we want? We have succeeded in every case. The law is potent enough to deal with such cases. Well, it would look like that to people who are not behind the scenes. If my Hon'ble friends think that because there were 40 prosecutions that there were only 40 seditious articles, I can tell them that they are greatly mistaken.

"My Lord, I have been the confidential adviser of the Government of Bengal and the Government of India for many years past, or had been rather—I beg my friend Mr. Kenrick's pardon. During that time I know what the procedure was that we had to go through before we initiated prosecutions for sedition. It would go from the lowest officer who dealt with it to the highest, each officer recording his note and each had to say whether he thought the case good enough to prosecute it. When all that had been done it would be referred to the Legal Remembrancer to the Government of Bengal whether he thought that a conviction would be obtained. And if the Legal Remembrancer thought that it would, it would then go to the Standing Counsel or the Advocate-General, or the two together, to say whether they thought it was a proper case for conviction. Well, it does not seem to be a very expeditious process, does it? As a law officer of the Crown one would never advise a prosecution of the Press unless one was absolutely certain of being able to obtain a conviction. There is the secret of why there have been cent. per cent. convictions, because out of ten cases we have had before us we would not allow prosecutions to be initiated in 9 out of 10. And there is very good reason, I think, for it is not that the law officers do not do their duty; there is every reason why law officers should be particularly careful in matters of this description. One abortive trial for sedition creates more mischief than 10

successful prosecutions. I appeal to all lawyers who are present here, in fact to all men of common sense, as to whether that is not so. If you fail in one case of prosecution for sedition, the immediate effect is that you create an impression that the Government is tyrannical and oppressive and trying to suppress expressions of free opinion and legitimate criticism, and the man who, after all, may be a criminal, who has just escaped with the skin of his teeth, is raised into a martyr and a hero. Well, that is the effect of these prosecutions for sedition. I hope I have shown satisfactorily that it is not always possible to say that because there are convictions cent. per cent. that therefore all the cases of sedition have been dealt with and that the law can easily reach all the persons who are actually guilty. It is also to be remembered that in a Criminal Court the accused must be given the benefit of the doubt: if there is the slightest element of doubt you cannot send the editor or the proprietor or the publisher or the printer to jail. That is one of the elementary principles of English jurisprudence. But does anybody want that doubtful matter—I do not say absolutely seditious matter—but does the Council want, do my Hon'ble friends want that even doubtful matter should be disseminated among the young men of the country? I venture to say on behalf of parents that they do not: that if they were to answer they would say at once, 'We object to doubtful matter being placed before our sons and daughters in order that their minds may not be poisoned by literature of this description'.

"I hope I have said sufficient to convince the Council that the existing law, either under section 108 of the Criminal Procedure Code or under section 124-A of the Indian Penal Code, is not strict enough for the purpose of meeting the evil complained of—license of writing—which requires to be checked. If it is admitted that the existing law is not sufficient for the purpose it follows that something

besides the existing law is necessary, and according to the best of our lights this is the measure which we put forward as an adequate means towards that end.

"My Lord, it has been described as drastic, as interfering with legitimate criticism, as interfering with the liberty of the Press. Let us for one moment examine the provisions of this Act and see if there is any foundation whatever for this criticism. Now, we provide that, so far as existing newspapers and existing presses are concerned, we should not require anything under this Act so long as they remain within the law: nothing in this Act should touch them. Does that sound very drastic? Does that sound as if the Government is intending to choke knowledge or to block the progress of education? Is it to be seriously suggested that papers of the description which we have in view in enacting this measure are papers which are potent instruments for the dissemination of knowledge? I disclaim on behalf of this Council any such idea. Well, you have this, that the existing papers and the existing presses are not to be required to give any security at all, but we ask that persons starting a press for the first time, or persons starting a newspaper after this Act is passed, should give security. It is said that this casts a slur. Where is the slur? Indeed, on the other hand, what my friends suggest, that it should be after an enquiry that the security should be required, would cause a slur, and it would cause a slur which would be irremovable by any process known to the law. My Hon'ble friends Pandit Madan Mohan Malaviya and Mr. Gokhale suggested—I am not sure that I am in order in dealing with these details of the Bill—that if you require security you cause a slur upon the man. And how do they get rid of that? Why, by telling the Magistrate that security is to be required only when the Magistrate thinks that he is a man likely to preach sedition. Which view or which provision would cause a slur—our provi-

sion which says that every man who comes will have to give a security for good behaviour without any imputation whatever on his character because we have nothing against him; will our provision cast a slur or will the provision of our Hon'ble friend that the Magistrate is to make an enquiry to find out whether he is seditious or not, and if he thinks that he is seditious, to require security? And, mind you, there is no appeal against it; it is final, absolutely conclusive, if the Magistrate says 'give security; you are a seditious person, you ought not to be allowed to print anything; put down two hundred or five hundred rupees, as the case may be.' I say that that is not an improvement on the Bill and my Hon'ble friends are not quite familiar with the provisions of the Bill. I admit that the time they have had to peruse the Bill and to digest its contents has not been very great, but this is a sample of the criticism which I am sorry to say has been extended to this Bill.

"Now I do not desire to be long, but I only want to say a few words with regard to my second point, namely, if there is a necessity, is the Bill which we have put before the Council adapted to meet the end which we have in view, and further is it so very drastic as it is ought to make out? Well, most Members have said, and I repeat it, that we do not expect that the man who is already armed with a Browning pistol or a dagger or with a bomb will be affected by the provisions of this Act. If he is out in the street watching for a man to be killed, he is not likely to stop to read the Act and to be checked or deterred by any provisions of the Act. But what we seek to do is to cut off the fuel from the fire, the supply of the material which is used for the purpose of the anarchist propaganda. Will it or will it not have this effect? Will it not prevent these from reaching the ears of the young men whom they get hold of? I venture to think that, at any rate, it is worth trying. Let us try and see if this does not cut off the

source of supply without which the propaganda must fail sometime or other. Well I say, therefore, that it is one of the means—we do not say that it is the only means or that it alone will serve that end, but it seems to us a means—one perhaps of the many means which are necessary to affect the object which we have in view. That being so, there being the necessity and this being a means of carrying out the object which we have in view, the only other question that I think this Council ought to consider is, is the Bill too drastic, or in other words does it go beyond the necessities of the case? If it does, we do not want it; we want that and that only which is strictly and absolutely necessary for the purpose we have in view. Well I confess that after great thought and great consideration and the most anxious care that I could bestow upon it, it seemed to me that the Bill as framed and as put before the Council does not err on the side of being too drastic. Let me for one moment—I think it is not very necessary because Sir Herbert Risley explained it clearly and better than I can—but let me remind you of the nature of the provisions of this Act. We do not touch existing newspapers. We ask the new papers or the new presses which are to be started after the new Act is passed to give security; for what Rs. 500 is the minimum. The Bill as originally introduced asked for Rs. 5,000 as the maximum. We have reduced it in Select Committee to Rs. 2,000. The Magistrate, therefore, in regard to new presses and new papers has the power to require security to be given, not for an unlimited amount, but anything between Rs. 500 and Rs. 2,000; but unless we are to assume that the Magistrate is by nature and design a malevolent creature, we may take it for certain that in ordinary cases he will not ask for more than Rs. 500, the minimum. It is only in extreme cases, and if he has reason to think that it might be misused, that he would ask for anything more than the minimum. Well Rs. 500 to Rs. 2,000

does not seem to be an extraordinary sum to require the person who will have a printing press, a potent instrument for evil as well as for good, it does not seem to me that it is an extraordinarily large sum to ask the keeper of a printing press to deposit. With regard to the publisher also a man who is to have the power of disseminating broadcast literature which might have great influence for evil as well as for good, we do not think it is a large sum to require the publisher to put down. We want responsible persons to have the conduct of these newspapers and the publication of books which would have such influence upon the youth of the country. I do not think that any right-thinking man will say that, in asking for that security, we have fixed it so high as to make it impossible for well-intentioned persons with small capital to embark on an enterprise of this kind; that we have made it impossible for them to carry on legitimate business. Well, when the security is given, the money is in Court; it may be that if it had remained with the man he would have been able to get more out of it than the 3½ per cent. which will be realised upon it as invested in Government securities, and all the time the money is in Court interest is accruing on the money as on Government securities, because no money is kept in Court locked up in box. The moment you put it in, it is invested in Government securities, and the man who puts in the money will be getting his 3½ per cent. interest on his money. He might have made more of course. We know that in India it is possible to get very much larger rates of interest, particularly in country districts; but still it is not such a very great deprivation to be compelled to take 3½ per cent. with regard to money which you are bound to provide as a security for good behaviour. And it is only because the circumstances are exceptional and because privileges have been abused, that we are obliged to have recourse to a measure of this kind. When the security has been put in, the

keeper of the press or the publisher of the newspaper has nothing to fear unless he publishes matter prohibited by the law. When he has done that, what is the punishment to which we subject him? The security between Rs. 500 and Rs. 2,000 which he has deposited is declared to be forfeited,—by whose order? By the order of the highest executive authority in the province, the Local Government. It is a great power which we, no doubt, confer upon the Local Government. It is to be exercised on the gravest responsibility; it is to be exercised under safeguard which I will presently mention, which will make the Local Government hesitate before it makes an order of forfeiture, because there is a tribunal who may sit over it and reverse its decision. That in itself is a great check. It will incline the Local Government to be careful and cautious before exercising this great right. There will be a great sense of responsibility created by the very fact that there is a tribunal which can deal with it afterwards. Well then supposing the Local Government makes that order of forfeiture, what happens? Is this man prevented from going on with his paper? Has this man got to shut up his printing press? No, he has only to come and say, 'I now ask that I should give the further security that you have provided for, and that I should have another chance.' It is not that, on the first offence being committed, the Local Government takes his security and shuts up his business and shuts up his paper. That is not so; on the first offence the Local Government orders that the security, and the security only, shall be forfeited. He can the very day, or the very next day, give further security and go on with his paper and the press, and at the same time appeal to the High Court. If the High Court sets aside the order of the Local Government, what happens? He gets back the second security which he has put in, and the first security which was ordered to be forfeited comes back to the position in

which it was and remains as the original security. So all that has happened is—on the first order of forfeiture being made, all that has happened is—that he is kept out of the double security for the period between the date of the first order and the date of its possible reversal in the High Court. Well, no doubt that is a curtailment of a right; no doubt that he loses something; but all I say is this. It is a sacrifice which every right-thinking citizen is bound to make, having regard to the exceptional circumstances for which this exceptional legislation is introduced. It is a sacrifice; but it is not a very heavy sacrifice, and it is a sacrifice which you ought cheerfully to make having regard to the fact that there has been undoubtedly a good deal of sedition in the Press, and who will take upon himself to say that this kind of literature has not had its influence upon the youths whose outrages we all deplore and condemn? It is a sacrifice; it is a curtailment of a right, but it is not a very great one.

"It is of no use to attempt to convince us that it is a very drastic measure, because we feel sure that it is not. We have put in all kinds of safeguards. I will mention another which my Hon'ble friends seem to have forgotten in their hurried perusal of the Bill. When the Local Government makes the order of forfeiture, the Bill provides that it must state or describe the offending words or articles, or pictures, or engravings, or whatever it is upon which it bases its order. No making an order which is vague, which is indefinite, no order without allowing the man to know what he is being punished for, but a definite order stating the very words of the article, or describing it as that which the man is being punished for. Is not that a safeguard? Apart from the tribunal of appeal, is it not a safeguard to provide that a man will not have his security forfeited without being told exactly what he has written that is taken exception to?

"I will tell the Council of another safeguard

which my learned friends seem to ignore. We provide this. It is our desire to let bygones be bygones; we do not want to get hold of anything that has been done in the past. We only want that, after the Act is passed, they should not transgress again; that is all that we require, and we provide that, when an order of forfeiture has been made and the man comes to the High Court, the Local Government will be entitled only to rely, in support of the order that they have made, upon anything that has been written after the passing of this Act and not before the passing of this Act. They will not be able to say, 'this man is a notorious sedition-monger; for the past three years he has been preaching hostility and sedition'. They are not allowed to do that, all they can say is, all that the Local Government can say is that 'from and after the 7th of February 1910 this man has been writing seditious articles,' and it is to these and these alone that we assign the sedition for which he is punished. Is not that a safeguard? Does that look a drastic provi-

sion? Is that any indication of a desire to choke the sources of knowledge? Gentlemen, all that this Bill intends to effect is that nobody should, by writing in the public Press, create bitterness and hostility and hatred towards the Government by law established towards the allies of the Government, and towards any class or sections of His Majesty's subjects in British India. Does anyone want to do it? Does anyone think it is desirable that there should be any writing of that kind, creating bitterness, hostility and hatred either towards His Majesty, or towards his Government, or towards the Native Princes of India, or towards any class of His Majesty's subjects? Again I claim to speak on behalf of the educated middle class of my countrymen to whom I belong. I say the answer is emphatically no, we do not want any writing of that description. We do not want that such writings should continue and that they should continue to poison the minds of the youth of the country."

Extract from the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25, Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Viceregal Lodge, Simla, on Monday, the 8th June 1908.

NEWSPAPERS (INCITEMENTS TO OFFENCES) BILL.

The Hon'ble Sir Harvey Adamson moved for leave to introduce a Bill for the prevention of incitements to murder and other offences in newspapers. He said:—"My Lord, the Bill which I ask for leave to introduce is a sequel to the Explosives Substances Bill and is intended to meet the same emergency. There are two factors in this emergency, neither of which it is possible to ignore if the evil is to be adequately dealt with. The first is the

actual making and using of bombs, which has been met by the Bill which has just been passed into law. The second is the public incitement to murder and acts of violence carried on through the medium of an infamous section of the Press. These two factors are cause, you do nothing. The present Bill is as inseparable as cause and effect. If you legislate for the effect without legislating for the cause, therefore as urgent as that one with which we have just been dealing. In the opinion of the Government of India it is absolutely necessary for the public safety that it should be passed

into law with the utmost possible despatch. The circumstances which have led to this legislation are fresh in the minds of all of us.

"It is therefore not necessary for me to give a history of the events of the bomb outrages, and I am the more disinclined to do so because certain persons accused in connection with these transactions are still under trial. There is one point and only one in connection with the proceedings that I am compelled to mention in order to support and justify the legislation in which we are engaged. It is the close connection between the Manicktollah conspirators and a certain section of the Press. Barendra Kumar Ghose, who declares himself to be the leader of the conspirators, is the man who created the *Yugantar* newspaper. Many of those who are under arrest and have confessed to participation in the crimes have been connected with the *Yugantar*. Some have been connected with another newspaper which it is not necessary for me to name. Some have confessed that they drew their inspiration from newspaper writings. Among others the young man who threw the bomb at Muzaffarpur has admitted that he was incited by writings in the *Yugantar*. I will make no further comments on events which are now *sub judice*. What have stated is taken from proceedings in Courts of Justice and is already public property.

"Now turning to the class of newspaper against which this Bill is directed, I find that the *Yugantar* has been on five occasions during the past year the subject of prosecution for the offence of sedition. On four occasions the printer and publisher has been convicted and one case is still pending. The authors of the offending articles have never come forth into the light. So far from being deterred by prosecution, a fresh printer and publisher has been registered on each occasion of conviction, and the tone of the newspaper has continued unimproved. In spite of the prosecutions the *Yugantar* still exists and is as violent as ever. The type of sedition has been incitement to

subversion of British rule by deeds of violence. The policy of the newspaper has been to court prosecution in order to create pseudo-martyrs and thus to enlist sympathy on the side of anarchy, and it may be presumed that a further inducement was to increase the circulation of the newspaper by pandering to the tastes of the depraved. I quote the following extract from the official translation of an article in the *Yugantar* which appeared a few days after the attempt on an officer's life in Muzaffarpur resulted in the terrible death of two ladies:—

'Hard-heartedness is necessary to trample the enemy under foot. An independent-spirited youth, arrested in connection with the Calcutta incident, is said to have said: "The work of the revolutionists, though progressing slowly, was very satisfactory; but two innocent women having met with violent death, all their attempts have been foiled by a curse of God." If any youth aspiring to freedom has really said so, then he has not yet become fit to obtain freedom. Hard-heartedness is necessary to trample the enemy under foot. When during the *Treta Yuga* the *Rakshasas* were perpetrating frightful oppression in the Dandaka forest, Rama extirpated the whole race of the *Rakshasas*. Laksman Thakur cut off the nose and the ears of Surpanakha, the beautiful sister of Ravana, and then let her go. It is not necessary to give illustrations. If in the attempt to destroy the enemy a woman is accidentally killed, then God can have no cause of displeasure like the English. Many a female demon must be killed in the course of time, in order to extirpate the race of Asuras from the breast of the earth. There is no sin in this—no mercy, no affection.'

"The days ago, I saw a telegram from Calcutta stating that the *Yugantar* which usually appears on Saturday had unexpectedly appeared on Friday, that thousands of copies had been struck, and that they were selling at a rupee a copy. The telegram gave some description of the contents, which in violence outvied any previous issue. I have not yet received the full translations.

"I have up to this point confined myself to the *Yugantar* because it has already obtained so great notoriety that nothing that I can say can make it more notorious. But writings of a

similar type abound in other newspapers, not only in Calcutta but throughout India. I will not give any of these disreputable papers an advertisement by mentioning their names. I will content myself with stating the substance of articles which I have culled from them. One article referring to the partition of Bengal states that the ruthless knife of the butcher has severed in twain the throbbing body of the motherland, and makes frantic appeals to all sons of the soil to combine and avenge the atrocity. Another makes insidious attempts to propagate the cult of Ramdas who instigated Shivaji to revolt against Moslem rule. Another instigates Indians to sacrifice their lives and to teach the rulers a bitter lesson. Another urges the Bengalis and the Gurkhas to join hands and rebel against the oppression of the bureaucracy. Another advises the Bengalis to resort to red as the colour of revenge and to sing the hymn of retaliation: 'A hundred heads for one head to avenge the murder of the motherland.' Another states that a huge sacrificial fire should be lit up and fed not with ghee, but with blood. Another advocates that Indians should make use of blacksmith's tools, *lathies* and slings and stones to overmatch the enemies of their country. Another says that if by resorting to boycott we can gain our desires we can only be said to postpone for the present our resolve to shed blood. Another says that if we desire independence we should be ready to be massacred by our rulers so that their sword may become blunt. Another exhorts to die after killing, as therein the glory of dying will be enhanced. Another urges the sacrifice of life for liberty, for is it not a fact that Kali will not be propitiated without blood. Another advocates the methods of nihilists and the use of bombs. I might go on for hours in quoting such types as these. To an Englishman, who knows not India, they would appear to be little more than ridiculous bombast. But to impressionable and immature minds in the East they present an entirely different signi-

ficance. We have already seen the terrible effect that they produce on the youthful student and they must be judged by Eastern and not by Western standards. We have striking examples of how they have converted the timid Bengali into the fanatical *ghazi*, and they are not to be ignored. The difference between the East and the West in this respect is the difference between dropping a lighted match on a stone floor and dropping it in a powder magazine.

"Now, my Lord, I have quoted some of the dangerous incitements that are published by unscrupulous newspapers. I have given facts showing the effects which such writings have produced on misguided young men, and I have shown that prosecution has been tried and tried again and has completely failed to put a stop to this incitement to outrage. Under these circumstances what is the duty of a responsible Government? Its bounden duty surely is not only to make adequate provisions to punish the perpetrators of outrages that actually occur, but also to close the fountain head, and to insure that colleges of anarchy, assassination, rebellion and violence are not openly maintained under the guise of newspapers circulated among the public.

"I will now explain the legislation which we are undertaking for this purpose. The first and most important point that I desire to impress is that this Bill is not a general Press law directed against sedition as defined in section 124-A of the Indian Penal Code. Sedition means an attempt to bring into hatred or contempt or to excite disaffection towards the Government established by law in India. I have no sympathy with sedition and do not in any way palliate that serious offence. But this Bill is not directed against sedition. In respect of sedition we leave the existing criminal law to take its course. The present Bill is confined entirely to the emergency which is now facing us. It is intended to provide a more effective way than prosecution for attempts through newspapers to incite to murder and acts of

violence. It is not meant as a substitute for but as a supplement to prosecution. It is directed against newspapers which persistently defy the law, which court prosecution, which set up dummies for punishment while the real authors lie concealed, and which establish themselves as schools of anarchy and outrage with the object of debauching young and immature minds, and inciting men to murder, armed revolt, and secret and diabolical schemes of general assassination. The only way to deal with such newspapers is to put an end to their existence, and this we propose to do in the Bill by giving power to confiscate the printing press and to extinguish the newspaper. This is the object of the present Bill, and these two powers are all the powers that it contains. Next as regards the means for effecting these ends. There are two ways in which they can be effected, by executive action or by judicial action. The former would be more prompt, and there are many who have urged us to adopt it. The latter, however, is more in accordance with the principles of modern administration, and at the sacrifice, it may be, of some efficiency, we have chosen it. The Bill empowers the Magistrate on application made on behalf of the Local Government to take action in respect of the printing press concerned, when he is of opinion that a newspaper contains any incitement to murder or to an offence under the Explosives Substances Act or to an act of violence. The first step is a notice to all concerned affixed on the place where the printing press is.

The next is the hearing of the case, which will be in the nature of a criminal miscellaneous proceeding. Evidence will be given on behalf of the Local Governments, and evidence may be tendered by any one who opposes the action. The Magistrate will then record a finding, and if the finding is that the newspaper contained the incitement alleged, he will proceed to order forfeiture of the printing press. He will have the discretion of keeping the printing press under attachment during the

hearing of the case. Against an order of forfeiture an appeal will lie to the High Court, the period of limitation being fifteen days. A further power is given to the Local Government. When an order of forfeiture has been passed the Local Government may annul the declaration made by the printer and publisher under the Press and Registration of Books Act, the effect of which annulment is that the newspaper will cease to lawfully exist.

"There is one other point that I think I should explain. Action can be taken under this Bill only when a newspaper contains an incitement to murder or to any offence under the Explosives Substances Act, or to any act of violence. It may be thought that the last words "any act of violence" are too wide and that they admit of action being taken on account of a trivial deviation towards censurable journalism. If these words were omitted, if no words of the kind were inserted, the Bill would in practice be inoperative, for it would be easy for any one to write round the clause, to evade its intention, and to publish the most dangerous incitements while keeping within the letter of the law. The position is familiar in criminal law. If you consider every possible particular in which almost any penal clause may be abused, you may throw it out altogether. Take for instance the Indian Penal Code. If you give your neighbour a tap on the shoulder, you may come within the terms of the offence of using criminal force. No Bill could ever be drawn which would prevent extreme cases from arising. It would be impossible to draw any Bill which would stop the offences that are aimed at, if it were insisted that under no conceivable circumstances it could be applied to others than those whose punishment it provides for. If you mean to have a Bill that will effect the purpose that you have in view you must admit these consequences and rely on the safeguards which will prevent injustice from being done. Now the safeguards under this

Bill are far greater than those afforded under the ordinary penal law. A private person can take no action under it. The police can take no action under it. Not even the Magistrate can initiate action. The Bill cannot be applied to extreme cases because no action will be taken except on the initiative of a responsible Local Government. It is inconceivable that a Local Government should take action in an extreme case, or in any case that did not present a serious aspect. There is therefore no danger to be apprehended by the public from the wideness of the clause.

"In conclusion, I say that this Bill is not directed against the liberty of the Press. If a repressive measure is a measure which curtails the legitimate liberties of the people, this

Bill is in no sense a repressive measure. It curtails no liberty that is legitimate. It is strictly confined to incitements to murder, and acts of violence. No newspaper in the civilized world has liberty to make such incitements. It is impossible that the Bill can ever affect any newspaper that is properly and decently conducted. Even when it is applied in respect of a newspaper which has degenerated from liberty into lawless license, its application can only be by means of constitutional judicial methods in which the parties concerned will have the advantage of the complete judicial trial to which they would have been entitled if they had been prosecuted for committing an offence."

The motion was put and agreed to.

Extract from the proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

Thursday, the 14th March 1878.

NATIVE PRESS BILL.

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The Hon'ble SIR C. PAUL:—"My Lord, as I intend to vote in favour of the measure which at the present time engages the attention of this Council, I venture to make a few remarks in reference to it, and in support of the propriety of subjecting newspapers published in the Original languages to summary control by competent authority. It may be readily admitted that it would be unjust to interfere with or retard social progress and mental improvement, depending in some measure on the diffusion of knowledge through the medium of vernacular newspapers, by closing or interrupting such channels of thought and instruction under legislative sanction. But a cursory study of the provisions of the Bill will show that this is not the intention of the Legislature. A broad distinction exists—and has been recog-

nized in the Bill—between publications honestly conducted and devoted to useful and beneficial objects and those which have mischievous and misleading tendencies and abound in calumnies; and this distinction should be observed in order to correct any misconceptions which may arise as to any supposed intention on the part of this Legislature either to interfere with the liberty of the Press or to stifle free discussion. It will, I think be acknowledged with equal readiness that this Government has been pre-eminently distinguished by its steady and unceasing labours in the cause of education and the enlightenment of the people, and that its administration has assured to all classes security of property and the full enjoyment of personal liberty. In the face of these exertions and benefits, it will be idle to suggest the possible existence of any unworthy motive for the

introduction of the present measure, which circumstances of a deplorable nature have forced upon the Government. I may take it as axiomatic that it is necessarily incident to every permanent system of Government to make provision, not only for its continuance, but for its secure continuance. As the goodwill and esteem of the people are indispensable to such continuing security, it is evident that it is proper to prohibit and restrict all malicious attempts to produce disaffection by creating and fostering ill-will and discontent on the part of the governed, and by rendering the Government itself odious to the people. And here, my Lord, before proceeding further, I may be permitted to read, as germane to the subject, a passage from an accomplished and learned author:—

“The State and Constitution being the common inheritance, every attack made upon them, which affects their permanence and security, is in a decree an attack upon every individual, and concerns the rights of all. It is, therefore, a maxim of the law of England, flowing by natural consequence and easy deduction from the great principle of self-defence, to consider as libels and misdemeanours every species of attack by speaking or writing, the object of which is wantonly to defame, or indecorously to calumniate, that economy, order and constitution of things which make up the general system of the law and government of the country. Opinion is strength, and the good fame of government is necessary to obtain this opinion. The distance is not very great between contempt of the laws and open resistance to them. Defamation of this kind is more dangerous, inasmuch as it appeals to the passions, rather than to the reason, of the multitude; it unsettles the minds of the people, relaxes the authority of the rulers, and impairs the reverence due to the laws.’

“Many of these observations apply with redoubled force to a Government which rules over an immense and mixed population composed of persons of different races and reli-

gions, of different habits and characters, whose allegiance cannot but materially depend on their general good opinion of their good will and respect for, that Government. The privilege of writing and publishing with freedom is doubtless inestimable. So long as that privilege is exercised honestly and fairly with a view to benefit society, and with reference to subjects of common and public interest, it will be cherished and maintained wherever free institutions exist and flourish. But the privilege itself is subject to this limitation, that it must not invade the undoubted rights of others. In the case of private individuals and classes, their character and reputation must be respected; and in the case of a government, its constitution must not be wantonly attacked for purposes of injury and mischief, nor its good name maliciously aspersed. The principle of protecting character is ancient, it having been declared by the laws of Solon ‘that the liberty of the citizen would be ‘imperfect were his character unprotected.’

“Having made these general observations, I now turn to the causes which have led to the introduction of the Bill. I have in my hand translations of upwards of one hundred and fifty extracts from papers published in the vernacular languages, which I have read carefully and that reading has satisfied me that these publications contain matter falling under the following heads:—

1. Seditious libels, malicious and calumnious attacks on the Government, accusing it of robbery, oppression and dishonesty, and imputing to it bad faith, injustice and partiality.

2. Libels on Government officers.

3. Contemptuous observations on the administration of justice, pointing to its alleged impurity and worthlessness.

4. Libels on the character of Europeans, attributing, to them falsehood, deceit, cruelty and heartlessness.

5. Libels on Christians and Christian Government, and mischievous tendencies to excite race and religious antipathies.

6. Suggestions and insinuations which their authors believe fall short of seditious libel by reason of the absence of positive declarations.

In addition to these general characteristics, I find that mis-statements, exaggerations and allegorical tales, intended to sketch real incidents, but based purely on imagination, have been introduced to support or give colour to the varied (and I might almost add inexhaustible) calumnies to be met with. Other prominent features must not be lost sight of, such as bestowing praise on the late Muhammadan rule maintaining its superiority over British rule, representing the dominant race as debased, demoralised and ignorant. I cannot resist the temptation of reading a specimen of inflated conception of Native excellence. 'Are there not thousands of educated Natives before whose intelligence, judgment, courage, justice and moral conduct the abilities of the best civilians fall into insignificance, like the gleams of a candle before the resplendency of the sun.'

"Having attentively considered these extracts, I am irresistibly led to the conclusion that it is intended by these publications to disseminate disaffection, to excite evil prejudices, to stir up discontent, and to produce mischief of the gravest order; in short, to render the Government, its officers, and Europeans generally, hateful to the people. These are evil purposes, which should be repressed with a strong hand, and their contrivers restrained from all further attempts to administer their subtle poison to the lower orders of the people, to saturate their minds with evil thoughts, and to arouse their evil passions. The moral atmosphere, surcharged with threatening clouds, and tainted by these vicious productions, must be restored to its natural and normal purity.

"The evils to which I have adverted are, I fear, too wide-spread to be checked or suppressed by prosecutions under the existing law; and even if it be assumed that prosecutions would be effective in repressing them, it must

be admitted that much time would be lost in applying such remedy and realizing its salutary results. As time is of the very essence of every remedy by prevention and restraint, I am entitled to assert that prosecutions for all practical purposes will be found unavailing. It follows, then, that in conformity to the principles I have enunciated, this legislature is under the necessity of making provision for the better protection and security of Government and for the public welfare in a manner suited to the emergency, so that the remedy may be summary and its application immediate. The Bill before us contains provisions which I think are well calculated to supply the desired remedy; and I maintain that the time has fairly arrived for action further forbearance may be fraught with danger. It may probably be alleged that the provisions of the Bill are stringent; but I consider that the means to be used for the suppression and extinction of the evil courses to which the newspapers under notice have resorted should be as powerful and as effective as if the Government were called upon to deal with a plague, a pestilence, or other grievous calamity. In the course of my professional career, I have been a zealous and unflinching advocate of the freedom of the Press; and I have the satisfaction of believing that in according my support to the present Bill, I am, in no way, departing from a firm adherence to the true principles which regulate that freedom. To protect and encourage journalism conducted with ordinary care and for honest purposes might be deemed a privilege. To curb by reasonable and necessary means the unbridled license of obnoxious and degraded publications which seek to spread disaffection and dissatisfaction, and which may be used by wicked and designing men to produce discontent amongst the poor and ignorant to their own detriment and to denounce them fearlessly, should be considered by every right thinking man and by every true citizen an imperative public duty."

D

Specimens of Posters published in the Punjab during the Disorders

Translation of a poster put up in Delhi on the 6th or 7th April 1919.

Our God has become kind to us.

O! Our Hindu and Muhammadan brethren, the end of these monkeys has come near. They want to die. Hindu and Muhammadan brethren should now spend their days without fearing any one. God will soon annihilate them from this world, because these tyrants have shot many of our innocent brethren. "Langra" has been turned out from here he should be killed wherever found by any one.

The tramway is used by the employees of the company and not by the public. No one should therefore get into a tram seeing these persons seated in it.

Copied by Charanjit Lall on 6th April 1919, from the Bradlaugh Hall, Lahore.

1. That which we apprehended has happened. The fortune of India in falling has assumed the form of the Rowlatt Bill.

2. There is confusion in every town, province and throughout the empire. Is this the law or the tremor of an earthquake?

3. To practise tyranny and to give it the name of love, what a fine trick is this of the civilisation of the West!

4. This pitcher of the East was full of the honey of loyalty, and now its sweetness has become bitter to the British.

5. Muhammadans and Hindus raised a thousand cries and lamentations, but could not cure Government of its obduracy.

6. Their arguments had no effect on Vincent though Jinnah much beat his face and Sapru struck his head a great deal.

7. In vain have we rubbed our foreheads for fears in the Council Chamber. Now we are going to search for Gandhi's threshold.

Removed by Charanjit Lall, Constable, C.I.D., on 6th April 1919 from Lohari Gate, Lahore.

Remember the true fast of the 6th April.

May the devil fly (*lit.*, There is no power, there is no power, there is no power).

Passed! Rowlatt Bill passed.

"Sir, What is this evil?"

"Do you not know that an innocent gentleman will now go to jail without a warrant (*lit.* permit)?"

"Why? What harm have we done?"

"Why? Sir, we rendered so much service in the War, sacrificed hundreds of thousands of heads, and offered crores of rupees. Should not the Government reward us in return for this?"

"Well, Sir, this is very nice indeed."

"Well done; foolish people always get such reward."

"This is unjust, and we are not going to submit to this."

"Be brave and observe Mahatma Gandhi's fast. Don't obey the Black Bill."

"Allright, Sir, it will be done as you say."

Removed by Head Constable Ghulam Hussain Shah, on 12th April 1919, from inside Yakkhi Gate, Lahore.

Are we to remain the life-long slaves of tyrant Englishmen?

"No, never."

We are the Indian nation whose bravery and honour have been acknowledged by all the kings of the world. The English are the worst lot, and are like monkeys, whose deceit and cunning are obvious to all high and low. Have these monkeys forgotten their original conditions?

In the time of Alamgir they could get the service of a Durban (gate-keeper) with difficulty. Now these faithless (*nimak haram*) people, having forgotten the loyalty of Indians are bent upon exercising limitless tyranny. O brethren! gird up your loins, and fight. Kill and be killed. Do not lose courage, and try your utmost to turn out these mean monkeys from your holy country. God will surely help you; trust Him and you will be victorious.

SERVANTS, HINDUS AND MUHAMMADANS.

Copied from Bazar Tezabian, Lahore, on 12th April 1919, by Head Constable Ghulam Hussain Shah, C.I.D.

Muhammad Aliaur Shaukat Ali ki jai (Victory to, etc.); Mahatma Gandhi ki jai (Victory to, etc.).

"Has India got a turban upon its head?"

A proclamation worthy of consideration.

"O God! Thou dost pay heed to our painful lamentation.

"Preserve the honour of us, of India.

"Our India was a garden full of fruits, the tyrant has robbed the whole of our garden.

"The autumn wind of Europe blew at it, because our gardener was in a sleep of carelessness.

"The autumn wind itself enjoyed sweet delights, but dried up our garden.

"It scattered the branches everywhere, and the enemy of our life inflicted oppressions.

"We have suffered millions of shocks and still did not open our lips. Our caravan remained silent.

"How long will our hearts control sighs and cries?"

"How will not the sign of our excitement show itself on our heart?"

"O God! to whom is India to appeal? Thou art our sole benefactor.

"Darkness and gloom prevail, no one hears our cries and lamentations."

Question.—How should our Hindu and Muhammadan brethren be wise and united?

Answer.—In this way, that

- (1) we think all English business should be stopped;
- (2) do not pay the income-tax to any one;
- (3) do not pay the octroi tax;
- (4) our zamindar brethren should not pay the revenue;
- (5) give up the English fashion and position;
- (6) help your poor brethren secretly.

Removed by Head Constable Ghulam Hussain Shah, on 14th April 1919, from near the Golden Mosque, Lahore.

786 OM.

Mr. Muhammad Ali, Shaukat Ali ki jai (Victory to, etc.); Mahatma Gandhi ki jai (Victory to, etc.)

He who tears off this notice will surely bury the corpse of India's freedom.

Woe to renegades and unlucky traitors?

The brother who gives votes to these will be bastard. He will not be the son of his father.

Gentlemen, your hope will be fulfilled, and the time is drawing nigh, provided you do not open your shops at least on Monday next; otherwise the *hartal* of so many days will prove useless because Monday next is the last day of the tyrant and unlucky Lieutenant-Governor. If any Government officer forces

you to open shops, discuss with him patiently and perseveringly as to under what law and what Rowlatt Bill they can force shops to be opened.

Courage brings happiness. "Help is from God and victory is near."

WELL-WISHER OF INDIA.

NOTE.—He who tears off (this notice) is the son of a pig.

Removed by Head Constable Ghulam Hussain Shah, from near Muhalla Kakezaian, Yakki Gate, Lahore, on 13th April 1919.

NOTICE

"Mr. Shaukat Ali ki jai" (Victory to Mr. Shaukat Ali).

"Mahatma Gandhi ki jai" (Victory to Mahatma Gandhi).

"DANDA AKHBAR."

First Event.—When Mahatma Gandhi arrived at Palwal, the English monkeys informed him that his entry into the Punjab was forbidden, and that he should please go back. He replied that he would never go back; then that pig monkey arrested him. Reports of his arrest reached here at once.

Second Event.—When the news reached Amritsar, the Danda Fauj (army) of the brave Sikhs set fire to the Bank, the Railway Station and Electric Power House. They cut the telegraph wires and removed the railway line. The Danda Fauj (army) of Amritsar bravely killed a number of European monkeys and their Sikh regiments have revolted and deserted. O, Hindu, Muhammadan and Sikh brethren, enlist at once in the Danda Army, and fight with bravery against the English monkeys. God will grant you victory. Do not apprehend that God does not help us. Cast away such a notion out of your heart. God help us at all times and

hours. Conquer the English monkeys with bravery. God will grant victory. Leave off dealings with the Englishmen, close offices and workshops. Fight on! This is the command of Mahatma Gandhi.

Third Event.—O, Hindu, Muhammadan and Sikh brethren, do you know of the incident that took place at the Mall Road on the night of the 10th April? The Hindus and Muhammadans who were martyred that day were your own and they sacrificed their lives. Does not this incident excite you? What is the reason? Were not those who were made martyrs in Hira Mandi on the 12th April your own brethren, and died at the hands of the tyrants? Does the Prophet of God command you not to fight against the tyrant? No, never, the Prophet himself fought, and has commanded us too to destroy the tyrants as he did. Should we not be ashamed of ourselves that while the tyrant is up to all sorts of cruelty, we are sitting quiet! O, Hindu, Muhammadan and Sikh brethren, raise the cry of Allah Akbar and kill the *kafirs*. Get ready soon for the war and God will grant victory to India very soon. Fight with enthusiasm and enlist yourselves in the Danda Army.

Signatures to the notice:—

Servants of the Nation,

DANDA AKHBAR.

Hindus, Muhammadans and Sikhs.

Removed by Head Constable Ram Kishen, on 6th April 1919, from Lohari Gate, Lahore.

SORROWFUL, GLOOMY.

"To-day morning is about to befall the garden of hope. The flower of love, kindness and faith is about to fade."

"Autumn is about to set in the garden of liberty. The topic of the Rowlatt Bill is about to engage every heart."

"They say that the tree of restriction is about to bloom."

"The nightingale and the dove are about to burst into a mournful tune."

"To-day Gandhi's message is about to mingle in every heart."

"The proud cyprus is about to bend its head low with a sigh."

"Young and old all are about to beat the muffled drums."

"Despair is soon about to spread over the world."

"Meetings of *hartal* are about to be convened at all places."

"The secret is about to be opened to the Government of India."

"This system is about to vanish soon."

"Success is about to show us her face."

"The enemy of the Indians is about to show his back."

A BENGALÉE RAMBLING TRAVELLER.

NOTE.—Brothers, see the Rowlatt Bill is just approaching from behind.

Removed by Head Constable Ram Kishen, on 6th April 1919, from the Shahalmi Gate, Lahore.

OM.

We were born in the Bharat (India) and all of us are the children of Bharat.

As Bharat has been involved in trouble, our bodies are at the disposal of Bharat.

Whether they imprison us, cut us to pieces, or open the machine-gun fire on us.

We will save our Bharat, whether they sever our heads from our bodies.

May we be cursed if we hide ourselves to save our lives.

We will sacrifice our worthless lives to save the Bharat.

Be courageous, now we will sacrifice our lives, but will lift thee up from the abyss of misery.

We, by a mistake, gave our lives to save the country of others.

Now we have come to our senses and shall sacrifice ourselves for the Bharat.

Blessed art thou, O Hero of actions! Gandhi! blessed be the mother who gave birth to thee.

These lives, which were duped formerly, are now at thy feet.

FLOWER.

Removed by Head Constable Sajdar Ali Shah, on 3rd April 1919, from the Machi Hatta Bazar, Lahore.

THE LAMENTATION OF BHARAT MATA.

Ah! the tyrant is ready with the gallows to kill me.

Oh! Hindus and Muhammadans, my two sons! will you not help to rescue your mother from this misery? Is this the return that you will give me for my feeding and bringing you up, that fearing the tyrants you too will remain quiet? No, never, my sons are not cowards. Sons like Mahatma Gandhi and Mr. Shaukat Ali are still alive; they will rescue me from the gallows. O! the inhabitants of the Punjab! you should also follow these two Mahatmas and should comply with this order of theirs. On Sunday next, the 6th of April, you should observe a fast of 24 hours, and the suspension of all business is faith and Dharam. This can do good to your country, otherwise, remember, you will be ruined.

Copied by Head Constable Sajdar Ali Shah, on the 6th April 1919, from the Chitta Gate, Lahore.

"Arise, gird up thy loins,

"Why shouldst thou fear?

"Then see what God doth."

If you have to put the sea in commotion, then raise the tempest. If you want to invoke (*lit.*, conciliate) a hundred years' old spirit (*lit.* incarnation), create force in your voices. If you want to reconcile an indifferent idol, then beside imploring him, ministering to his fancies, saluting him with folded hands from a distance, present yourself at his mansion of loftiness; and in addition to words, move your hand of deed and foot of practice. The world of practical deeds cannot be conquered by mere toys of words.

"O Indians! why are you so heart-broken?
"Why do you look a picture of sorrow?"

Copied by Head Constable Munshi Ram, on 6th April 1919, from the Lohari Gate, Lahor.

A RESTLESS CHILD.

"Sons of Bharat (the Motherland) hearken before you go,

"For your country, do something."

Oh! Worthy sons of Bharat Mother, are you in your senses? (If so) open your eyes and see what tyrannies and cruelties are being wrought in our country. The tyrants are bent upon crushing your nation and putting it to the sword. If you have the blood of Arjun, Yudhistar, Karan, Bhisham Pitamah (in your veins) rise, be courageous and do not stamp your forehead with the stigma of cowardice. Remember that each and every child of your nation will be put to the sword by these tyrants. Sustain the drowning boat of the nation otherwise you will repent and rub your hands in sorrow.

Copied from the Lohari Gate, Lahore, by Head Constable Farzand Hussain, on 6th April 1919.

"The mother country (Bharat) has suckled us with milk,

"With great tribulations.

"Share her sufferings,

"By shedding your blood.

"National leaders are awakening you up,

"With loud exhortations,

"Follow their footsteps,

"By marching onward."

A Happy News—"The Rowlatt Act will be cancelled, and the report is about to be published."

Removed by Kashmiri Lal, witness, on 16th April 1919, from a wall in the Gumti Bazar, Lahore.

I will make my heart a target for millions of spears and lances. I will make my body a sieve in the path of God.

Every one, whether of the classes or masses, should wear mourning dress, *viz.*, black clothes, and if one cannot afford to do so, he should wear a crape on the arm; as we cannot fight we should mourn for (King) George; otherwise we ought to raise the cry of Allah Akbar (God is Great).

You are on oath, namely, by spear, lance and the blood-thirsty dagger and by every gate and wall of the city.

Oh brethren! It is a sad thing to relate that I intended to go to the Badshahi Mosque to-day, but I was prevented (from entering it), by Englishmen, the progeny of monkeys. Alas, they have deprived us of the house of God also. Mark how your brethren of Amritsar are fighting. That city is in their possession, and here all the doors of the Shahi Mosque have been closed.

O, Punjabis! muster up your courage and suppress not the sentiment of Hindus and Muhammadans. If you are men take possession of the Shahi Mosque to-day. Fight, kill or be killed.

"Do not lose your heart before the army of the enemy. Kill him, or be killed by him."

"When the cry of Maula Ali will be raised, and the crescent flag of Ali will be hoisted over the heads."

NOTE.—Any Muhammadan who removes this notice or tears it off, shall be called to account on the day of Resurrection.

And one who tears it off, his mother be ravished by an Englishman.

Removed by Kashmiri Lal, witness, on 14th April, from the Mitha Bazar, Lahore.

MEASURES AGAINST THE BABUS.

Lalji—"Hartal is complete, victory is ours, but one defect still remains."

Servant—"What is that?"

Lalji—"These bastard Babus do not give up attending their offices."

Servant—"Well, you have the remedy in your own hands."

Lalji—"Tell me soon—why are you silent?"

Servant—"Almost all the Babus live in hired houses, give them 24 hours' notice at once to vacate your houses, so that they may have to take their wives also with them to the offices."

Lalji—"Well you have told this at the opportune time. Our hartal will never cease now and victory is ours."

Removed by Kashmiri Lal, witness, from the Lohari Gate, Lahore, on the 15th April 1919.
Tyranny. Tyranny.

Many innocent brave Indians (Hindus and Muhammadans) have been killed in India.

Time for India to wake up. Rise, wake up and show courage.

1. The tyrannical Faringee has deceitfully used his arrow and shaft against the red-headed water-fowl. He has laid waste our garden, desolated it and plucked the beautiful luminous rose.

2. He sets fire with the hands and then puts it out with the feet. From where has this great godless sinner come! He is like the drop of acid.

Rise up, ye Indian heroes! Draw out the sword and look at the declaration of war made by the chivalrous Punjab.

3. The tyrannical Faringees have sucked blood like leeches and the complexion (of Indians) has become pale like the sugar-cane pressed underground. By robbing us the tyrants have made us penniless. Settle accounts with them now.

4. The earth will not open out to swallow us up, even though we see the blood of India gather like water in a pool. (*Expl.* We are eager to be buried in the bowels of the earth out of shame). Rise, sons of lions! Draw out the sword and look at the declaration of war made by the chivalrous Punjab.

5. The Faringees have killed dear Indian brethren and roasted their flesh on spits like a morsal. They have left neither cloth to wear, nor grain to eat. They have robbed the treasure of our fair honour.

6. They have half slaughtered us like a butchered goat, and the hand of the tyrannical Faringee has worked like that of a butcher. Rise, O brave Indians! Draw out the sword and look at the declaration of war made by the chivalrous Punjab.

7. The battle-field is not new. Rise up, brethren. Delay not (or) the hour of your sinking is close at hand. How long will you remain quiet in slavery, even though you see the blood of Indians gather like water in a pool?

8. The whole world is awake and has become happy by becoming free. Why has the water of our tank become dry?

Rise, O sons of lions! Draw out the sword and look at the declaration of war made by the chivalrous Punjab.

9. We fought for the sake of the tyrannical Faringees and lakhs of battle-fields were dyed with our blood. By robbing us the tyrants have made us penniless. They have (only) promised after our repeated demands.

10. They have to-day become black cobras and are hissing loudly. The tyrannical Farinjees have been hit by our bite. Driven to desperation, Indians—Hindu, Muhammadan and Sikh youths—have at last gone to fight.

11. The police came and with it the cavalry. The faces of Indians have also become red with rage. We see not the white faces moving (to-day), for they have been confined to towers.

12. The dutiful sons of India who have died have fallen in a right cause. They have become martyrs and sacrificed life to honour.

13. What bravery can show in this age without arms? Lose not courage, though we are overwhelmed with afflictions.

14. The battle has begun. Let the brave come to the field. The call has gone out for the heads of Indian.

DEAR BRETHREN,

It believes you not to touch any Government work. No clerk should attend his office, etc., nor any railway servant should go to the railway business. You know it was only recently that the blood of several of our innocent brethren has been shed. You should therefore not pay any kind of tax to the Government. Nor should any one pay Government land revenue, nor do any kind of help to Government. If all brethren, Hindus and Muhammadans, unite and work together, then you will see how the tyrannical English will disappear in no time. These white-skinned Englishmen are tyrants, and there is no cruelty which they have not practised on us. Avenge yourselves now on them. The time is favourable; this opportunity will not come again. *Mahatma Gandhi ki jai* (Victory to Mahatma Gandhi) who has caused a wave of union to surge through us. Shout, Hindu-Musalman ki jai. (Victory to the Hindus and the Muhammadans!).

The writer:—

A WELL-WISHER OF THE NATION.

Defence Exhibition no. D.—I, in the Lahore Conspiracy (Leaders) Case no. 114.

O brother! Bharat will now wear the mourning dress. Dear brethren, the mourning dress will be worn to-day in the Bharat.

Those who used to wear the Bharat dress shall now wear the mourning dress.

Speaking and writing both shall be prohibited.

It will be impossible to live in the land of Bharat.

We are expecting to get Home Rule;

But instead will get a rope round the neck. Our rivals now say in subdued words "These Indians may not turn mad."

Defence Exhibit no. D.—II, in the Lahore Conspiracy (Leaders) Case no. 114.

Day and night we are busy sighing and crying, every branch in the garden is laden with drops of tears.

The more the sacrifices showed, the larger the number of cruelties practised on us in return. The practice of cruelty has blotted (out) our heart. Let us show what little has been left.

The glass of heart has been shattered by cruelty, wherefrom can we obtain a heart of stone? Say if this is the reward of those who shed their blood for your sweat?

"We cared not for our lives and property, and these punishments are being inflicted upon us in return for this.

"Our helplessness was already a tyranny; the pen is beheaded (cut off) if we use it.

"Now the Rowlatt Bill has cut off even our tongue, so that we may not give expression to our internal grief.

"If we say that we are innocent, it is a crime; let them punish us as they like.

"The eye is the only organ left; let us see when orders are pronounced for closing it also."

E

**Letters and Articles published by Various Individuals and Authorities
on the Dangers of the "Satyagraha" Movement**

*Cutting from the "Leader", Allahabad,
dated the 19th April 1919.*

THE SITUATION.

MS. BESANT'S OPINION.

**"ASSIST GOVERNMENT IN PRESERVING
ORDERS."**

Simla, the 16th April.

The following is the concluding portion of the report of the interview with Mrs. Besant, the first part of which appeared in yesterday's *Leader* :—

Referring to the present situation in India, Mrs. Besant said that when she first heard Mr. Gandhi's proposal for what was then called passive resistance, she refused to commit herself to it until she knew what methods of resistance were proposed. "The permanent Bill (Rowlatt Bill regarding possession of seditious literature) which is now being recirculated is held over and the Rowlatt Act is so largely changed that it ought not to come into force except against revolutionary movements. There is nothing in it, therefore, that a good citizen can resist. Under these circumstances it was proposed by Mr. Gandhi that the agitation against it should include the breaking of other laws. Mrs. Besant has vigorously opposed this on the ground that it would lead to a general disregard of law and consequently to riot and bloodshed. While she recognizes that Mr. Gandhi himself would not injure anyone, she considers that the open breaking of laws hitherto obeyed must inevitably stimulate disorder which would culminate in riot. This is unhappily proved to be the case. No one who knows India has

any doubt that revolutionary movements do exist in certain parts and with the upheaval of disorder throughout Europe and the danger of its spreading into Asia she considers the present movement most unfavourable for a law-breaking campaign. She, therefore, considers it the duty of all Indian leaders who are working for liberty and are opposed to violence to do their utmost to preserve calm in their own districts and to assist the Government in preserving order and putting down violence, the continuance of which renders the passage of Reforms impossible."

*Cutting from "New India", Madras,
dated 21st April 1919.*

"SATYAGRAHA" AND REVOLUTION.

BY ANNIE BESANT.

I am travelling back from the North, from Simla, and have heard much of the scenes of riot and bloodshed in the North. At Delhi, too, I heard from a resident, a Home Ruler, of the condition of the city, of the reign of terror, not of the bureaucracy, but of the mob. The soldiers and the police are guarding the railway station, Government buildings, and the like, but the citizens live in fear of disorder and of plunder, and food is difficult to obtain. I chose the longer route from Delhi, by the G.I.P., instead of going by B.B. and C.I. because of the likelihood of being hung-up intermediately at some station, if the line should be broken as it passes

through districts where outbreaks have occurred. It might be at least exciting to see a riot, but there would be nothing interesting in being shut up in a train waiting for a riot to come to an end. The B. B. and C. I. had resumed booking which had been stopped, but I thought that the longer way round might prove to be the shorter way through.

It is difficult to get papers ; none had come through from the North when I left Delhi on the 17th morning and yesterday evening the *Pioneer* only was procurable, with far less news than I heard in Simla. I saw that the statement I made in Calcutta as to the shooting of a police constable for refusal to charge the crowd has been contradicted. The account, with the subsequent attack on the shooter, was given to me by one who had heard it on the spot, but in the excitement of a conflict mistakes may occur, and I trust that this was such a mistake.

The main issue of the moment, however, is unmistakable. As my readers know, I have written many articles here on the vital importance of respect for law, and have protested repeatedly and strongly against the breach of all laws (not having a moral sanction) advocated by Mr. Gandhi. It has been to me a matter of deep regret that no one in Madras cared to protest with me against the *Satyagraha* movement, so great was the magic of Mr. Gandhi's name, and so great the influence of the huge crowds he addressed, and the vast meeting which filled the Beach on the day he appointed for the National fast.

My own efforts have been the only ones made in Madras to stem the madness, except the general approval of *all* passive resistance made by a few—ineffective, because, such disapproval condemns many of the noblest struggles in history—and I have, naturally, received various threatening communications for daring to resist Mr. Gandhi's commands. Yet any one with a little common sense must have seen the terrible

danger that underlay a propagation of the idea that good citizens should break all laws (except such, etc.).

When the ignorant see Mr. Gandhi and his associates selling in the streets literature which is chosen because it is proscribed, and see respectable men giving Rs. 1,000 for a two-anna tract because it is being sold in defiance of Government, is it any wonder that they see the breaking of law as meritorious; that they look on Mr. Gandhi as their leader and their example, and that the battle-cry at Amritsar and elsewhere, as the mob murders and burns, is "Gandhi ki jai" ? Example speaks louder than precept to the unlettered and the ignorant.

I ventured to urge before this movement was started that its logical result was riot and bloodshed, and to point to the danger of a revolutionary movement here. Surely what had happened in Europe was warning enough, and I even noted the elements here on which Bolshevik propaganda might work. Are there not in the Punjab signs of such a movement ? The cutting of telegraph wires, the derailing of troop trains, the burning of the railway stations, the attacks on banks, the setting free of goal birds, are not the actions of *Satyagrahis*, nor even of casual rioters, but of revolutionaries. None the less, the *Satyagraha* movement, in striking at law and advocating general disobedience, with its passionate statements that its adherents were ready to die when no one in the least wanted to kill them, with its theatrical bathing crowds, who left their baths to put stones and logs in the way of tramcars—this movement opened the door to the revolutionaries, who deftly aroused the passions of the scum of the population who mingled with the decent elements in the crowd, and led them to murder and arson.

Newspapers and individuals have abused me for saying that brickbats have to be answered by bullets. Perhaps they will now realise how many innocent lives might have been saved, if the rioting at Amritsar had been stopped as

promptly as that at Delhi. Probably the Government had not the necessary force at hand, and so the rioters gathered strength. The delay meant either the giving over of the city to anarchy or the use of machine-guns and bombs.

The dead and wounded in the Punjab have mounted up to many hundreds. No one, I presume, will contend that the Government should look on while the mob murdered, wrecked banks, fired railway stations; do they, then, think that it is more merciful to give a mob its head, after it begins throwing brickbats, until—say at Delhi—it had broken into the station, and struck down any resisting railway officials, then to step in at the very outset of violence at the cost of less than a score of lives? Or will my critics say at what step a Government should intervene? I say that when a small handful of soldiers and police is face to face with a mob of many thousands, and the mob begins to pelt them with brickbats, it is more merciful to order the soldiers to fire a few volleys of buck-shot, than to allow the violence to gather strength until either the town must be given up to mob rule or machine-guns and bombs be brought into play. It is a terrible alternative but any Government, worthy the name, has to face it.

I desire to change the *form* of Government from an autocracy to a responsible Government, and that by law-abiding means alone. Mr. Gandhi has opened the door to revolution, and that strikes at the King's Government and aims at breaking the tie between India and Britain. Indians must choose between rallying round the King's Government to defeat revolution, or helping revolution passively or actively. Every Home Rule Leaguer, being pledged to the British connection, to the Crown of King George V, and to law-abiding methods alone, must choose the first.

What is Mr. Gandhi doing? He has spoken of starving himself to death. How will that help India? His duty is to undo what he has

done, not to madden the people more by a self-inflicted death. That is a poor way out, and involves no sacrifice, compared with the sacrifice of acknowledging his mistake, freeing his little band of *Satyagrahis* from their immoral vow, and doing his utmost to help the Government out of the danger into which he has plunged them.

Mr. Gandhi's theory is that of the "Resist not evil" of the Sermon on the Mount. As the Bishop of Peterborough said, no Society that accepted its teaching could hold together for a week. It is a doctrine for the *yogi* not for the State. The transmutation of suffering into soul-force is for the individual, not for the crowd.

Mr. Gandhi, by introducing it here in India—where the old caste system had sensibly assigned *yoga* to the spiritual only, and had appointed the Kshatriyas to rule, defend and keep order in the State, has done deadly mischief, at a critical time, to political reforms, as well as endangered Society by revolution. Let us, who are Home Rulers, stand by our political flag; let us, in every possible way, help in the preservation of civic peace; let us, during this time of danger, drop all criticism of Government action, and stand firmly by the Government against revolution, which means bloodshed at home and invasion from abroad.

*Cutting from the "Bengalee", Calcutta,
23rd April 1919.*

THE NEW SITUATION.

DARBHANGA'S MESSAGE.

TO BEHAR LANDHOLDERS.

Darbhanga, April 21st.

The Maharaja of Darbhanga has sent the following communication to the Behar Landholders' Association. Similar letters have been sent to the All-India Landholders' Association

and the Bharat Dharma Mahamandal exhorting the landed classes in India and the orthodox Hindu Community to stand fast by the Government in the upholding of law and order. The gravity of the present situation impels me to address you on the present critical situation which faces the empire. I daresay that you have by this time realised the serious danger in which the inauguration of the passive resistance movement has involved the people of this country. In certain parts of India the movement has actually proved to be an open defiance of constituted authority, law and order and it is but bare truth to state that in places like Amritsar, Lahore, Delhi, Ahmedabad and Bombay the violent propaganda of the passive resisters has led to a wholesale destruction of property and to murder, in cold blood, of defenceless citizens. Public buildings have been set fire to and a spirit of unreasoning hostility towards Government officers and in some cases Europeans in general has manifested itself. No well-wisher of the country can read the prevalence of such a state of affairs without the deepest concern and it behoves all law-abiding citizens at once to take decided steps to prevent further loss of life and property and remove the sense of insecurity which pervades throughout the country. We must emphatically condemn and dissociate ourselves unequivocally from a movement which, however pure and constitutional it may have been in its inception, has resulted in the dark consequence which we are unfortunately witnessing from day to day. The scope of the Anarchial and Revolutionary Crimes Act which is regarded as the justification for the inauguration of the *Satyagraha* movement has been so well defined and explained in the resolution of the Home Department of the Government of India and in the official communiqué issued by our own Government of Bihar and Orissa that it is scarcely necessary for me to dilate upon it any further. Suffice it to say that the Act itself is not enforced at the present moment nor is it likely to come into

operation till six months after the conclusion of the peace when the Defence of India Act will cease. Moreover the Act itself will not be applicable to any part of the country unless there is indisputable evidence to show that anarchial crime and revolutionary movements exists there. What then is the justification for the passive resistance movement and the continued lawlessness which it has bred? Absolutely none. I would therefore appeal to you with all the earnestness at my command to rise to the responsibility of your position as landholders, with such vast stakes in the country and with your very existence depending on the protection of property and maintenance of law and order, which we have been enjoying and are entitled to enjoy under the British Government and to exert yourselves to the utmost in quieting down the unrest which stalks the land and render the utmost possible assistance to the State in preventing disorder and removing root and branch the causes which have brought into existence this dreadful state of things. I would suggest that an emergency meeting of the landholder of Bihar should forthwith be called on Monday next the 28th instant to devise such steps as it may be necessary to be taken effectively, to put a stop to the wild propaganda mentioned above and to fix upon a course of action to be taken by the great landholders in connection with it.

We must further forthwith offer our services to the authorities in quelling disturbances and restoring the confidence of the people at large in them.

*Cutting from the "Leader", Allahabad,
24th April 1919.*

THE CONSEQUENCE OF PASSIVE RESISTANCE.

TO THE EDITOR OF THE "BENGALEE."

SIR,—I had no mind on the present occasion to seek the hospitality of the public press for

giving expression to my views on the ill-advised passive resistance movement, but when there has been such a lamentable loss of life and destruction of property and when there has been so much misrepresentation and perversion of truths and when attempt is being made to convert the very men responsible for this lamentable state of things, to convert the promoters and fermenters of the recent hooliganism into saints and martyrs, it is time that every right-thinking man should come out and freely express his views.

Before the passive resistance policy, which is likely to degenerate into Bolshevism, was started on the 6th April, the Hon'ble Raja Rishikesh Law and myself, rightly or wrongly, took upon ourselves the responsibility of issuing a manifesto to the members of our Chamber, pointing out that the principles of passive resistance including closure of shops, bazars and places of business would be detrimental to the best interests of the country and disastrous in their consequence, and this is what has happened, but we were then laughed at and called false prophets championing a bad cause. May we now enquire who is to be held responsible for this deplorable loss of life and wanton destruction of property, which has taken place in several places? If anybody is to blame, so far as we can judge from external appearance, it is the promoters of the passive resistance movements—the gentlemen who, after having inflamed the passions of an ignorant and inflammable mob, kept themselves in the background watching the sight from a safe distance. It has been said by the apologists of hooliganism that prevailed in Calcutta that the mob did not interfere with traffic or with the free movements of persons going to their places of business or offices; and that it was by gentle persuasion that people were induced to get down from tramcars or other conveyances; and there would have been no loss of life at all if the police had not got themselves unnecessarily mixed up in the affair. In refutation of that

I can add my personal testimony and the testimony of several respectable people that instead of persuasion, violence and coercion were used to force people to get down from tramcars and other conveyances and walk along distances to reach their destinations. Both on Friday and Saturday last while I was attempting to go to the southern quarter of the town, my motor car was stopped several times and boarded by a number of rowdies, asking me either to go back or to get down. Ultimately, I was forced to retire and had to go to the southern quarter by the circuitous Circular Road. The same fate overtook my brother Rai Janki Nath Roy Bahadur when he was vainly attempting to go to the City College to preside over the annual meeting of the Bikrampur Sammilani.

On Saturday last I was prevented from going out at every step, and such was also the experience of several other well-known gentlemen in Calcutta. Would you call it persuasion or coercion? Even umbrellas were forcibly taken away and hundreds of tramcars were stopped and kept standing on the streets.

It was next said that if the police had not interfered in the matter but kept quiet as on the previous Sunday there would have been no loss of life. But is not the police bound to regulate traffic and to see that people are not molested—far less coerced—in going to their destinations? Is it not the fact that a motor car was burnt down and both Europeans and Indians were forced to get down from their conveyances and made to walk all the distance from Howrah to their places of business in the office quarters of the town. Were not even carriages carrying Zenana ladies stopped on the way? Could the police be a silent spectator to all this hooliganism and maintain a position of absolute neutrality abdicating their legitimate functions of maintaining law and order?

I have no mind to discuss here as to whether the police was justified in opening the fire. But if anybody is directly responsible for this continuous and continued hooliganism for two long

days, and the consequences that followed, it is the gentlemen who, by their words, inflamed the passions of the mob, keeping themselves at a safe distance.

I cannot for the life of me understand how the Government can suffer by the closure of shops and places of business. It is nobody else but the shopkeepers themselves who had to suffer very materially by the enforced closure of their shops. It was the spectre of loot which made them close their shops. On Friday at 11 A.M. the rumour spread that the Natun Bazar—the largest market in the northern quarter of the town—was being looted as the shopkeepers there had refused to close their shops, with the result that every shop in the northern quarter town began to close for fear of being looted.

I do not like to pursue the subject further. But it must be a matter of regret to all parties that the passive resistance movement—instead of remaining passive—should have been carried by violence and attended with such deplorable and disastrous results—Yours, etc.,

SITA NATH ROY.

102, Sova Bazaar St., April 17th.

*Cutting from "Englishman" Calcutta,
dated 19th May 1919.*

BENGAL ZEMINDARS.

STRONG SUPPORT OF THE GOVERNMENT.

Need for Rowlatt Act.

CONTRADICTION OF MALICIOUS RUMOURS.

The following correspondence is published for general information:—

From Maharaja Bahadur Sir Prodyot Coomar Tagore, Kt., to the Hon'ble Mr. J. H. Kerr, C.S.I., C.I.E., I.C.S., Chief Secretary to the Government of Bengal.

EMERALD BOWER, 14TH MAY 1919.

SIR,—I have the honour to inform you that

the leading Zemindars of Bengal have issued an appeal to their brother Zemindars requesting them to co-operate with the Government in the preservation of peace and order by distributing among their putnidars, jotdars and tenants copies of the vernacular leaflets which have been issued by the Government explaining the scope and character of the Rowlatt Act and contradicting the malicious and mendacious rumours which have been circulated concerning that measure by the enemies of Government, and also by holding small informal conferences with their putnidars, jotdars and tenants and explaining to them the contents of the leaflet in question. The appeal has been signed by almost all the principal Zemindars and in some cases action has already been taken in the direction desired. I am sending you a copy of the appeal as also the signatures in original for the information of Government—I have the honour to be, Sir, Your most obedient servant,

PRODYOT COOMAR TAGORE.

From the Chief Secretary to the Government of Bengal, to Maharaja Bahadur Sir Prodyot Coomar Tagore, Kt.

BENGAL SECRETARIAT, 16TH MAY 1919.

MY DEAR MAHARAJA BAHADUR,—I am desired to acknowledge the receipt of your letter of the 14th May in which you report that the leading Zemindars of Bengal had issued an appeal to their brother Zemindars requesting them to co-operate with the Government in the preservation of peace and order, by distributing among their putnidars, jotdars and tenants copies of the vernacular leaflets which have been issued by the Government explaining the scope and character of the Rowlatt Act, and by contradicting the false rumours that have been circulated regarding that measure. It is understood that the appeal has been signed by nearly

three hundred Zemindars and that measures have already been taken to give effect to it. The Governor in Council hopes that you will be so good as to convey to the gentlemen who have signed the appeal his cordial acknowledgement of their loyal action and his warm appreciation of the manner in which the Zemindars of Bengal have used their great influence to rally their tenants to the cause of law and order. His Excellency in Council also desires to thank you personally for your labour in organising the movement,—Yours sincerely.

J. H. KERR.

—

An Appeal to the Zemindars of Bengal.

Having regard to the present disorderly and lawless state of certain parts of India, due to deliberate campaign of falsehood and downright misrepresentation which has been and continues to be systematically carried on by the enemies of Government concerning the scope, character and object of the Rowlatt Act, coupled with the sinister activities as is suspected, of a secret gang of agitators aiming at revolution and working beneath the surface, we, the zemindars of Bengal, owe a duty to Government under whose protection we have the good fortune to enjoy peace and security of life and property ; to ourselves who have ever been pre-eminently distinguished for loyalty and to our own tenants who have been accustomed to look up to us for help, protection and guidance. It is true that Bengal, with the solitary exception of Calcutta, which has a considerable non-Bengalee population, has so far escaped the contamination of this poison, thanks to her law-abiding and peaceably disposed population, but still we must take all possible precautions—so far as it lies in our power—to prevent this pestilential propaganda from securing a footing in our Presidency. This we can best do by a whole-hearted

and active co-operation with the Government in securing the success of those measures which are being taken in order to ensure the preservation of peace and order. The Government have issued leaflets in the vernaculars for distribution throughout the Presidency and all of us can usefully help Government in this matter by reprinting those leaflets and distributing them throughout our zemindaries through the Agency of our Amla. We enclose one copy each of this leaflet in Bengalee, Hindi and Urdu, which you may reprint according to your requirements for distribution among your putnidars, jotdars and tenants. It is further suggested that you should convene small informal conferences of your under-tenure-holders and tenants to explain to them the provisions of the Rowlatt Act. The principal points to be emphasized are the following:—

1. That it will come into force six months after the signing of the peace when the Defence of India Act will have expired.
2. That it is a much less drastic measure than the Act which it will replace.
3. That the Act can be brought into operation only if the disorderly state of a province renders it expedient and necessary to have recourse to its provisions and that again only with the sanction of the Governor General in Council.
4. That it will be confined in its application solely to revolutionary and anarchial crime.
5. That the enactment of this measure has been pronounced to be absolutely necessary by a body of the highest Judicial authorities after a patient and prolonged enquiry, in order principally to protect the people from murders, dacoities and arson, such as had unfortunately become far too frequent before the Defence of India Act came into operation, but which that Act had been effective in putting a stop to,

6. That the Defence of India Act, being a war measure, must cease to be in operation in peace time and that therefore it is necessary to have another Act as a substitute for it in order to prevent a renewal of the revolting outrages which occurred in the past.
7. That without the aid of such an Act the Government will be, in the future, as it has been in the past, seriously handicapped in the protection of the people from such outrages.
8. That in short, the Act is more for the benefit of the people than for that of Government.

We confidently appeal to the traditional loyalty of our class to strengthen the hands of the authorities in this way and by all other possible means in our power.

The following are amongst the signatories of the Appeal:—Maharaja Bahadur Sir Girija Nath Roy, K.C.I.E., of Dinajpur; Maharaja Bahadur Sir Prodyot Coomar Tagore, Kt.; Maharaja Bahadur Kshaunish Chandra Roy of Nadia; Maharaja Bhupendra Chandra Singh of Susang; Maharaja Jagindra Nath Roy of Nattore; Nawab Khwaja Habibullah of Dacca; Raja Bahadur Bhupendra Narayan Sinha of Nashipore, Raja Bahadur Sachi Kanto Acharya of Muktagacha; Raja Bahadur Pmototho Bhusan Deb Roy of Naldanga; Raja Bahadur Bon Behari Kapur, C.S.I.; Raja Bahadur Gopal Lal Roy of Taihat; Raja Peary Mohun Mookerjee, C.S.I.; Raja Bhubon Mohun Roy of Chittagong; Raja Gopendra Krishna Deb; Raja Bijoy Singh Dhudhira of Azimganj; Raja Monmotho Nath Roy Chowdhury of Santosh; Raja Sarat Chandra Roy Chowdhury of Chanchal; Raja Reshee Case Law, C.I.E., (Hon'ble); Raja Jyot Coomar Mookerjee; Raja Mani Lal Singh Roy; Raja Satya Niranjan Chakerberty of Hetanpur; Nawab Syed Hossian Hyder; Satyendra Nath Tagore, I.C.S., (Retd.); Mohunt Soomeru Giri Gossai; Profulla Nath Tagore; Dwarka Nath Chakerberty, Zamindar and Vakil; Shib Nara-

yan Mookerjee (Hon'ble); Khwaja Attickulla of Dacca; Rai Bahadur Sita Nath Roy; Rai Bahadur Janoki Nath Roy; Rai Harendra Nath Chowdhury of Taki; Rai Mani Lal Nahar Bahadur; Rai Sri Nath Pal Bahadur; Rai Kiron Chandra Roy Bahadur; Rai Lalit Mohun Singha Roy Bahadur; Sailaja Nath Roy Chowdhury of Satkhira; Kumar Rai Monmatha Nath Mitter Bahadur; Kumar Manindra Chandra Singha; Chattra Nath Chowdhury of Maldwa; Hiron Kumar Sen Roy of Bakerganj; Jagat Prosonno Mookerjee of Gosberdanga; Ananda Chandra Roy of Dacca; Khan Bahadur Alauddin Ahmed of Dacca; Khan Bahadur Muhammad Yusuff of Dacca; Promotho Nath Roy Chowdhury of Santosh; T. P. Ghosh; Promotho Nath Malia of Sheersole; Jitendra Lal Roy of Narail; Radha Gobinda Pal of Turka; Hem Sanker Roy Chowdhury of Teota; Monohar Mookerjee of Utterpara; Sailendra Nath Mitter of Andul.

A full list of signatories will appear shortly.

*Cutting from the "Civil and Military Gazette",
Lahore, dated 15th May 1919.*

MOSLEM LOYALTY.

IMPORTANT MEETING IN LAHORE.

A meeting of representative Muhammadans of the Punjab was held on the 11th instant under the auspices of the Anjuman-i-Islamia, Punjab, in the Barkat Ali Muhammadan Hall, Lahore, under the presidency of Nawab Fateh Ali Khan Qizilbash, C.I.E. Among those present the following may be mentioned:—Nawab Fateh Ali Khan Qizilbash, C.I.E., President, Anjuman-i-Islamia; the Honourable Major Malik Sir Umar Hayat Khan, K.C.I.E.; the Honourable K. B. Mian Muhammad Shafi, C.I.E.; Nawab Ibrahim Ali Khan of Kunjpura (Karnal District); K. B. Nawab Muhammad Ali Khan, Qizilbash, Vice-President, Anjuman-i-Islamia; Khan Muhammad Basir Ali Khan.

Secretary, Anjuman-i-Islamia; the Honourable K. B. Sayad Mehdi Shah of Gojra (District Lyallpur); the Honourable K. B. Khwaja Usaf Shah (Amritsar); the Honourable K. B. Sheikh Riaz Hussain (Multan); K. B. Sheikh Inam Ali, Retired Sessions Judge; Sardar Muhammad Jamal Khan, Chief of Dera Ghazi Khan; K. B. Sheikh Nasirud Din; K. B. Saikh Ghulam Sadiq of Amritsar; K. B. Sardar Allahyar, Honorary E. A. C., Multan; K. B. Dr. Sayid Amir Shah; Haji Shams-ud-Din, Secretary, Anjuman-i-Himayat-i-Islam; Sheikh Nizam-ud-Din, Honorary Magistrate, Amritsar; K. B. Mian Siraj-ud-Din (M.C.); Munshi Shahamat Khan, Assistant Secretary, Anjuman-i-Islamia; Khwaja Gul Muhammad, Pleader, Ferozepore; Mian Haq Nawaz, Bar-at-Law; Mian Muhammad Rafi, Bar-at-Law; Saiyid Maratib Ali Shah; Maulvi Mahbub Alam, editor, "Paisa Akhbar"; Mian Nasir-ud-Din (M.C.); Maulvi Fazl-ud-Din, Pleader; Chaudhri Shahab-ud-Din, Pleader (M.C.); Saiyid Muhammad Ali Jafari; Hakim Saiyid Asghar Ali Shah; Maulvi Ahmad Ali, Imam, Badshahi Mosque; Maulvi Isban Ali Khan, Retired Professor, C. T. College; Maulvi Muhammad Din, Headmaster, Islamia High School; M. Abdulla Khan, Retired Second Master, C. M. School, Lahore; Munshi Bashir Husain Khan, Superintendent, Barkat Ali Muhammadan Hall; Hafiz Husain Bakhsh, General Merchant; Dr. Sayad Muhammad Husain, Secretary, Anjuman-i-Ahmadia; Dr. S. Faqir Ali and others.

The following resolutions were unanimously passed:—

(1) This meeting of representative Muhammadans from all parts of the Province, held under the auspices of the Anjuman-i-Islamia, Punjab, emphatically condemns Mr. Gandhi's Passive Resistance and *Satyagraha* movement as in the highest degree detrimental to ordered progress and utterly unsuited to Indian political conditions. The meeting, further, condemned the holding of political meetings and delivery of political lectures in Muhammadan mosques

dedicated to the worship of God and earnestly appeals to the Muslim community to prevent the recurrence of such acts in future.

Proposed by the Honourable Mian Muhammad Shafi, seconded by Nawab Muhammad Ali Khan, and supported by Khan Bashir Ali Khan, Khwaja Gul Muhammad (Ferozepore), the Honourable Khwaja Usaf Shah (Amritsar), Nawab Jamal Khan (Dera Ghazi Khan) and carried unanimously.

(2) This meeting emphatically condemned the suicidal folly committed by Amir Amanullah Khan on the Western frontier, assures Government of the abiding loyalty and devotion of the Muslim community to the British throne and appeal to all Indian (subjects) of His Majesty to loyally assist Government in repelling the Afghan encroachment and maintain internal order.

Proposed by Chaudhuri Shahab Din, seconded by Mehr Allahyr (Multan) and supported by the Honourable Sayad Mehdi Shah (Lyallpur), Major Sir Umar Hayat Khan (Shahpur), the Honourable Mian Muhammad Shaffi, and K. B. Sheikh Riaz Hussain Sahib, C.I.E., Multan.

A Bombay Message.

Bombay, May 12th.—The following telegram has been sent by the Honourable Maulvi Rafi-ud-Din Ahmad, Barrister, to His Excellency the Viceroy:—

"MY LORD,—Having recently made an appeal to Your Excellency through the press on behalf of Muhammadans and laid their aspirations for your respectful consideration I think it all the more incumbent upon me to assure Your Excellency at the present critical situation that there is no class of His Majesty's subjects in India which is more devoted to the British Crown or more loyal to the British connection than the Indian Muhammadans. Now, as neighbouring Muslim State has dared to attack

India without the least justification the Muhamadans of India will be ready with a clear conscience to discharge all the duties and responsibilities which devolve upon them as loyal citizens of the British Empire. The sooner the new Amir disabuses his head of all the lies that have been poured into it regarding Muslim disloyalty by the enemies of England, and the earlier he realises the fact that notwithstanding an occasional misunderstanding the Muslims of India are unswerving in their loyalty to the British Throne, the better would it be for Afghanistan and the peace of the world. My humble services at Your Excellency's disposal."

*Cuttings from the "Statesman", Calcutta,
dated 10th May 1910.*

PASSIVE RESISTANCE CONDEMNED.
MOSLEM MEETING AT LUCKNOW.

FROM A CORRESPONDENT.

Lucknow, May 6.

A mass meeting of the Moslems of Lucknow was held at the Husainabad, Mubarak, Lucknow on the 3rd instant to condemn the *Satyagraha* movement. It was largely attended. Mr. Mahomed Anwar Ali, Barrister-at-law, presided and in his presidential address said:—The relations of the rulers and the ruled have been hitherto those of an affectionate parent and dutiful children. The latter owe their regeneration to the good administration of the former and have not been slow in paying back to their benefactors their proper dues, as evidenced in the time of the recent war. But the present disturbances tend to cast a slur upon the good reputation of Indian loyalty. The people, if they are dissatisfied with the Rowlatt Act, can urge their dissent by constitutional means, and send their delegates to England to fight out the cause on English soil by legitimate means. To

adopt such measures as to start the *Satyagraha* movement is simply to plunge the country into the greatest horrors, as you know the excitement of an illiterate people knows no bounds. The occurrences of Amritsar and other places are cases in point and are destructive of all hopes of Indian aspirations. They tell us the sad tale of loss of lives of innocent persons and destruction of property, and jeopardize the grant of reform. The leaders of the *Satyagraha* movement are doing a great disservice to the country at a momentous time. The speaker appealed to his countrymen to remain true to their traditions of loyalty to the British Crown.

Moulvi Syed Mahomed Mehdi Hasan Sahib Rizavi, Honorary Joint Secretary of the All-India Shia Conference, moved the following resolution:—

"That this meeting of the Moslems of all classes and shades of opinion in Lucknow most emphatically condemns the *Satyagrahi* movement and considers it extremely harmful and dangerous to Indians in general and the Moslems in particular inasmuch as its object is to disobey such orders legally issued by the Government as are singled out by the central standing *Satyagrahi Sabha* committee for the purpose, which cannot result in anything but lawlessness and disorder, bloodshed and loss of life, and property. This meeting appeals to the good sense of the Moslems to dissociate themselves from this movement and considers it their bounden duty to bring home to the people the evils of the said movement."

In moving the resolution, Moulvi Syed Mahomed Mehdi Hasan Rizavi said it gave intense pain to every well-wisher of the country and the community to hear that baseless rumours with regard to the Rowlatt Bill, were sedulously set afloat by some mischief-mongers in this country. It could not be denied that Mr. Gandhi's propaganda of the passive resistance and *Satyagraha* movement was in a great measure responsible for those mischievous and

reckless misrepresentations of facts and for the murder, arson, and rapine that followed in their wake. Obviously, frankly, on the face of it Mr. Gandhi's propaganda was to say the least of it, impracticable, impolitic, and absurd, and passive resistance was but a disguised active resistance and an open challenge to law and order. It was, therefore, the duty of all patriotic Indians that they should come forward at this juncture and contradict the false rumours which were spread with regard to the Rowlatt Bill in the interest of the passive resistance and *Satyagraha* movement before that movement spread ruin and suffering throughout the length and breadth of India. It was hoped that at the conclusion of the Peace Conference Indians would be duly rewarded for their continuous and consistent loyalty and devotion and valuable services to the Government during the great European war. But it was a matter for great regret that the misdeeds of a handful of misguided people in this country had dashed those hopes and aspirations to the ground. The speaker read Mr. Gandhi's recent speech at Ahmedabad and observed that Mr. Gandhi himself saw the evil results of his propaganda and publicly withdrew for the time being the important part of it involving disobedience of law. In the opinion of the speaker all right thinking people earnestly desired that India should be cleared of the present restlessness and that law and order should prevail throughout the country.

Nawab Murtaza Hussain Khan, in seconding the resolution, observed that it was the duty of every peace-loving person in this country to warn the people against the dangers of the passive resistance and *Satyagraha* movement. Passive resistance was a cowardly and meaningless thing and could never appeal to the valiant hearts of Moslems. It was an impracticable propaganda and might easily turn into open revolution. In some parts of India, it was already seen that that mischievous movement actually brought in its train the terrible loss of life and public property, which left no place to its

advocates to contend that it was pacific in its very nature. The time had come when all law-abiding gentlemen of light and leading should publicly condemn that movement which showed lawlessness and disorder, assures the Government of their loyalty and devotion to His Majesty the King-Emperor, and give out to the world in the clearest terms that they were prepared with their lives and property to support the Government in restoring law and order in the country.

The resolution was supported by Nawab Syed Amjad Ali Khan and was unanimously carried.

The second resolution, moved by Nawab Murtaza Hussain Khan, and seconded and supported by Shifa-ul-Mulk Hakim Mahomed Abdul Rashid, Nawab Hyder Mirza, and Khan Bahadur Hakim Mirza Nazer Hasan Khan, and carried unanimously was as follows:—

"That this meeting on behalf of the Moslem community place on record their steadfast loyalty and devotion to the British Crown and assures the Government that they are prepared with their life and property to support it and prevent lawlessness and disorder."

Statement by the United Provinces Liberal Association.

The President of Secretaries of the United Provinces Liberal Association have issued the following statement:—

The Committee of the United Provinces Liberal Association having met on the 19th of April to consider the present situation have authorised us to issue the following statement:—

2. In the opinion of the Committee the situation which has arisen in certain parts of the country is one of grave anxiety and full of danger to our best interests. They deplore the manifestation in some places of a spirit of lawlessness which has already resulted in such loss

of life, destruction of property and dislocation of business, and has produced an atmosphere of grave misunderstanding between the people and the Government. Realizing as they do that all peaceful progress is conditioned by the maintenance of law and order and the avoidance of all resort to force, they have no doubt that the vast bulk of the people appreciate this and will do all in their power to secure that end. Into a detailed examination of the causes which have apparently contributed or led to the creation of the present atmosphere the Committee do not at present propose to enter. They cannot, however, refrain from referring to certain circumstances.

3. The public mind in the country has been exercised since the introduction into the Indian Legislative Council of the Rowlatt Bill. The measure was opposed in the Council by all the non-official Indian members who considered it their duty to apprise the Government of its serious unpopularity and the widespread discontent which, in their opinion, was sure to follow, but the Government decided to pass it into law. They still hope that upon a true appreciation of the nature of the opposition and the demands of their situation of India the Government of England may re-consider their decision as to the reacting of this measure, and withdraw it from the statute book. The passage of the Bill into law was followed by the inauguration of Mr. Gandhi of the *Satyagraha* movement. The Committee think that quite apart from any question of the soundness or unsoundness in principle of a movement of this character it was extremely inopportune and inexpedient in the best interests of the country and they record their satisfaction that having regard to the critical situation which has arisen since, Mr. Gandhi has decided to suspend it for two months. They would earnestly express a hope that in view of the totality of circumstances existing and the extreme desirability of avoiding all risks in the present temper of the country, Mr. Gandhi will decide

to abandon it. At the same time, the Committee feel that even upon admitted facts, the firing on the crowd at Delhi which led to serious loss of life was not justified. This incident made a painful impression on the country and there are many who think that it contributed to no small extent to the largeness of the demonstrations of the Sunday following. The subsequent action taken under the Defence of India Act against Mr. Gandhi who was arrested at Palwal and taken back to Bombay was not only without any justification but a serious mistake and has proved most regrettable in the sequel. Mr. Gandhi is held in such reverence in the country that the news of the arrest caused considerable excitement and, at least at Ahmedabad, is believed to have been the cause of the trouble. The Committee earnestly hope that the order against Mr. Gandhi will be recalled. It is the opinion of the Committee that these two facts were to a great extent responsible for embitterment of feelings in the country and the Committee would earnestly press upon the Government the necessity of an independent inquiry into the conduct of those who must be held responsible for the grievous loss of life at Delhi. The Committee believe that but for this unfortunate incident and the prevention of Mr. Gandhi from entering Delhi, much of the mischief that ensued subsequently might have been avoided.

4. The disturbances at Amritsar which followed upon the deportation of two local leaders and which led to lamentable destruction of life and property, to the cutting of telegraph wires and other grave acts of a similar nature must be condemned unhesitatingly and strongly. Whether the deportations themselves were justified there are no facts to pronounce upon, and the Committee plead that authoritative information should be published to explain the circumstances that led to them not only at Amritsar but at Lahore. The Committee feel further that the general situation in

regard to Lahore is still obscure and in the absence of fuller information they cannot come to a definite conclusion on several points. On the fact that Government has made available so far, the Committee feel that there is great force in the general opinion that there is no justification for several of the very severe steps that have been taken there and it is necessary for Government to publish full and authentic information and to show that those measures were indispensable for the restoration of peace and tranquillity. The pain that has naturally been caused by some of the reported happenings at Lahore has been intensified by the bombing and machine-gunning from aeroplanes on the crowd at Gujranwalla, which, in the absence of any information that may be held to justify such an extraordinary step, has led to a strong feeling of resentment. There is, the Committee feel it their duty to point out, grave apprehension in the public mind about what is happening in the Punjab and the Committee feel that the Government should take the earliest possible opportunity of removing this apprehension from the public mind. While the Committee feel that those who have brought about the present state of disturbance of public tranquillity must be adequately dealt with, they also feel that the firing upon unarmed crowds, the free use of old regulations to imprison men without trial, indiscriminate arrests, the whipping of men in the public streets, the employment of aeroplanes, and such other measures are bound to be resented and will not help in the re-establishment of normal relations between Government and the people. The employment of force must be limited to the extent that is absolutely necessary and every care should be taken to satisfy the public mind that it is not used to a great extent. As far as possible everything should be avoided which is calculated to shock the public sentiment and alienate the public mind, when the public necessity is to enlist opinion to the widest and largest possible extent

actively on the side of Government in the efforts to restore order and maintain peace.

5. The Committee would in conclusion press upon the people the absolute necessity of doing all they can to maintain law and order and upon the Government the equally absolute necessity of realizing that the situation demands that a coercion should be employed only where there is no other alternative and that they should adopt a policy of conciliation and magnanimity.

“THE KHALSA ADVOCATE.”

Amritsar, Tuesday, August 23rd.

MESSAGE TO THE SIKHS CALL TO DUTY.

National traditions should be scrupulously maintained and the Chief Khalsa Diwan has issued the following manifesto to the Sikhs.

The passing of the Rowlatt Act has been made the occasion for starting agitation in the country under the name of Passive Resistance. When the movement of *Satyagraha* was started by Mr. Gandhi, the representatives of the Punjab in the Imperial Legislative Council joined with their Hon'ble Colleagues, Messrs. Bannerji, Shattri and Dr. Sapru and others, in opposing this movement. They feared that this Passive Resistance might turn into active opposition of law and order which it was the duty and earnest wish of every one to maintain in the country. Unfortunately for us this is what has happened and atrocities have been committed which have given a bad name to the Province. Even Mr. Gandhi, from whom the idea of *Satyagraha* (Passive Resistance) originated, has found that the peaceful movement which he started and which he intended it to be, has taken a form which probably he never dreamt of and has publicly declared that no *hartal* or demonstration is to be resorted to and himself has further declared to be ready to obey all orders of Government.

The loyalty and services of the Khalsa in the past have shed lustre and added to the good name of the Community and Country in the gigantic War our Community has rendered meritorious services to the Empire. So it is the bounden duty of the sons of the *Satgurus* to abstain from any such demonstration and to keep themselves from any movement against law and order. They should always be ready, as they have ever since been, to give every assistance to Government and to the authorities in maintaining peace in the land and by so doing add to the good name of the Community. The unfortunate results of the Passive Resistance have forced the Government to impose certain restrictions in the Province and in some districts even Martial Law has been proclaimed and unless a calm atmosphere is secured these restrictions will not be removed. The Government could only be approached when a calmer

atmosphere prevails. So the Chief Khalsa Diwan would exhort all its brethren in faith, the followers of Satguru Kanak Dev and Guru Gobind Singh to abstain from any movement likely to disturb the peace in the country. They should not believe in false rumours that are set afloat. They should always keep in mind their traditional loyalty to the throne of His Majesty the King Emperor and be ready to serve Government in maintaining peace and order in the land and restoring the good name of the Province. It is a happy sign that our brethren have kept themselves aloof from these movements and the Chief Khalsa Diwan hopes that the loyal traditions of the Panth will be scrupulously maintained.

By order,
The Chief Khalsa Diwan.

Baghail Singh, Rai Bahadur, Rais Kulla	President.
Raghubir Singh, Sandhawalia, O.B.E., Honorary Lieut. Raja Sansi	Vice-President.
Sundur Singh Majithia, Sardar Bahadur, Member Imperial Legislative Council	Honorary Secretary.

*Cuttings from "Bengalee," Calcutta, dated
8th June 1919.*

The recent tragedies in some parts of India appear to have produced one desirable effect, and that is to make those think who had formerly refused to listen to the voice of warning and reason. The appeal which Mr. Jumnadas Dwarkadas has addressed to Mr. Gandhi urging him not to start the *Satyagraha* movement is an instance in point. He is "emphatically of opinion" that the resumption of the movement "will not only damage our cause but will impede the growth of *Satyagraha*". In fact his view is that the law-breaking propaganda is not *Satyagraha*. "All our hopes and earnest hopes," he says "towards

the realization of which we have been strenuously striving, all sacrifices notwithstanding—of the future cordial co-operation between England and India as units of the great British Empire, for the good not only of the Empire, but of the world in general, will be completely wrecked". No doubt he regards the obstinacy of the bureaucracy as "a great obstacle in the way of realizing these hopes", but he thinks at the same time that the mistake of resuming the law-breaking propaganda will prove a greater obstacle still. Where was all this common sense before? It is a case of growing wise after the event. What will Mr. Gandhi say to this appeal of this erstwhile devoted disciples? Will he reconsider the decision he might have arrived at? No one

can say what he will do. He has his own notions of what a *Satyagraha* is. But the desertion of one after another of his followers accompanied with reasoned statement of the dangers of re-starting the movement will go a great way in depriving it of its vitality, however great the personal influence of Mr. Gandhi may be.

*Cutting from the "Civil and Military Gazette",
Lahore, dated 20th June 1919 (page 5.)*

PASSIVE RESISTANCE.

ANOTHER OPEN LETTER TO MR. GANDHI.

DEAR MR. GANDHI,—It is with feelings of deep regret and alarm that I have read of the possibility of your taking up once again in July next passive resistance to Rowlatt and other Acts. I had fondly hoped that the movement had seen the last of it for reasons underlying your recent suspension thereof. The hope is not realised, and I think it my duty to my King and Country, to the cause of law and order, to address you as follows:—

We—in Amritsar—have witnessed during the last months some of the horrors perpetrated by some of the so-called passive resisters. In the name of passive resistance, with your name for their war-cry, infuriated mobs have done absurdities so monstrous as no genuine patriot can help feeling humiliated at. The cold blooded murder of innocent Europeans, the burning down of "Houses of God", wanton attacks on defenceless persons, the terrorization of some of their own countrymen, arson and plunder, do not, we recognise, form any part of your programme, yet this is what has been here last fateful two months under the excitement originally worked up by your *Satyagraha* movement.

It is obvious that you misjudged the inflammable stuff—particularly in the Punjab, the land of downright action—you were dealing

with. The vast majority of our countrymen to whom you preach your dharma of passive resistance still remain illiterate with a very elementary sense of civic responsibility. Is it right for you or anybody to expect them to appreciate the subtle discriminations between active and passive opposition to law?

I am convinced from what I have seen that the movement of "Passive Resistance"—whatever its merits or demerits—is a downright political blunder in the present stage of the country's development. It is fatally inexpedient. It cannot but lead up to excesses. The mob-psychology which you know just as well as anybody is clear on the point. "You may make the whole people don uniform, but you cannot thereby bring uniformity." You may succeed in making *Satyagrahis* of the whole lot of us but there is that something wanting in your scheme that will control a mob once it is excited. And I demand of you in the interests of our common dear motherland to even now retrace your steps and have done with the movement. Let in any case our Punjab remain out of your "passive activities" for things to settle down into moral groves and the old country resume its stately march towards ordered constitutional progress.

The Afghan crisis imposes on us all a new set of Imperial responsibilities. It is up to us, I submit, in the crisis to help in the maintenance of internal order. Particularly in the Punjab which is next door to Afghanistan, any movement with even the remotest possibility of stirring up strife and excitement at the present juncture must prove harmful to the best interests of the country.

We are passing through a phase of transition in this country—perhaps one of the acutest we shall ever have to pass through, which demands the practical grasp of a constructive statesman. And I call upon you as a distinguished fellow-countrymen to take your courage in both hands and proclaim abandonment of the passive resistance movement for a calm,

constructive programme to help the country on to its appointed destiny, in which truly patriotic task you can always count on the willing co-operation of so many young and patriotic Indians who will have nothing to do with your passive resistance movement. Your celebrated self-sacrifice and daring makes me feel confident that the true facts of the situation having been explained, you will not hesitate to respond to this call of duty. I feel sure that by so doing you will save misery to many a happy home, and yourself the worry of further repentant fasting. But should you unfortunately persist in your present course of action you should be prepared for a campaign of active resistance to your passive resistance in this part of the country.

I have seen—you have not—some very horrible and heart-rending incidents here in the Punjab during the last months, and I feel constrained to warn you that the catastrophe of the last months, is likely to repeat itself somewhere in this vast country, should the *Satyagraha* movement continue, and you of all others will stand responsible for it to God and man.

MIR MAQBOOL MAHMOOD, B.A., LL.B.,
Civil Lines, Amritsar, June 14th.

—
*Cutting from the "Pioneer," Allahabad,
dated 11th July 1919.*

Notwithstanding the disaster which attended his first *Satyagraha* experiment Mr. Gandhi has again thought of testing the efficacy of his soul-force movement for the removal of the Rowlatt legislation. As before he expresses complete confidence in his doctrine. In an address to a crowded meeting at Nadiad while *en route* to Ahmedabad, he said he had come to the conclusion that if civil disobedience were to be renewed it should be offered in the first place

by himself only. Proceeding to elaborate his plan he indicated that if after a month after his incarceration Government had not succumbed each *Satyagrahi* should in turn offer civil disobedience under conditions drawn up by him until each had "rendered a good account of himself." As before his followers are warned not to indulge in disorders and, on this occasion there are to be no *hartals*, though during the period in which the *Satyagrahis* are being absorbed into the jails "*swadeshi* propaganda in a religious and true spirit, without the least suspicion of boycott," is to be carried on. We must confess to a growing weariness of Mr. Gandhi and his follies and we imagine that he can no longer count on any support from any section of his countrymen.

—
*Cutting from the "Leader", Allahabad,
dated the 24th July 1919.*

Mr. Gandhi's letter to the press explaining the reasons which led him not to resume civil disobedience for the time being is, in our view, another confession of—we may be excused for saying it—lack of judgment. It was from the very beginning that friends, official and non-official, advised him against the starting of the movement for the civil disobedience of laws, on the ground that it was calculated to lead to lawlessness. But Mr. Gandhi did not heed the advice and began his campaign. The disorders that followed brought home to him his "Himalayan miscalculation" but in spite of the realization of his mistake he announced that he would resume civil disobedience. The warning of events was not sufficient for him and it required strong pressure from various quarters before he could make up his mind to postpone the practice of civil disobedience. He has reluctantly deferred to other peoples' judgment. In doing so he has acted rightly, and we hope that in future he will

listen more to the advice of experienced friends and administrators whose intentions should be above suspicion, and less to the promptings of those whose judgment is warped by their enthusiasm and strong political bias. Mr. Gandhi says that a civil resister never seeks to embarrass the Government. This may not be his intention, but Mr. Gandhi cannot seriously contend that his action in the past did not embarrass Government. It did to a serious extent. He now thinks that he would better serve the country, the Government and the Punjab leaders, by the suspension of civil disobedience. This implies an admission that he did a disservice to the people and the Government by starting the *Satyagraha* movement.

*Cutting from the "New India", Madras,
dated 10th July 1919.*

MAHATMA GANDHI'S PROGRAMME.

We confess to a feeling of deep sorrow on reading the report of a speech delivered by Mahatma Gandhi at Nadiad, in the course of which he stated that he might have "to offer civil disobedience at an early date", and exhorted his followers only to follow his example after a whole month of "perfect peace and calm." We all know how powerful a force this great man weilds throughout the country, how in every Presidency and Province he has many followers, how all without exception, or with the exception of one or two small minded persons, admire without reserve his saintliness of character, and the refinement of honour which marks his daily life. It is because of all this that we so deeply deplore his determination to continue in a course of action which we can only see ending in disaster. Given two conditions and Mahatma Gandhi's decision might be welcomed whole-heartedly. Given the absence of the Indian Reform Bill, and given the assurance that only the leader and a picked body

of trained followers performed civil disobedience—given these two conditions, and, whether we joined the movement or not, we could applaud its heroism. But with a Reform Bill in the course of construction, with the absence from India of many of India's most trusted leaders—representing all parties—on the specific mission, given to them by the principal National movements throughout the country, of striving to ensure for India a real Magna Charta of her Liberties, with an already disturbed condition in many parts the result of the general unrest throughout the world, with the failure of the first *Satyagraha* movement owing to causes which we have no reason to suppose are eliminated now, and with a populace already restless, "in despair," as *Satyagraha* leaders themselves sometimes tell us, liable to excitation at the hands of the irresponsible, keenly sensitive to any action the Government might decide to take against their beloved leader—with all these conditions present, we can only say we view with the gravest apprehension and with the most sorrowful distress the resurrection of a movement needing for its successful issue the soul-force of a Gandhi unhampered by the narrowing influences, the harsher and rougher methods, of forces which have not behind them long years of one pointed sacrifice and preparation.

We are participators just now in one of India's supreme moments. Our deputations in England tell us there is hope for a good Reform Bill if we will agitate for it in India. Surely the right course to take at such a moment is to rally every available worker to the duty of instructing the public as to what kind of Bill will give India her freedom, so that the public may speak insistently and unitedly. The Rowlatt Act must go. The Press Act must go. Let the Reform Act itself be the cause of their removal. Let its provisions be such that no statute obnoxious to the vast majority of the Indian people can remain in existence or be brought into being. Let its provisions guarantee the ample liberty of the Indian subject. Let its provisions make

certain complete Home Rule within a brief period. The Reform Bill as it now stands has been offered by Lord Chelmsford, by Mr. Montagu, and by the Imperial Parliament, for criticism and, if desirable, for reconstruction—provided no less is given to India than the Bill as it now stands is framed to grant.

To us the opportunity seems magnificent, and we grudge Mahatma Gandhi to any lesser work. We venture to say to him that a far greater service may be offered to our beloved motherland by working so that a noble all-embracing Charter of Indian Liberties may come than by working so that an individual objectionable Act may go. The service of the greater includes the consummation of the less. No Rowlatt Act, no Press Act, can stand against a real Charter of Indian Liberties. Can we get so real a Charter? Under the leadership of Mahatma Gandhi we undoubtedly can. Without him we may. With his own attention and that of numbers of able and devoted followers turned in another direction, the task becomes more difficult—the House of India is, if not divided against itself, at least disunited in purpose, and, though it may stand, is thus inevitably rendered less robust at the critical moment when all its vigour—united and one-pointed—is required to vitalise with ample life the form already accepted by the Imperial Parliament.

Apart from this, we confess to a fear, justified by the results of the first trial of *Satyagraha* lest India be not ready for such a movement. In the hearts of some there is hatred, in the hearts of many there is dominant the spirit of self-seeking, in the hearts of a large majority of the people there is hopelessness, perhaps despair. In the heart of Mahatma Gandhi there is love, as also, perhaps, in the hearts of a small handful of his followers. Can Mahatma Gandhi guarantee that only those will take part in the *Satyagraha* movement, only those will be influenced by it, whose hearts are full of love as his is, whose hearts harbour no hatred and no

despair? If he cannot, he is setting in motion a force which, safe though it be within the circle of the pure must inevitably pass beyond its due circumference into the hearts of those in whom the larger motives have yet to live, and who would use to narrow ends the force they are still too inexperienced to guide to wider purposes. Once set in motion, the Fire-Wind of *Satyagraha* cannot but awaken an energy in people who live far beyond its rightful domains, who live in the Kingdom of urgent material need and not in the kingdom of spiritual sacrifice. And the danger, experienced and acknowledged by Mahatma Gandhi, is lest the Fire-Wind consume rather than purify.

It is necessary for us to say that we write in no spirit of antagonism, but in the spirit of the *Satyagraha*? We, too, love India, and humbly strive to serve her with all our hearts and all our power. We write because we fear the advent of an end other than that contemplated by Mahatma Gandhi. We write because we fear that in the efforts to break the Rowlatt Act, there may be broken the hearts of thousands who will have become the unconscious instruments of a power, the Sannyasi alone should wield, and will thus be as ignorant children roaming blindly in a laboratory crammed with high explosives requiring the most delicate manipulation. We write because from our hearts we believe that the immediate service we owe to India is that of gaining for her an Act of Reform worthy of her aspirations, an act which shall restore the liberties lost under the Press Act and threatened under the Rowlatt Act. We write in all eagerness for comradeship, and in the profound belief that Mahatma Gandhi could lead the people to achieve a double end—the gaining of the liberty withheld and the regaining of the liberties lost—under the active inspiration of his wonderful singleness of purpose. And the supreme advantage would be that we should be out to build and not to destroy.

*Cutting from the "Pioneer," Allahabad,
dated 13th July 1919.*

SATYAGRAHA THREAT.

**SIR N. CHANDRAVARKAR'S WARNING.
DANGER OF ANARCHIST OPPOR-
TUNISM.**

FOLLY OF MR. GANDHI'S MOVEMENT.

Bombay, 11th July.

With reference to Mr. Gandhi's resolve to renew the *Satyagraha* campaign Sir Narayan Chandravarkar, an ex-judge of the Bombay High Court and a Moderate leader, through the medium of the Press, makes a strong and earnest appeal to Mr. Gandhi to desist from starting the campaign.

Sir Narayan says that Mr. Gandhi's advice to the people to make no disturbance in case he is punished for offering civil disobedience as a protest against the Rowlatt Act and such pious advice condemning lawlessness and violence fail, as the country knows to its cost and pain, because ignorant people are unable to distinguish between civil disobedience to laws of a harmless character and violence and defiance of law and authority. In Sir Narayan's opinion the real reason is afforded by the actual fact of revolutionary crime in India with which he became officially familiar in the course of the examination of 806 cases of Bengal internments. He had found to his amazement that revolutionary organisations educated their members in certain literature of political deceptions, murders, and other acts of violence. What amazed him was that whereas the authors of these books condemned these offences, and, in fact, all lawlessness, just as Mr. Gandhi condemns them, without any reserve or qualification, the anarchists nevertheless adopted these books as their guides and adored the authors, believing that they condemned revolutionary crimes merely to hoodwink Government.

"The vital question is," says Sir Narayan,

"what do those anarchically inclined who want trouble think of Mr. Gandhi when he preaches civil disobedience to laws and established authority but condemns in unqualified terms all acts of violence and lawlessness." As regards the Rowlatt Act, Sir Narayan says we opposed it in the Press while the Bill was being debated, maintaining that the ordinary court was ill-fitted to combat revolutionary crime but that the Governor General's power of Ordinance and the Regulation of 1818 were sufficient weapons in the hands of Government to combat the crime. Again when the Bill was passed he wrote, pointing out that its passage was unfortunate and that such a law, if necessary, should have followed and not preceded the adoption and passage of the reform scheme. He still held the same opinion, but surely there were constitutional and careful ways of striving for the repeal of the Act instead of seeking repeal by means of a movement which, notwithstanding Mr. Gandhi's sincere condemnation of violence, was calculated to stir up the worst passions and lead to the disaster and ruin of youth. Mr. Gandhi's *Satyagraha* and the disasters to which it led had made all constitutional agitation out of question at present and had thrown the public into a muddle. "Moreover," he adds, "we are on the threshold of reforms. Mr. Montagu is doing his best, the Cabinet is with him, the British public are sympathetic, the signs are promising; is it service to India, to set back all that by a movement which Mr. Gandhi himself admits has been grossly and wickedly misunderstood, abused and turned into disastrous consequences but a few months ago."

Allahabad, 11th July.

A message *via* Simla says:—It is reported from Bombay that Mr. Gandhi will shortly go to the Punjab, disregarding Government orders

asking him not to do so. He has requested the people to keep the peace and not to close their businesses.

OPEN LETTER.

Copy of an open letter, addressed to Mr. Gandhi, which appeared in the "Pioneer" of the 27th July 1919.

DEAR MR. GANDHI,

During the last two months, several public men from different provinces of India, enjoying undoubted influence and esteem, have addressed you, both openly as well as by means of private letters, requesting you in the name of the country you love so much, and the people whom you consider to be the highest privilege of your life to serve, to abandon and finally relinquish the passive resistance idea. I had thought that these sincere and respectful protestations would weigh with you and ultimately compel you to give up once for all the idea of resistance to laws through personal suffering that you introduced for the first time in the political history of this country, since it came under the sway of Britain, as a weapon wherewith to combat the Rowlatt Legislation. It appears, however, that though you have temporarily relinquished the passive resistance idea as a general programme, you are, yet, bent upon setting an example by practising it yourself, forgetting altogether, that example is the mightiest and greatest factor to induce a general adoption of the principle for which you yourself admit, the people are little fit. I am afraid that the "Himalayan Miscalculation" you so frankly acknowledged, is still upon you, and that its effects have not completely left you. To me it is really inexplicable, that you, with your shrewd and penetrating judgment, should still persevere in a course which has been productive of the greatest private and public suffering within living memory in this

country. You say, that you don't want others to practise passive resistance, because they are not fit for it, but that you, as the only person fit and best trained in the school will practise it. What difference will this make with the man in the street? If anything, his frenzy will rise higher and the pitch of his excitement will grow stronger, when he notices that his "Rishi" his "Guru" the object of his adoration and the centre of his affections, throws himself into the fire while he stands out. Will he not leap into the burning "Ghat," and will not the solitary fire, fed by the fuel of a frail body, blaze up in a general conflagration? I ask you, as a sincere patriot and a devoted worker to the cause of your motherland to reflect on this, and after remembering all that has happened subsequent to the ill-fated 6th of April question yourself whether you will not be a party again to that general upheaval, shaking society to its very foundations, which must inevitably follow the course you intend to adopt.

I will ask you also to consider another aspect of the matter. I belong to Peshawar, the capital of North-West Frontier Province. I have seen with my own eyes the excitement that prevailed in the bazars and by-lanes of that hitherto most peaceful and unagitating town. Would you believe me when I tell you that the people organised this orgy of sheer lawlessness had not the remotest comprehension of the spiritual philosophy that you offer in the formula of passive resistance. Nor had they any the least idea or fear of the Rowlatt Act which was convulsing the rest of the country. My statement that the people of the Frontier Province had no idea or fear of the Rowlatt Act might cause bewildering surprise both to you and some of the readers of this letter, but I will justify my statement by a brief mention of the conditions of life prevailing in the Frontier Province. We of the Frontier are subject to the Frontier Crimes Regulations, the provisions of which are inconceivably far more

drastic and draconian than the provisions of the Rowlatt Act in question. Obviously people who live subject to such laws, though quite peacefully I admit, can have no unctuous fears of constitutional scruples of a grave character in respect to a legislation comparatively much milder and incapable of application to them. Why, then, should they have thrown themselves into convulsions of frenzy over the Rowlatt Legislation? To state the naked truth, there were not wanting people, selfish and extremely unpatriotic, who, to work out their own ends, took advantage of the uneasiness of the times and brought about a spurious agitation to throw dust into the eyes of others at a distance, unacquainted with the subtle and subterranean forces which had rendered this agitation possible in the Frontier Province. You will be surprised to hear from me that in the Frontier Province, not a single meeting was ever held before the 6th of April to agitate on political matters. In fact, when the Province itself was separated from the Punjab about 20 years ago, the people did not then raise and have not since raised their little finger by way of protest, while at the same time, Bengal was writing with indignation over its dismemberment. Even in the matter of Rowlatt Legislation, no protest was ever uttered before the 6th of April in this calm and peaceful province. And yet, all of a sudden, it seemed on the 6th of April that Peshawar was in the throes of a most violent agitation against a legislation which could not possibly touch its people. This state of lawlessness grew day by day and lasted for one month without any hindrance. I will be treading on dangerous ground if I attempt to unmask the secret selfish forces that were working to this end, apparently with countenance, but I would ask you to draw a moral from this tale and recognise that passive resistance, as you preach it, is incapable of being understood and appreciated by the people in any other sense than that of open unabashed violation of laws, the very

laws that ensure us internal peace and safety and have rendered possible the dawn in India of that hopeful future, bright with the promise of freedom and leading to the partnership of this ancient country on terms of absolute equality with the autonomous nations that make up the Confederation of the League of Nations within the British Empire.

In conclusion, I trust that you will fully ponder over my respectful submissions and will, at an early date, announce the complete and final abandonment of the passive resistance movement.

Yours truly,

(Sd.) ABDUL AZIZ,

*Barrister-at-law of Peshawar,
North-West Frontier Province.*

Cecil Hotel, Simla.

*Cutting from "Leader," Allahabad, dated
the 14th July 1919.*

Sir Narayan Chandravarkar's appeal to Mr. Gandhi to desist from renewing the *Satyagraha* campaign will be endorsed by every Indian who is not his blind follower. Mr. Gandhi ought to admit that his *Satyagraha* movement has been a colossal failure in every sense of the term, and that instead of producing good, which he fondly anticipated, it has produced evil. As Sir Narayan Chandavarkar correctly points out, his *Satyagraha* and the disaster to which it has indirectly led, have made all constitutional agitation out of the question at present, and has thrown the public life into a muddle. His statement that he alone is fit to resume *Satyagraha* is the most eloquent confession of the failure of his movement. His *Satyagraha* has produced a lot of what he himself called *Duragraha*, and still obstinate faith in the former is not conquered. When all or most of the thoughtful leaders in the country are advising him to drop it, it is time for him

to put aside his personal views and to defer to their advice.

—
Cutting from the "Englishman," dated Calcutta,
12th April 1919.

MISCHIEVOUS MISREPRESENTATION.

A PUNJAB VIEW.

The "Civil and Military Gazette" has received the following letter from Nawab Fateh Al Khan, Qazilbash, C.I.E.:—It has been with feelings of the acutest pain and distress that I have been persistently hearing and receiving reports from almost unknowing and illiterate shopkeepers and neighbours, that Government has recently passed a Bill, under which powers have been given to the police to arrest any four persons talking or standing together in the bazar or before a shop, and that, therefore, the people are being asked by the so-called knowing leaders to practice *hartal* as a mark of protest against this kind of legislation. The laws referred to in these absolutely unfounded reports and black lies, that are being so sedulously spread, are obviously the Rowlatt Bills recently enacted as laws. No educated man, howsoever politically minded, will, for a moment, contend that the Rowlatt Bills are legislation of this kind, empowering the police to raid any house inhabited by four or five persons or to arrest any four or five persons assembled together in the bazar or in the *baithacks*. Who then is responsible for wholly false and mischievous misrepresentations of this kind and why are these being so freely and recklessly made? The answer to the latter question is plain. Mr. Gandhi has unfortunately passed a message for the closing of all shops and the suspension of all business activity on Sunday, the 6th instant. The politically-minded folk who by an ironic stroke of evil fortune arrogate to themselves the right of being the mouthpiece of this loyal and contended, but in the language

of these people this extremist province, feel that a demonstration on Mr. Gandhi's lines must take place on the date appointed, else their reputed influence with the people outside will suffer. So they decide to have a *hartal* in the province on the date fixed, and in order to bring this about, inflame the unknowing and illiterate by spreading mischievous reports of this kind. But themselves they lurk behind and dare not come in the open. How many among these politically-minded persons in the province have taken Mr. Gandhi's vow and if they have not probably so because Mr. Gandhi's propaganda is the absurdest ever launched in the history of political freedom, then why are they misleading the ignorant shopkeeper and tonaga-plyer by all kinds of false and unfounded misrepresentations, and at their expense bringing about a false and spurious demonstration? If the political workers in the Punjab believe that the Rowlatt Bills are nothing in the shape of what they are being represented to the ignorant public, and I have no doubt that no man in his senses will have the courage or fairness to say otherwise, then do they not owe it a duty to their province and their conscience to publicly contradict these mischievous rumours which are being spread in the interest of Mr. Gandhi's agitation?

So much to the political workers of this province. I have a word also to say to those who possessed of material stakes in the peace and orderly progress of this country, have as much a right to political opinions as any set of fictitious workers. Why are they sitting with their hands folded, passive observers of a scene which should wake them to a sense of their duty? Passive resistance, let there be no misunderstanding, is active resistance and they must condemn it with as much violence as they would condemn an open revolution. I would, therefore, appeal to all public associations in this province to address themselves immediately to the task which is their supreme duty at this hour and unhesitatingly condemn this

direct challenge to British law, which spell the variest justice and the freedom which results from their obedience. The Anjuman-i-Islamia, Amritsar, has led the way. The Punjab Muslim Association, the Punjab Muslim League, the Anjuman-i-Islamia, Lahore, the Anjuman-i-Himayat-i-Islam and the Punjab Hindu Sabha, which are the public associations of this province, had also better consider this question, and answer if they are for condemning this mischievous and unmeaning agitation that is being preached under the mystic formulae of soul-force and spiritualism, or will only be passive but culpable spectators of the ruin and suffering which must come in its wake. The question is the more paramount as the student community of the Punjab has also to be cared for and looked to. The parents of most of them are far away not knowing or even understanding what is happening; the principals and professors do not unfortunately possess the power

and control which is needed; the public associations and the leaders who honestly condemn this passive resistance movement had better take time time by the forelock and see that the student community is not infected by the spreading virus. Students have no place in active politics; it is not for them to suffer, and yet through the ill-luck of this country the political demagogue and the stump orator would observe no principles and no scruples, if he can only get appearance of a demonstration for his propaganda.

Trusting that these words of mine will not fall on deaf ears, and that public associations in this province and gentlemen of light and leading fully conscious of their responsibilities towards the rising generation of this country, will lose no further time in condemning this spurious agitation started under the banner of Mr. Gandhi and with the moto of passive agitation.

F

Ordinances promulgated by His Excellency the Viceroy

ORDINANCE No. I OF 1919.

[14th April, 1919.]

An Ordinance to provide for the trial of persons charged with offences under the Bengal State Offences Regulation, 1804.

[Published in the *Gazette of Indian Extraordinary* of the 14th April, 1919.]

Whereas the Governor General is satisfied that a state of open rebellion against the authority of the Government exists in certain parts of the Province of the Punjab;

X of 1804.

And whereas the Governor General in Council has, in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, suspended, in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged, the functions of the ordinary Courts of Judicature within the districts of Lahore and Amritsar in the aforesaid Province and has established martial law in the said districts; and has directed the immediate trial by courts-martial of all such persons charged with such offences;

And whereas an emergency has arisen which makes it expedient to provide that such trials shall be held in the manner and by the tribunals hereinafter provided;

5 & 6 Geo. V,
C. 61.

Now, therefore, the Governor General, in exercise of the power conferred by section 72 of the Government of India Act, 1915, is pleased to make and promulgate the following Ordinance:—

Short title and commencement. 1. (1) This Ordinance may be called the Martial Law Ordinance, 1919.

(2) It shall come into operation at midnight between the 15th and the 16th April, 1919.

X of 1804.

2. (1) Every trial held under the Bengal State Offences Regulation, 1804 (hereinafter called the said Regulation), shall, instead of being held by a court-martial, be held by a Commission consisting of three persons appointed in this behalf by the local Government.

Trials under Regulation X of 1804 to be held by Commissions.

(2) The local Government may appoint as many Commissions for this purpose as it may deem expedient.

(3) At least two members of every such Commission shall be persons who have served as Sessions Judges or Additional Sessions Judges

for a period of not less than three years, or persons qualified under section 101 of the Government of India Act, 1915, for appointment as Judges of a High Court. The local Government shall nominate one of the members of the Commission to be President thereof.

5 & 6 Geo. V,
C. 61.

3. A Commission shall be convened by the local Government or by such officer as the local Government may authorise in this behalf.

4. A Commission shall have all the powers of a general court-martial under the Indian Army Act, 1911, and shall, subject to the provisions of this Ordinance, in all matters follow so far as may be the procedure regulating trials by such courts-martial prescribed by or under the said Act;

VIII of 1911.

Provided that where, in the opinion of the convening authority, a summary trial is necessary in the interests of the public safety, such authority may direct that the Commission shall follow the procedure prescribed for a summary general court-martial by or under the said Act, and the Commission shall, so far as may be and subject to the provisions of this Ordinance, follow such procedure accordingly;

Provided further, that sections 78, 80 and 82 of the said Act shall not apply to any trial under this Ordinance.

5. The finding and sentence of a Commission shall not be subject to confirmation by any authority.

6. Nothing in this Ordinance shall affect any trial held or begun to be held by court-martial under the said Regulation prior to the commencement of this Ordinance.

7. Save as provided by section 6, the provisions of this Ordinance shall apply to all persons referred to in the said Regulation who are charged with any of the offences therein described, committed on or after the 13th April, 1919.

CHELMSFORD,
Viceroy and Governor General.

ORDINANCE No. II OF 1919.

[16th April, 1919.]

An Ordinance to extend the operation of the Martial Law Ordinance, 1919.

[Published in the *Gazette of India Extraordinary* of the 16th April, 1919.]

Whereas the Governor General is satisfied that a state of open rebel-

lion against the authority of the Government exists in certain parts of the province of the Punjab;

X of 1804.

And whereas the Governor General in Council has in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, suspended, in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged, the functions of the ordinary Courts of Judicature within the district of Gujranwalla in the aforesaid province, and has established martial law in the said district, and has directed the immediate trial by courts-martial of all such persons charged with such offences;

I of 1919.

And whereas an emergency has arisen which makes it expedient to provide that such trials shall be held in the manner and by the tribunals provided in the Martial Law Ordinance, 1919, and also to provide for the same matter in any other area in which by order of the Governor General in Council the provisions of the aforesaid Regulation may be brought into operation;

5 & 6 Geo. V,
C. 61.

Now, therefore, the Governor General, in exercise of the power conferred by section 72 of the Government of India Act, 1915, is pleased to make and promulgate the following Ordinance:—

Short title. 1. This Ordinance may be called the Martial Law (Extension) Ordinance, 1919.

I of 1919.

2. With effect from midnight between the 16th and 17th April, 1919, the provisions of sections 2 to 6 of the Martial Law Ordinance, 1919, shall apply to the trial of all persons in the district of Gujranwalla in the province of the Punjab of the classes referred to in the Bengal State Offence Regulation, 1804, who may be charged with any of the offences therein described, committed on or after the 15th April, 1919.

X of 1804.

3. Where, after the commencement of this Ordinance, the Governor General in Council, in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, suspends, in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged, the functions of the ordinary Courts of Judicature within any area, and establishes martial law therein, and directs the immediate trial by courts-martial of all such persons charged with such offences, the Governor General in Council may, by order in writing, declare that the provisions of sections 2 to 5 of the Martial Law Ordinance, 1919, shall apply to such trials in the said area.

X of 1804.

Power to apply the provisions of the Martial Law Ordinance, 1919, in any area in which Regulation X of 1804 is in operation.

I of 1919.

3. Where, after the commencement of this Ordinance, the Governor General in Council, in exercise of the powers conferred by section 2 of the Bengal State Offences Regulation, 1804, suspends, in respect of offences described in the said Regulation with which any person of the classes therein referred to may be charged, the functions of the ordinary Courts of Judicature within any area, and establishes martial law therein, and directs the immediate trial by courts-martial of all such persons charged with such offences, the Governor General in Council may, by order in writing, declare that the provisions of sections 2 to 5 of the Martial Law Ordinance, 1919, shall apply to such trials in the said area.

CHELMSFORD,
Viceroy and Governor General.

ORDINANCE No. III of 1919.

[18th April, 1919.]

An Ordinance to provide that persons convicted of any of the crimes specified in the Bengal State Offences Regulation, 1804, shall be punishable with penalties other than those provided in the said Regulations.

[Published in the *Gazette of India Extraordinary* of the 18th April, 1919.]

Whereas an emergency has arisen which renders it necessary to provide that persons convicted of any of the crimes specified in the Bengal State Offences Regulation, 1804, shall be punishable with penalties other than those provided in the said Regulation;

X of 1804.

Now, therefore, in exercise of the power conferred by section 72 of the Government of India Act, 1915,, the Governor General is pleased to make and promulgate the following Ordinance:—

5 & 6 Geo. V,
C. 61.

Short title.

1. This Ordinance may be called the Martial Law (Sentenc) Ordinance, 1919.

Provision for minor punishments in case of convictions under Regulation X of 1804.

2. Notwithstanding anything contained in section 3 of the Bengal State Offences Regulation, 1904.

X of 1804.

(a) any court-martial or any commission appointed and convened under the Martial Law Ordinance, 1919, may, when convicting any person of any of the crimes specified in the said Regulation, sentence such person to transportation for life or for any period not less than ten years, or to rigorous imprisonment for a term which shall not be less than seven years and shall not exceed fourteen years;

I of 1919.

(b) no person so convicted shall be liable to forfeiture of property as provided in the said Regulation unless such court or commission so directs.

CHELMSFORD,
Viceroy and Governor General.

ORDINANCE No. IV of 1919.

[21st April, 1919.]

An Ordinance further to extend the application of the Martial Law Ordinance, 1919.

[Published in the *Gazette of India Extraordinary* of the 21st April, 1919.]

Whereas an emergency has arisen which renders it necessary to provide that commissions appointed under the Martial Law Ordinance,

I of 1919.

1919, shall have power to try persons and offences other than those specified in the said Ordinance;

5 & 6 Geo. V,
C. 61.

Now, therefore, in exercise of the power conferred by section 72 of the Government of India Act, 1915, the Governor General is pleased to make and promulgate the following Ordinance:—

Short title. 1. This Ordinance may be called the Martial Law (Further Extension) Ordinance, 1919.

I of 1919.

2. Notwithstanding anything contained in the Martial Law Ordinance, 1919, the local Government may, by general or special order, direct that any commission appointed under the said Ordinance shall try any person charged with any offence committed on or after the 30th March, 1919, and thereupon the provisions of the said Ordinance shall apply to such trials accordingly, and a commission may pass in respect of any such offence any sentence authorised by law.

Commissions under Martial Law Ordinance, 1919, to try such cases as the Local Government may direct.

CHELMSFORD,
Viceroy and Governor General.

ORDINANCE No. VI OF 1919.

[27th May, 1919.]

An Ordinance to provide for the continuance of trials held by commissions and summary courts under martial law.

[Published in the *Gazette of India Extraordinary* of the 27th May, 1919.]

X of 1804.

Whereas in exercise of the power conferred by section 2 of the Bengal State Offences Regulation, 1804, the Governor General in Council has been pleased to issue orders suspending in certain districts of the Punjab the functions of the ordinary criminal Courts of Judicature in so far as the trial of persons of the classes referred to in the said Regulation charged with the offences therein described is concerned, and to establish martial law in the said districts;

I of 1919.
II of 1919.

And whereas the Governor General has been pleased to make provision by the Martial Law Ordinance, 1919, and by the Martial Law (Extension) Ordinance, 1919, for the holding of such trials by commissions;

IV of 1919.

And whereas the Governor General in Council has further been pleased, in exercise of the powers conferred by the aforesaid Regulations, to suspend the functions of the ordinary criminal Courts of Judicature in the said districts in so far as trials held by commissions in accordance with the provisions of the Martial Law (Further Extension) Ordinance, 1919, are concerned;

And whereas an emergency has arisen which renders it necessary to provide for the continuance and completion of all such trials pending before the said commissions at the time of the cancellation of the said orders and for other matters in connection therewith;

Now, therefore, the Governor General, in exercise of the power conferred by section 72 of the Government of India Act, 1915, is pleased to make and promulgate the following Ordinance:—

5 & 6 Geo. V,
C. 61.

Short title.

1. This Ordinance may be called the Martial Law (Trials Continuance) Ordinance, 1919.

2. When an order under section 2 of the Bengal State Offences Regulation, 1804, suspending the functions of the ordinary criminal courts in any district has been cancelled and martial law has ceased to operate, every trial which may at the time of such cancellation be pending before any commission appointed, as a result of such order, under the Martial Law Ordinance, 1919, shall be continued by such commission, and any person accused in any such trial may be convicted and sentenced and any such sentence shall be carried into execution, as if such order had not been cancelled.

X of 1804.

Explanation:—A trial for the purpose of which an order has been made convening a commission under either the Martial Law Ordinance, 1919, or the Martial Law (Further Extension) Ordinance, 1919, shall be deemed to be a trial pending before such commission within the meaning of this section.

I of 1919.

I of 1919.
IV of 1919.

3. Notwithstanding that the functions of the ordinary criminal courts have been suspended in any district and that a trial has commenced before a summary court other than an ordinary criminal court, such trial shall, when the summary court ceases, by reason of the cessation of martial law, to exercise jurisdiction therein, be continued before any competent criminal court which would have had jurisdiction therein save for the existence of martial law, and such court may act on the evidence recorded by the summary court or partly recorded by such court and partly recorded by itself, or it may re-summon the witnesses and recommence the trial:

Provided that the accused may at the commencement of the proceedings before the second court demand that the witnesses or any of them be re-summoned and re-heard;

Provided further that nothing in this section shall be deemed to apply to the trial of an offence which is not punishable under any law for the time being in force.

CHELMSFORD,
Viceroy and Governor General.

**(G) Speeches made by Members of Government in the Imperial
Legislative Council during the passage of the Indemnity Act.**

INDIA

1919

THE INDEMNITY BILL

Price one anna

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1. BRIEF EXPLANATION OF THE BILL

WHY IS AN INDEMNITY BILL NECESSARY?

Because, by English constitutional law, any servant of the Crown, whether in times of grave disorder or not, who infringe the law of the land, is liable to full legal penalties, no matter whether his action is proper or ordered by superior officers or not.

Thus, if an Indian soldier is ordered to fire on a dangerous mob, and kills a man, he is liable to be hanged for murder. If he refuses to obey the order, he is liable to be shot for disobedience. Hence, as even Mr. Gandhi admits, every State must have the power to indemnify its servants, who have carried out in good faith the orders given to them, from the ordinary legal penalties of their action. If this were not the case, the State could not, in times of disorder, employ force to restore tranquillity and could not protect the lives and property of its subjects.

WHAT THE PRESENT INDEMNITY BILL DOES.

1. It protects from legal proceedings those officers who have acted in good faith and in a reasonable belief that their actions in suppressing the disorders were necessary.

2. It leaves the Courts to decide whether the action of any officer is taken *bonâ fide* and in a reasonable belief or not. If the Court decide that the action was indefensible, the officer is exposed to the ordinary legal penalties of his action.

3. It merely places officers on their trial in the position of ordinary persons, who are as-

sumed to be innocent until they are proved guilty. It gives them the benefit of a presumption that their action was reasonable and justifiable, until the contrary is proved.

4. It validates sentences of imprisonment by military Courts; but persons whose sole offence is found to be against purely Martial Law Regulations, will be released; and the sentences of all the others revised by two High Court judges.

WHAT THE PRESENT INDEMNITY BILL DOES NOT DO.

1. It does *not* protect any officer from departmental punishment, reprimand; degradation, dismissal—if the Committee of Enquiry finds the action unjustifiable.

2. It does *not* assume that the declaration of Martial Law was necessary, but leaves the point for the Committee to decide.

3. It does *not* indemnify any officer for individual actions, but merely says that *if* these actions are found by the Courts to be justifiable, the officer shall be exonerated from *legal* penalties. It does *not* exonerate him from departmental punishments.

4. It does *not* interfere with any cases which are, or may in future be, taken before the Privy Council.

5. It does *not* interfere with any right of anyone, who thinks he has been injured, to sue Government.

6. It does *not* commit the Indian Legislative Council to approval of the policy of the Executive Government in the Punjab and elsewhere.

2. WHAT HAPPENED IN THE PUNJAB

The Hon'ble Mr. W. M. Hailey.—"My Lord, if I rise to address the Council it is not with any desire to add to the number of the Punjab champions. It is perfectly true that I have spent more than half of my official career in that province. I have every affection for it, I owe every obligation to it; but I have been away from it long enough not to believe that the Punjab is always above criticism, just, my Lord as I also possess a very strong disinclination to join that band of thinkers who seem to consider that everything that is done in the Punjab is wrong, and that the Punjab service must be inevitably and invariably condemned, without benefit of clergy.

"My Lord, I rise simply because I have had opportunity of studying closely many of the facts in connection with these disturbances, and although I think the Council is very well able to judge of the value of the arguments adduced by the Hon'ble Pandit in defence of his case, yet there remain a number of facts, of which the Council should, I think, be put in a position to learn the truth. I hold they have not all been represented by the Hon'ble Pandit in their actual light, and that is my reason for rising to address the Council now. The first thing, my Lord, on which the Hon'ble Pandit dwelt at some length, and I take it that the salient point of his case was, that martial law was unnecessary. If it was introduced without justification, then he argues that the whole case for this Bill falls to the ground. I take it, and I think I have interpreted him rightly, that he holds that constitutional practice will alone justify the introduction of a Bill of this nature if martial law was in itself justifiable and introduced in a good cause. Now, he first of all drew a picture of what the state of things was before the 30th March. He said

that nowhere at that time was there any inclination or any intention of rebellion. In fact, if I may say so, the only sinister aspect in the picture was a Government which persisted in passing the Black Act, and that there was somewhere in the dusty background of the North a reactionary Lieutenant-Governor who was determined to pounce upon and punish agitators. I think, my Lord, we must admit that those who originated the agitation which, we hold, led to these disturbances, those who originated that agitation, had no intention of producing rebellion. When in this Council we were threatened with an agitation which would disturb the good relations between the Government and the people, and when that threatened agitation was followed up in the Press and on platforms throughout the country, then I think those who promoted it had no idea of producing an open rebellion against the Crown. But I maintain they produced an atmosphere which was in itself dangerous and liable to bring a rebellion. If they did so, it was not without warning from their own friends. As early as January last the *Bengalee* newspaper, and I quote the *Bengalee* because the Hon'ble Pandit also referred to it with approval, warned them that they were playing with fire. Later on, and I am glad to quote another of their friends, Mrs. Besant—even if she no longer ranks as such—warned them that an agitation of passive resistance would only lead to riot and bloodshed. Bengal, which knows something of the meaning of prolonged agitation, refused to have anything to do with the particular form of agitation which they originated and supported. I maintain, therefore, that those who promoted this agitation were fully warned of what was likely to happen, and I maintain that Government, if it had expected

that trouble was likely to arise from that atmosphere, was justified in that expectation. However, the *hartal* came off in certain places of the Punjab on the 30th March, and I freely admit that up to that time there was no disorder. Now let me go to the second stage, that which ends on or about the 6th of April. There again there were nowhere signs of open disorder. It is true at Amritsar there were inflammatory posters put up, one of which called on the people to 'die and kill,' but the attitude to the crowds was not such as to lead anybody to suppose at that time that any disorder was contemplated. Now I go a step further, and I take the events that followed on the 6th April, the universal *hartal* of the 6th April. The Hon'ble Pandit has taken us in some detail into those events, and I must follow his narrative in detail. He first of all takes Amritsar, and he says that Amritsar was all peaceful, was all quiet, up to the 10th April, and that subsequently if any trouble arose it was due to the action of Government in first of all forbidding Dr. Kitchlew and Dr. Satya Pal to speak in public, and, in the second place, in deporting them. I realise the action of Government in deporting Dr. Kitchlew and Dr. Satya Pal needs justification. The justification is this. When subsequently a Martial Law Commission sat to decide the case of these gentlemen, it found that they had from the 30th March indulged in language which was not only likely but which was intended to bring the Government of the country into contempt. It found that on the 8th April, following the *hartal*, they had held private meetings, the sole object of which was to keep up the excitement. But what was the population in which the excitement was to be kept up, the population of the Central Punjab? "I yield to no man in my admiration of the sterling virile and martial qualities of the men of the Central Punjab. We owe much to those qualities in many a hard contest, but they have some of the defects of their virtues. When the Rowlatt Commission was writing of men of

this class, it said that in their case the interval between thought and action was very short, and at once they gave way to the appeal of inflammatory addresses, they were likely to take speedy action such as would be subversive both of law and the future of the constitution. And these were the men among whom the excitement was to be kept alive. There were moreover local causes at work at Amritsar. That is to say there had some time before been very keenly contested municipal elections, and the candidates their enemies had engaged bands of hooligans, who, we know, were subsequently largely instrumental in perpetrating the atrocities on the 10th of April. There were besides a very large number of Kashmiri Muhammadans to whom vigorous appeals had been made to show sympathy for the cause of Turkey, and these appeals had not been without effect in inflaming feelings. Now, a Government faced with a situation like that has to take its precautions. It would be blameworthy if it did not take such precaution, and I maintain that anybody with a knowledge of administration, with an interest in the maintenance of law and order, could come to no other conclusion than that the men who were mainly instrumental in keeping alive that excitement should be removed from the scene of their activities. That decision was announced to the Deputy Commissioner on the evening of the 9th April. On the 10th morning he took certain precautions. I do not desire to take up the time of the Council with too much detail, but I am obliged to follow the narrative of the Hon'ble Pandit in this respect. He was afraid of a demonstration by an excitable and inflammable people, a demonstration mainly directed towards the release of Dr. Satya Pal and Dr. Kitchlew, and he therefore put out pickets to prevent the crowd from crossing into the civil lines. When the news of the deportation was known in the city, his anticipations were justified; a crowd collected and attempted to go to the civil lines, and it was at this point that the first conflict occurred.

This is what happened. I think anybody would assume from the Hon'ble Pandit's narrative that this was more or less a peaceable crowd,—I admit that it was unarmed—that it was a peaceable crowd and could have been dealt with by peaceable methods. The words at all events, I think, that he used were that all it required was a gentle pushing back. Now, my Lord, I daresay there are some here who have some experience of crowds. If they have, they will bear me out when I say that, if you have a picket of a few mounted men, it is exceedingly difficult to indulge in moral suasion of that kind. At all events what happened was that, so far from the crowd being gently pushed back, they violently pushed the picket back. It was reinforced by a small body of infantry. When it was further pressed back, it was then, and then only, that the order was given by a First Class Magistrate to fire. Now that was the beginning of all the trouble, and the Hon'ble Pandit, I think, will have us believe that if that picket had not fired, none of the subsequent troubles of the Punjab would have ensued. I maintain that the subsequent events afford perfectly good evidence that something would have happened if that picket quietly let the crowd go past. What did happen in Amritsar is unfortunately too well known to everybody. And with every desire to avoid embittering feelings by reciting the events, I must refer to some portion of them. It was not only that Banks were burned, that Churches were burned, that a number of Europeans were murdered; it was not only that. The fact was that the whole thing was done with the utmost ferocity; that Europeans were not only murdered but that indignities were heaped upon them. I do not say this with any desire to embitter feelings; I only say it as showing the temper that the crowd was in; I only say it as showing that even if that picket had not fired there, trouble would have arisen elsewhere. And it seems to me that it is unreasonable to say to this Council, that you must

look on the previous provocation given to the crowd, as affording—I do not think the word 'justification' was used; I do not think the word 'palliation' was used—but I think it was said that you must look on the action of the picket's firing as some sort of explanation of the subsequent action of the crowd. Disorder did not stop there; and this is a dangerous feature to which I wish to call attention; it did not stop at murder and arson; it did not stop at showing the utmost cruelty to a woman and searching out another woman with every intention of murdering her. It did not stop there. The crowd went on afterwards seeking to destroy communications. It burned Bagtawal station; it attacked and looted Cheharta Railway Station. I find it curious that the Hon'ble Pandit omitted to call any attention to this dangerous tendency of the crowd. The Hon'ble Pandit left Amritsar for a time and went to speak of Lahore. Now at Lahore he equally said that the atmosphere between the 6th and the 10th was quiet and peaceful, and the only reason that trouble arose in Lahore was that the Government excluded Mr. Gandhi from the Punjab. First, as to the exclusion of Mr. Gandhi from the Punjab, I think that also requires explanation, and, if possible, justification. I have described something of the atmosphere that there was in the Punjab at the time, and the Hon'ble Mr. Thompson has referred to the extraordinary rumours which were set on foot regarding the operations of this Act. These were rumours which did not appeal primarily to educated people; the bulk of the rumours was such as appealed with exceptional force to the land-owning classes. He has told us, and there is every evidence to support what he said, that people were circulating rumours that the land-owning class was to lose its status; that men who had previously been proprietors were to become tenants; that land-revenue was to be raised; that produce was to be taken instead of cash; and these are exactly the type of rumours which are

likely to produce among a vigorous population and cultivators trouble, the end of which no man can foresee. The population at large then had been told that the Act involved such consequences, and they had learnt that there was only one man in India that could held them in the situation. I do not think Mr. Gandhi was known personally in the Punjab, but he had acquired there the reputation, as somebody said (I think it is mentioned in one of the judgments), the reputation of a *rishi* and a *wali*. I certainly have read one speech in which the coming of Mr. Gandhi was compared to the coming of Christ, to the coming of Muhammad and to the coming of Krishna. Now, that was the man who, if I should use the words of a speaker at Amritsar, was to break the power of the bureaucracy; that was the man around whom the whole of the agitation centred; that was the man who by his new device of passive resistance was to relieve the people of the burden with which they were threatened. They understood nothing of the real meaning of passive resistance. So little did they understand the meaning of this peaceful movement of Mr. Gandhi's that, as Mrs. Besant afterwards said, people who committed arson and assaulted women did so with the name of Mr. Gandhi upon their lips. We have been told—I have seen it stated in the newspapers—that Mr. Gandhi's action in coming to the Punjab was a peaceful one, that had he gone there he would have stilled all angry passions, and restored tranquillity. My Lord, I think I am right in saying that Mr. Gandhi could not even address a Punjab crowd in a language which would be understood by them. How then was he to still those angry passions? What possible effect would Mr. Gandhi's arrival in the Punjab have had except to make people believe that there was truth in these sinister rumours to make people believe that he had come there to continue the fight against Government? With a population such as I have described, a belief

of that sort would have been bound to lead to fresh disaster. I maintain that no one with any feeling for the security of the province could have safely allowed Mr. Gandhi to have arrived in the Punjab at that juncture.

"I have been obliged to interrupt the course of my narrative and I will now continue it. The attitude of Lahore, the Hon'ble Pandit said, was open to no exception. There had been no trouble, there had been no disorder, everything was peaceful. Well, my Lord, a gentleman who was subsequently prosecuted, an editor of one of the newspapers, himself admitted that at this juncture the atmosphere was highly surcharged, and that the people at large were in a state of very unusual excitement. The Commission which subsequently sat to judge the facts, in what is known as 'the Lahore Leaders case,' were of opinion that the fraternisation at the Ram Naumi on the 9th was used for a seditious purpose. We know that Honorary Magistrates and members of the Municipal Committee, who were believed to have taken the part of Government and attempted to dissuade the people from closing their shops, were threatened; we know that many of them were practically confined to their houses. Then, again, we also know that the feeling of the people was being worked up by a variety of literature in the shape of posters. Let me proceed now to the actual incidents of the 10th. It has been very widely stated that all the crowd intended to do, when it went to the Upper Mall on the 10th, was to make a peaceful demonstration in front of Government House. It has been insinuated in various quarters that it was a small crowd of students. The best authority we have so far on the nature of the crowd and on the nature of what it did, is the judgment of the Commission. These Commissions may be attacked as having no legal authority, their sentences may be attacked as being too severe, but is this Council going to believe that these judicial officers would perjure themselves by mis-stating the facts on which

they have found their judgment? That is an impossible supposition. They state the case as follows, and I must quote at some length:—

‘Towards evening a large and excited mob collected in Lahore City. Leaflets were distributed to it and some of its members were heard shouting both in English and in vernacular that Amritsar has been taken and the situation was well in hand in Lahore, as three gates were already held and a fourth would soon be closed. Headed by a man carrying a black flag, the mob proceeded with shouts of “Gandhi ki jai,” and “Shaukat Ali ki jai” from the Lahore Gate through Anarkali to the Upper Mall. Some of its members entered the compound of the Government Telegraph Office, but turned back on seeing a detachment of the Royal Sussex which were guarding the building with fixed bayonets. By the time the mob had got as far as the Lawrence Statue, it numbered some thousands. There it was intercepted by two Indian Police officers, with a handful of armed constables, who were brought up at the double from Anarkali Police Station through the High Court grounds. These police lined the road in front of the mob but they were pressed back for a distance of about 200 yards as far as the Soldiers’ Club. It was then getting dusk.

‘At this juncture Mr. Fyson, the District Magistrate, Mr. Cocks, Deputy Inspector-General, Criminal Investigation Department, and Mr. Clarke, Deputy Superintendent of Police arrived on the spot. Mr. Fyson ordered the mob to retire, but they pressed round him. One of them seized him by the shoulder from behind and they began to go through the thin line of police. They also attempted to get round them by going through the compound of the Soldiers’ Club. After some minutes Mr. Fyson, who, owing to the uproar, had difficulty in making himself heard, ordered the

police to withdraw a little further up the Mall in order to prevent them being overwhelmed by the mob, and then, as there was no other means of stopping its progress, gave the order to fire. About a dozen rounds were fired and then the mob was pressed slowly back to the city. Near the Bank of Bengal Mr. Clarke was thrown down, but his assailant escaped.’

‘And now comes what I consider the salient of this judgment:—

‘It is beyond doubt that the Lahore mob which marched on the Civil Station of Lahore was actuated by the same motives as that of Amritsar. It was essentially part of the same insurrection and it was fully aware of what had happened to the neighbouring town the same day. It was rapidly becoming more threatening, and had already displayed its contempt of the authority and person of the District Magistrate. A collision was inevitable, and had the mob proceeded a little further up the Mall, it would have found a supply of deadly weapons ready to hand. Had it not been checked where it was, there was the gravest danger that it would have hurried on, in the confusion and darkness, to the commission of awful crimes.’

‘That is the opinion of the Commission which had heard both sides of the case, and it is their deliberate opinion that, had the mob not been checked then, it would have committed grave disorders similar to those which occurred at Amritsar. There was a subsequent incident on the same day which the Hon’ble Pandit minimised in the same way as he minimised this. I find myself under the necessity of referring to this also at some length. I might say that the military had by this time arrived and were ready to assist the police.

‘When the mob was driven back from the Mall it did not dissolve; but was slowly

pushed back by a small force of police into the Nila Gumbaz Chauk and up Anarkali towards the Lohar Gate. There it was reinforced by a crowd issuing from the city, and the police under Mr. Clarke, Deputy Superintendent of Police, were held up at a point a little short of the cross-roads where the Circular Road cuts across Anarkali. Mr. Broadway, Superintendent of Police, came up with a small body of police and cavalry, but even so the forces of order were unable to disperse the mob, which showered brickbats upon the police and sowars. Two or three rounds of buck-shot fired at the roofs of some houses from which the shower of missiles was most persistent failed to do more than check the attack from that quarter. A message brought Mr. Fyson, Deputy Commissioner, to the spot: he went forward into the crowd to reason with Pandit Rambhuj Dutt or Lala Duni Chand (he does not remember which) who were there, but all efforts to disperse the mob failed, and at last some half a dozen rounds of buck-shot were fired. The mob was then dispersed without further firing.

'We commend to the notice of Government the admirable conduct of all concerned in dealing with the mob.'

"Now, those who listened yesterday to the description of this particular incident from the lips of the Hon'ble Mr. Chanda are at liberty to compare the two narratives, and are at liberty to attach their own weight to the statements made by him. He dwelt on this incident at some length, based his description merely on certain statements in the newspapers. He did not refer to the judgement of the Commission, although he had then, I assume, in his possession a copy of it, because later on he alluded to it. Now these were the incidents of the 10th. By 8 o'clock, as the Hon'ble Pandit says, the troops were in the city, and everything was quiet on that night and during the 11th. So

peaceful was the city, says the Hon'ble Pandit, 'that a meeting was held at the Badshahi mosque.'—I have his words here—'to express indignation at what had happened.' He merely mentions an incident on the 12th to which the Hon'ble Mr. Thompson also referred, namely that a C.I.D. Inspector, Ali Gauhar, was assaulted. Now what really happened was this. I take it from the reports of the various judgements of the Commission. On the 11th all shops were closed and an enormous crowd of Hindus and Muhammadans, said to number 25 thousand people, collected at the Badshahi mosque, inside which a banner was hung with the inscription 'The King who practises tyranny cuts his own roots underneath.' This is the meeting which the Hon'ble Pandit says passed over quietly. Well, let us see the facts. After the speech of Lala Rambhuj Dutt Chowdhry, an incident occurred which will show exactly what kind of meeting it was. This incident is described in the judgment of the Commission dated the 27th April 1919. An *ex-sepo*y, named Balwant Singh, was brought in. He shouted a false story that Indian regiments had mutinied in Lahore Cantonment and were marching on Amritsar and Lahore. He also stated that they had killed about 200-250 British soldiers and that he himself had killed six. He claimed to be a soldier and was dressed as one. He was garlanded and carried in triumph to the pulpit—he, a Sikh, was carried in triumph to the pulpit—of the mosque, and there he was called upon to make a speech. This he was unable to do and he shortly afterwards disappeared. Then, states the Commission, as a result of an orgy of oratory, the rabble left the mosque, led by hooligans who carried sticks and shouted seditious cries and destroyed pictures of His Majesty. The allusion to the band of hooligans requires some explanation. It was an organised body, described as follows by the Commission:—

'They marched two deep carrying their sticks as if they were rifles at the slope or

trail. At constant halts they knelt, by numbers, as if in a firing position. On numerous occasions, Chandan Din made inflammatory speeches proclaiming that he and his band were rebels and looked, not to His Majesty the King, but to Germany, Turkey and Kabul as their suzerains. He invoked the assistance of God and of these powers to overthrow the British Government. He also made reference to the Rowlatt Bill. Chandan Din's speeches were applauded by the mob, and the "Fauj", as it passed along, was joined by recruits who were supplied with sticks.'

"Now, that the feeling which actuated the people who got up this affair is very well shown by a poster, which I will not say was issued on this date, but which certainly issued either on this date or a day or two afterwards. I will read some extracts from it:—

'When Mahatma Gandhi arrived at Palwal, the English monkey informed him that his entry into the Punjab was forbidden, and that he should please go back. He replied that he would never go back; then that big monkey arrested him. Reports of his arrest reached here at once.'

"The first part is merely abuse—that matters little; but the second part is noteworthy,

'When the news reached Amritsar, the *Danda Fauj* of the brave Sikhs set fire to the Bank, the Railway Station and Electric Power House. They cut the telegraph wires and removed the railway line. The *Danda Fauj* of Amritsar bravely killed a number of European monkeys and their Sikh regiments have revolted and deserted. Oh Hindu, Muhammadan and Sikh brethren, enlist at once in the *Danda Army*, and fight with bravery against the English monkeys. God will grant you victory. Do not apprehend that God does not help us. Cast away a notion out of your heart. God helps us at all times and hours. Conquer the English monkeys with bravery. God

will grant victory. Leave off dealings with the Englishmen, close offices and workshops, fight on. This is the command of Mahatma Gandhi.'

"And there is a good deal more, very much to the same purport:

'Oh Hindu, Muhammadan and Sikh brethren, do you know of the incident that took place at the Mall Road on the night of the 10th April? The Hindus and Muhammadans who were martyred that day were your own and they sacrificed their lives. Does not this incident excite you? What is the reason? Were not those who were made martyrs in Hira Mandi on the 12th April your own brethren, and died at the hands of the tyrants? Does the prophet of God command you not to fight against the tyrants? No, never, the Prophet himself fought and has commanded us too to destroy the tyrants as he did. Should we not be ashamed ourselves that while the tyrant is up to all sorts of cruelty, we are sitting quiet? Oh Hindu, Muhammadan and Sikh brethren, raise the cry of Allah Akbar and kill the Kaffirs. Get ready soon for the War and God will grant victory to India very soon. Fight with enthusiasm and enlist yourselves in the *Danda Army*.'

"That was the spirit which actuated this quiet and peaceable city on the 11th and 12th. But even if on the 11th and 12th there was nothing beyond what I have described in Lahore city itself, what about the state of Lahore district? On the 12th a violent outbreak occurred at the neighbouring town of Kasur, the headquarters of a subdivision in the Lahore district. The Kasur outbreak will be particularly interesting to Council because it had to be quelled entirely by Indian officers. What happened there. The crowd, excited, inflamed, went to the railway station. It attacked a train in which there were a number of Europeans. It attacked, but

fortunately did not injure, owing to the bravery of an Indian gentleman, a European woman and her three children; but it killed two British warrant officers and injured two commissioned officers. In that case at least I claim that no one can say that there was either justification or 'explanation' for the violence of the mob; none of that crowd had been fired on by the police or military; the only firing was the discharge of the revolvers by the two unfortunate warrant officers when they were in danger of their lives. After murdering the two Europeans, the mob continued its course through the small town and burnt all the Government property that came within their reach. That is an incident which, I think, will disprove entirely any suggestion that the action of the crowds in the Punjab where they broke out into violent excesses was due to any sort of provocation or had any sort of justification.

"I have carried the narrative up to the 12th. The date is important because it was on the 13th that a reference was made to the Government of India on the subject of the declaration of martial law. I ask the Council to note the state of things in the Punjab as a whole on the 13th, when that question came up for consideration. You cannot take these incidents as isolated; you cannot say 'After all the military had got possession of Amritsar; there were large forces in Lahore; no further trouble was to be anticipated.' You cannot say that. You have got to look at what was happening not only in those two cities, not only at what had happened in Kasur, but at what was happening all round. It is very easy to sit in this Council Chamber, my Lord, in that atmosphere of protection of life and property which is the outcome of our rule; it is very easy to sit here and threaten us with agitation; it is equally easy, again, to sit here after the atmosphere of law and order has been restored and to minimise the magnitude of the events which took place in the Punjab. Some Members of

this Council may have fallen into the first mistake; I hope that none will fall into the second. Let me state, as briefly as I can, the nature of the problem as it presented itself to the Government of India when they decided to introduce martial law. There had been outrages at Amritsar, outrages which showed a strong and very bitter racial feeling. At Lahore the crowd had, at the Badshahi mosque, openly welcomed the false news that the Sikhs had mutinied in Amritsar, had destroyed portraits of the King, had supported the formation of an organised force of hooligans, had attempted to force the closure of the railway workshops. At Kasur they had murdered Europeans and destroyed all the Government property within reach. But it goes further than that. Everywhere attacks had been made on the communications. Bhagtanwala station had been burnt, Cheharta station looted, Khem Karan and Patti stations had also been attacked, the communications had been so far impaired that, as Your Excellency reminded us, it was impossible to communicate with Lahore from Simla except by means of wireless. There was every proof then that disorder was spreading outside the cities. In cities it is a comparatively simple problem to deal with disorder; you can send troops and isolate them; but when you have communications attacked, and the telegraphs cut all over the province, how are you to meet the situation? You are dealing with a warlike, virile, martial people, suddenly filled with a spirit of disorder. We know that in a number of villages in the Punjab the people had begun to believe that law and order had completely broken down. I would cite the case of the attack on the Treasury at Tarn Taran, the attempt made by villages on the line at Gumanpura, or better still the case in which a mob of villages burnt the records at Aulakh. I maintain that, in the circumstances, there was every proof that rebellion had broken out, and not only broken out, but was spreading through the Central Punjab. It was in these circum-

stances that Your Excellency agreed to martial law. I will go further and say that you cannot judge of the justification of the order merely by the antecedent circumstances and facts; you ought to take into consideration also what happened immediately afterwards, since that also shows what the state of the Punjab was. The Hon'ble Pandit has referred to what happened at Gujranwalla on the 14th, and as usual minimises the disorders that occurred there. He very unfairly, I think, tried to throw the greater part of the onus on the police officer in charge of the station; he said the subsequent disorders were due to the officer firing off his revolver. Will Council believe that before the revolver was fired two railway bridges had been set on fire, telegraphs cut and the Post Office also set on fire? He referred again to the hanging of a calf from the railway bridge, and he thought that the fact afforded some sort of explanation of what happened afterwards, since the public believed that the Criminal Investigation Department had done it. That suggestion caused at the time a ripple of laughter in Council, and I will therefore avoid criticising it. But, my Lord, when I hear him tell the story about this calf, and the pig said to have been killed near a mosque, I could not help thinking of the expression we so often use about a cock and a bull. There was no justification for the disorders and outrages that took place at Gujranwalla, for they took place before the crowd was fired on at all. It was not, as he would have us believe, a mere fortuitous collection of schoolboys bent on wanton mischief that set fire to the railway bridges, nor was it a mere fortuitous collection of people that pulled up the permanent-way or which deliberately cut the communications with Lahore. The firing by the police at Gujranwalla did not result in many casualties; and it was fortunate perhaps in the circumstances, since this was a case in which a young officer, without any senior Magistrate to give him assistance, had to deal with mat-

ters on his own responsibility, and to quell disorder which resulted in the burning of the railway station and a number of Government buildings, the burning of the Church, and the looting of the goodshed where there were goods to the value of eight lakhs of rupees. I protest against the allegation that there was any explanation or justification in anything that that police officer did for the action of the mob. That was one instance of what happened on the 14th, and it was not an isolated instance. If disorder had stopped there, you might say that the declaration of martial law was hasty; but it did not stop there. I have the record here of a large number of cases showing the extent of the disorder and the danger to communications, though I will not venture to try the patience of the Council by reading them all. Let me finish the record of the 14th. On that day—the day of the trouble at Gujranwalla—an attack was made on a European officer in the train at Hafizabad. Wires were cut near Batala in the Gurdaspur district, there was a strike on the Railway in Hissar district, workmen stoned the time-keeper's office at the Railway workshops at Lahore, telegraph wires were cut between Lahore and Amritsar, and an unlawful assembly, at which decision was taken to indulge in general looting, was held at Padhana. Down in the south there was a railway strike at Samasata, and the telegraph wires were cut. Up in the north at Rawalpindi seditious notices were found posted calling on the people to rise during the night. At Rohtak there was a joint attack on the line by the mob and the railway staff, a railway bridge was damaged and attempts made to wreck a mail train. At Sialkot wires were cut between Sialkot and Wazirabad. Now I come to the 15th. At Gujrat a crowd attacked the Railway Station, and smashed the telegraph instruments; the police had to fire on the mob. At Malakwal junction in the same district a mob was only prevented from making trouble at the station by the presence

of troops. In the Jhelum district a train was derailed on the main line at Kala. At Sialkot wires were again cut near Dhariwal. In Lahore district grass stacks were set on fire near Bangali and Padri. At Hafizabad in the Gujranwalla district the mob attempted to rescue men arrested damaging telegraph wires and the police had to fire on them. At Chuharkhana, also in the Gujranwalla district, the station was attacked, railway lines torn up, telegraphs cut and the station burnt and looted. The market was only saved from the mob by the arrival of an armoured train. Close by, the Dhaban Singh Railway Station was burnt and all the telegraph wires cut, and late at night the Mounm station was burnt. At Wazirabad in the same district a mob pelted the troops at the station with stones, cut wires at the station, and then burnt the house of the Rev. Mr. Bayley, a missionary who had resided for very many years in the district and who (as the Commission stated in their judgment) was greatly respected by everybody; he was a linguist of wide renown, and the mob burned not only his property, but, what was even more valuable, they burnt the records of many years' scientific labour. At Gojra in the Lyallpur district, a mob endeavoured to get an engine driver to refuse to start his train by telling him that the troops at Multan had mutinied. A number of telegraph wires were cut in Rohtak. At Sialkot, an attempt was made to fire a railway carriage in a siding. Let me go on to the 16th. In the Gujrat district a mob entered the Town Hall at Jalalpur Jatan, insulted the Municipal Commissioners, and damaged the furniture, and at night the railway line was dismantled near Malakwal, resulting in the derailment of a train next morning and the loss of two lives. In the Jhang district telegraph communication was interrupted between Jhanj and Subhaga. In the Lahore district telegraph wires were cut at Changa Manga and at Raewind. In Rawalpindi, telegraph wires were again cut. In Sial-

kot, the permanent-way was attached between Sialkot and Wazirabad and the wires cut. In the Gujranwalla district all the wires were cut near Sangla station and a murderous attack made on a European telegraph Inspector. Wires were cut in four other places on the Sangla-Shadara line.

"I leave the 16th and come to the 17th. In the Gurdaspur district telegraph wires were cut between Chhaina and Dhariwal, and three other places, and telegraph wires were cut between Kaler Kalan and Kunja in the Jullundur district. In the Lahore district, near Jhallo and Harbanspura, an attempt was made to derail a train by placing obstructions on the line. In the Lyallpur district a party proceeded to a neighbouring village and returned after breaking the telegraph insulators and cutting telegraph wires *en route*. At Lyallpur itself a stack of Government *bhoosa* valued at Rs. 50,000 was set on fire and burnt. In Rawalpindi, telegraph lines were interrupted near Gujar Khan. Trouble did not even stop on the 17th. On the 18th, in the Ferozepore district, obstructions were placed on the railway line; in the Gurdaspur district canal wires were again cut. In the Jullundur district Sidhwan flag-station was burnt. On the same day, the 18th, at Lyallpur, an attack on Moman Kanjan station was only interrupted by the arrival of troops, and a gang of villagers from a village colonised by Manjha Jat Sikh colonists, came out at night and tried to wreck the line between Toba Tek Singh and Jhaniwalla. Well, I fear, I have already wearied you by narrating this series of events, but it was essential in order to prove my point that, I should bring them to the notice of the Council. It is impossible to allow any minimising of what happened in the Punjab between the dates I have mentioned. I maintain, and I repeat to the Council, that not only should we take into consideration what happened before the declaration of martial law, but we are entitled to quote as justification of our

action what happened immediately afterwards as showing the real state of the province.

"Now I will not attempt to deal at any length with the legal aspect of the case. It was necessary, for the declaration of martial law under Regulation X of 1904, that there should be either war or open rebellion. I understand that jurists have differed as to what constitutes open war, but, I believe, it is fully accepted that to establish the existence of war you do not need the existence of an army with all its paraphernalia. What is quite certain, and what, I think, I may with confidence place before the Council is this, that to justify a declaration of open rebellion, it certainly does not require the existence of an army or of an attack by armed forces. Why the Hon'ble Pandit himself referred in the course of his speech yesterday to open rebellion in the Gordon riots. I maintain that the Gordon riots, which were treated by martial law, were in no wise as serious as what happened in the Punjab on the dates I have mentioned. There you had a case, and readers of 'Barnaby Rudge' will remember it well, in which crowds assembled more or less out of religious animosity, burnt chapels and ended up by burning distilleries; yet under the law of England it was held to justify the application of martial law; what is more, the action taken to suppress disorder was held to justify the application of an Indemnity Act. I put it to the Council that the justification necessary for Government to declare the existence of a state of rebellion, is a matter of common sense, and I maintain that the account which I have given of what happened in the Punjab in the middle of April would justify any Government in declaring that there was a state of rebellion in the Punjab. If the Council will agree with me that Government merely exercised ordinary common sense in making that declaration, then, I think, a great part of the Hon'ble Pandit's case falls to the ground.

"His contention was that if martial law was

not justified, then an Indemnity or Validation Act is not justified. I maintain the state of things in the Punjab shows very clearly that martial law was justified, and it follows as a corollary that you must have an indemnity and that you must have a validation.

"My Lord, when I began to speak I intervened more or less as giving evidence of facts. But there is one other consideration which, before I sit down, I should like to put to the Council. India is only now on the threshold of its political career, and it will not escape all the surging troubles which have come to the world since the war, since the beginning of unrest in the world at large. The officers of State, Indians as well as Europeans, and in the future probably more Indians than Europeans, will have to deal with those troubles. I have quoted to you one case at least in which an Indian officer, without any European support, had to deal with very serious trouble, the case at Kasur; there are other cases, such as that of Tarn Taran and Hafizabad. I ask the Council to reflect whether it is wise that officers of State, and particularly Indians, should feel that they are without support in dealing with troubles such as those I have enumerated. I feel myself the case of Indians to be infinitely harder in this respect than that of Europeans. They are liable to criticism of the most intimate nature, I mean in their families and in the circle of their friends. If they do anything which is thoroughly unpopular, they are liable to social and perhaps even to religious, ostracism. Is it right, is it fair, to hesitate for one second to give them support for the reasonable use of their discretion? I appeal to the Council to view this case with some sense of proportion, and with something of insight into the future. I appeal to it not to look at it in any spirit of partisanship. If I may, I should like to quote the words of one who, I think, was not less distinguished by patriotism and by love of his country than those who have been most keen in their attack

on this Act in the last few days. Before the Hon'ble Mr. Sastri left Bombay, he spoke as follows:—

'At the same time he was one of those who believed that the Punjab Government had had good cause to use strong measures—perhaps the measures they had used were excessively strong, far stronger than the necessity of the case required—but they had had a case for the use of strong measures. No Government in the world, however mild or sympathetically disposed, would have sat quiet without using stringent measures to restore order when they had a mob sprinkling kerosine oil on build-

ings and burning them down, clubbing and burning Europeans to death. They were bound to render to Government the most cordial co-operation in bringing things once again to a normal state.'

"Now I quote those words, my Lord, because, I think, they show that an Indian public man, distinguished for his public spirit, can yet give Government its due, can yet recognize the gravity of the situation in the Punjab, and can retain his right of free criticism, without falling into the attitude of the persistent and unreasonable partisan. It is the spirit of that speech which I commend to the Council in dealing with this question."

3. GENERAL EXPLANATION

2. GENERAL EXPLANATION.

1. *Sir William Vincent's first opening speech.*

"My Lord, I move for leave to introduce a Bill to indemnify officers of Government and other persons in respect of certain acts done under martial law, and to provide for other matters in connection therewith. This measure, my Lord, has been the subject of so much discussion both in the Press and by other competent authorities that I think I ought to set out to the Council in some detail the reasons that have led the Government to introduce the Bill at this moment and to explain *seriatim* the effect of, at any rate, the more important clauses of the Bill; and I will ask Hon'ble Members to listen to me as carefully as they can, to follow in particular the detailed statement of the effect of the clauses, to view this matter without any kind of bias and to get rid of any misapprehension as to the intentions of Government or as to the meaning of the Act, which may have been created by writings or speeches outside this Council.

"My Lord, wherever martial law is declared, as it was recently in the Punjab, it inevitably follows that speedy and decisive action has to be taken by the executive officers of Government for the restoration of order. Not only does this responsibility lie directly on the supreme military commander, but also on those who are subordinate to him; that is, he gives orders which he thinks necessary, and it is their bounden duty to carry out those orders. It follows that frequently action which is just and proper, though not necessarily legal, is taken by these authorities.

"They cannot possibly wait in such circumstances to examine the law and see whether what they propose to do is strictly legal or

not; delay at such a time is fatal. The authorities and the officers concerned have to act at once. Indeed, the very meaning of martial law is, that it confers powers to maintain order at any cost that may be necessary of life or property. That is the essence, as I understand it, of martial law. Such conduct will in some cases necessarily involve an infringement of the personal rights of individuals, either of their liberty or their rights in regard to property; and when martial law expires, an Indemnity Act of some character is the inevitable consequence. I think members in this Council will realize that if such an Indemnity Act is not passed, no officer charged with the very irksome and responsible duty of restoring order will ever act with the confidence that is really essential for the effective handling of the situation. If he has to wait, to hesitate, to examine the law, to consult legal authorities here and there, the time for action may be gone, and the mischief he seeks to stop develop to a dangerous degree. That such an Indemnity Act is the normal consequence of any period of martial law is, I believe, accepted by all constitutional writers. I do not wish to weary the Council by citations from a number of these, but I will content myself with one:—

'If at a period of a national danger a breach of the law is demanded, if not by absolute necessity yet by stress of political expediency, the law breaker whether he be a General or other servant of the Crown who acts *bonâ fide* solely with a view to public interest may confidently count on protection by an Act of Indemnity. . . .

'Statutes of this description have been invariably or, almost invariably, passed after the determination of a period of civil war or disturbance and the very object is to

protect officers and others who, in the interests of their country, have in time of common danger pursued an illegal course of conduct.'

These quotations are from one of the greatest writers on Constitutional Law, Dicey. In fact, we know that whenever there has been an insurrection or civil war, or invasion by a foreign power, Acts of this character have invariably been passed. There was one in England after the insurrection of 1715, again after 1745; we had one in this country after 1857, and more than one instance of such Acts is to be found in the various Colonial Legislatures, including the Legislature of South Africa. Further than this, when a military officer is acting under the stress of such circumstances, in a crisis of great magnitude, it is essential that he must have behind him some sanction to enforce this order; reference to ordinary Courts in such cases is impracticable. It would involve delay which would be fatal to the very object he has in view. Consequently summary measures, often stern and always of a very speedy character, are necessary if order is to be restored. There are some who think that these summary orders necessarily connote injustice and an undue degree of harshness, but it is not correct to think that this is either the practice or the intention of many commanders. I should like to cite from the Martial Law Regulations passed in Lahore on this point. This is an order by Colonel Frank Johnson, a somewhat well-known name.

'In order to prevent the occurrence of regrettable incidents it must be clearly understood that the institution of summary law neither necessitates nor justifies the committal of excesses, either in the maintenance of order or in enforcing obedience of martial regulations or the infliction of punishment. It cannot be too clearly impressed upon all ranks that temporary supersession of the ordinary process of civil law by the introduction of sum-

mary law does not mean that justice ceases to be administered; on the contrary, the suspension of the usual safeguards make it doubly imperative that all concerned should bear in mind that it is up to them to see that justice and not irresponsible violence is administered.'

'It is however essential that the military authorities in such cases should have power to come to swift decisions of a most important character; power to take prompt action on all matters affecting the State; power to punish summarily and effectively those who endanger the peace.

'My Lord, it may be said that martial law was not necessary in the Punjab and that the Government made a mistake in proclaiming it. I do not seek to argue that point now. I believe that any such course would be unfair to those concerned, primarily or indirectly concerned, until the evidence of the facts has been recorded by the Committee of Inquiry. The decision on that matter must rest with the Committee in a great measure and after their report has been received, with other authorities. But, irrespective of this question, the position of our officers must be protected. I do not know if I make myself clear on that point. What I wish to say is this, whether martial law was necessary or not, our officers, our subordinate officers were bound to carry out their duties, and to give effect to the orders given them and they cannot be penalized on that account. I think the case has been very clearly put on this point by a writer in, I think, the 'Civil and Military Gazette' recently. He called himself 'An Indian student of Constitutional Law' or by some such title. I commend that article to the consideration of Members of this Council. It appears to me to put the case for an Indemnifying Act both impartially and fairly.

'So far I have been dealing with the part of this Bill which deals with indemnifying officers of Government. The second part deals

with the validating to a certain extent of a number of sentences which have been passed. I shall explain this in detail later, but it is clear, as I said before, that where military officers are given power to issue certain orders, it is essential that they should also have authority to enforce those orders. There must be some sanction behind them, some power of enforcing order speedily and effectively and in many cases—in fact I believe this is the normal course—summary Courts are appointed to administer justice in such circumstances. They do not deal normally with all criminal cases, but only with cases arising out of a breach of military regulations or cases connected with the disturbances, and I believe I am right, so far as the Punjab is concerned, in saying that the duties of the summary Courts were confined to this class of cases; but I speak subject to correction on this matter. It is sometimes supposed that these summary Courts, however, dealt only with petty offences, such as breaches of military law regulations. That is an entirely incorrect assumption, and if Hon'ble members will see the statement that, I think, was laid on the table here recently, if not I will have it so placed, they will see that the summary Courts dealt with many offences of great gravity, such as arson, theft, rioting, breaches of the Railway Act—and they are really very serious—and offences under the Telegraph Act, which really meant the endangering of all communications both between the Local Government and their officers and between the Government of India and the Local Government. Many of these men are now under confinement, and I want to make it clear to the Council that unless their confinement is now ratified in some manner, then the continued detention of these men in jail is illegal. In fact from the date on which martial law expired our only justification for retaining these men in custody was our intention to introduce an Act of this character at the earliest opportunity.

“My Lord, I will now, if I may, proceed to explain the Bill clause by clause. I will not deal with clause 1, which is of no great importance, but proceed at once to clause 2. That clause indemnifies many officers of Government, whether civil or military, from any action, civil or criminal, in respect of any matter or thing done for the purpose of maintaining or restoring order. But I want Hon'ble members to read and fully consider the effect of the proviso to that clause 'provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes.' Those are really the governing words of the clause. I think I have already said, or at any rate I say now, that this Bill will in no way forestall the inquiry by the Committee, and I will proceed to justify that statement. I do not think that any member of this Council will for a moment suppose that the Committee of Inquiry, which assesses the blame for these disturbances, will recommend any form of punishment for any officer of Government who has acted *bonâ fide* and in a reasonable belief that what he did was necessary. Further, in any case the report of the Committee, is not affected by this Bill. This Bill protects officers against proceedings in the Courts of Justice. The report of this Committee, whatever be its value, will in no sense be evidence for the purpose of any such case; that is a matter which can only be decided on evidence in the Courts. The Government of India have decided, for the satisfaction of their own conscience and to meet the public demand, to appoint a Committee to inquire into these disturbances, and their action on the report of that Committee will not be limited or barred by this Act in any way. This Bill simply deals with suits and legal proceedings, and really all that it seeks to do is to protect from legal proceedings *bonâ fide* action taken with a reasonable belief that it was necessary to suppress disorder, and not any action taken *malâ fide* or without good reason.

We make no attempt by this Bill, at any rate, to protect officers who have been guilty of excesses which cannot be justified by the terms of this proviso. Now I myself shall be much surprised and disappointed if the Council will not give protection to officers for actions of this character, actions which are morally right though they may be legally wrong, that is, actions for which no strict legal justification can be made out. If this Council says that in a time of this character when the country was in great disorder,—and I put it very mildly—officers who acting on the understanding that martial law had been proclaimed by an authority which is superior to them, over whose actions they have no control, if officers acting on that assumption and acting, *bonâ fide* and perfectly reasonably are not to be protected by Government, then the future prospects of Government officers is very serious. How can any member of this Council expect an officer to act confidently, firmly and decisively if he knows that this Legislative Council and the Government will repudiate his action at the first opportunity? Is he not entitled to come down here and say 'I have done what I was told. I have acted perfectly reasonably, I have acted fairly, I have acted *bonâ fide*; now give me that protection which I am entitled to by all constitutional practice.' My Lord, in a Resolution published by this Government some time ago, I think during the period of the disturbances, we solemnly promised that we would afford all those charged with the onerous duty of restoring order our full countenance and support, and it is in fulfilment of that promise that I now come to this Council and ask Hon'ble Members to ratify what we then promised, believing that that is a just and honourable course which must commend itself to all Members here. As I said before, I conceive it to be impossible that the Committee should censure any one who is not guilty, who had acted *bonâ fide* and in a reasonable belief, that his action was necessary, and the report of the

Committee will not and cannot affect the liability of officers of Government in the Courts of law. That is the reason, my Lord, why I say that this Bill, which merely seeks to protect those who have done their duty, in no way forestalls the report of inquiry by this Committee.

"I now come on to section 3, and this is a section which, I am afraid, I shall have to explain at some length, because there exists considerable misapprehension about it. Section 3 says:—

'For the purposes of section 2 a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.'

"Now a certificate of a Secretary to Government only proves, and the Hon'ble the Law Member will bear me out here, that the act was done under the orders of an officer of Government. Many private individuals during these recent disturbances have assisted Government in various ways, many indeed have been of the greatest assistance to the authorities; and all that this portion of the clause says is, that if any man acted under the orders of an officer of Government and can get a certificate to that effect, thus far and no further is that certificate conclusive proof of that fact. The question of *bonâ fides*, as I understand the Bill, is a matter for the Court entirely. That is, a man will go to the Court and it will be for the Court to say, whether his action was *bonâ fide* and reasonable, and what fairer proposition could be put to this Council? When a man goes down the Court shall have power to say, 'yes, you did so and so, whether it was reasonable or not, that shall be judged by one of the Government judges acting in his judicial capacity'. My Lord, if there is any cause

of complaint in this matter, it might well be on the side of the Government officers, that the Bill does not go far enough, and if Hon'ble Members will look to the Act of 1860, which was passed after the Mutiny, they will see that the provisions of that Act went very much further than this, and that when a Secretary to Government there ratified the conduct of an officer, this ratification absolved the man altogether from any possibility of a suit; that is the kind of certificate which apparently some Hon'ble Members think that this Bill provides. It does not. If this Bill had come on for consideration after the Commission of Inquiry, after the whole of these matters had been investigated, it might have been possible to frame it in that way. It is true, however, that this clause does go thus far, that it provides that 'all action taken for the aforesaid purposes,' that is for restoring order, 'shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.'

"My Lord, is a Government officer to be denied even that protection, that he shall be presumed to have acted in good faith, that he shall be presumed to be innocent until he is proved to be guilty! Is that much to ask from this Council? Is that a reasonable request, or is it not? I believe also that a clause of this kind is a normal condition—I speak again subject to correction—of many Indemnity Bills of this character.

"My Lord, I now pass on to clause 4, which sanctions the retention in custody of persons convicted by summary Courts. I have explained to this Council that many of these men have been convicted of serious offences; that they are in reality dangerous criminals whom it would be most unsafe to release wholesale upon the countryside. I believe—I have been told this by the Punjab Government also—that any such release would not be compatible with the public safety. But I ask Members of Council to read this clause again with clause 6. Clause 4 says:

'that every person confined under or by virtue of a sentence passed by a Court, or any other officer acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue so until discharged by lawful order or released by order of the Governor-General in Council.' Clause 6, however, again limits that and restricts the operation of that clause. First of all it says:—

'Nothing in this Act shall apply to any sentence passed or punishment inflicted by or under the orders of any commission appointed under the Martial Law Ordinance, 1919.'

"Members of this Council are aware that various persons who have been convicted by the Commissioners appointed under this Ordinance have appealed to the Privy Council. It would obviously be improper for us to attempt in any way by an Act now to invalidate the actions of those Commissioners. The sentences depend for their validity upon Ordinances already passed. I do not propose to discuss the question of these Ordinances here for one moment, nor would it be relevant to this discussion. All I wish to point out is, that this Bill in no way affects sentences by Commissioners appointed under the Ordinances. Then there is a second limitation, that the Bill in no way prejudices the right of any person who thinks he has been dealt with unjustly to appeal to the Privy Council from sentences of these summary Courts. There is no intention, even if there were the power, of which there may be some doubt, of interfering with that right. Any man who has been convicted by one of these summary Courts is at liberty to go and seek for leave to appeal to the Privy Council just as if this Bill had not been passed. I tried to make that clear because it has been suggested that in some way the action of this Government, in introducing this Bill, is intended to prejudice the authority and power of the Judicial Committee. It is quite clear to my mind that it is not so. It has been our deliberate intention

to make that abundantly manifest to every reasonable man. At the same time, my Lord, I do admit that there are many men in this country, perfectly loyal citizens, men of weight and authority who have grave apprehensions and felt great uneasiness as to many of these convictions. We believe that many of those apprehensions are ill-founded, but still there is no getting over the fact that there is this sense of uneasiness as to the correctness of all these convictions. That apprehension has been alleviated to a considerable extent, but not removed, by the admitted clemency of His Honour the Lieutenant-Governor and the debate on the Resolution to appoint a Committee to investigate these occurrences indicated—I think, on the part of many Members of this Council, Members not hostile to this Government, not unreasonably opposed to everything we do, but Members who are ready to co-operate with Government in this matter, in all matters, and who really seek to do what is right—uneasiness in the mind of many Members of this Council and a feeling that some of these sentences had not been examined with sufficient care; and there was further indication of that feeling in the proposal made for revising the terms of references to the Committee. I think Hon'ble Members will remember the various suggestions. Well, to meet these apprehensions the Government of India have decided to have all these cases examined and revised by two Judges of the High Court, one being an Indian and one being a European, in order that they may recommend to His Excellency the Viceroy or the Governor General in Council, as the case may be, through the Local Government, such action as they think fit, either in the direction of remitting or commuting sentences, or any other course they may think desirable, having regard to the circumstances of the case. My Lord, it is the desire of the Government of India that full justice should be done in this matter. They are as anxious as any Member

of this Council that innocent men should not be detained in jail. One point, however, I have not made clear, and that is, that our intention is that only the cases of those men who remain under sentences should normally be inquired into by these judges, though they will also deal with any other cases which may specially be referred to them by His Excellency or the Government of India.

“Now, I do hope that this will meet the approval of Council and indicate the desire of Government to prevent injustice. I believe that such a Tribunal as we proposed, being composed of judicial officers, will be far more effective for the purpose of seeing that justice is done than any Committee of Inquiry which may be appointed to investigate the general occurrences. For not only will the officers have the advantage of judicial experience, but, by reason of their being on the spot, they can begin to work immediately and directly. So that I hope the matter will be dealt with reasonable expedition.

“There is only one other clause in the Bill, clause 5, to which I need draw attention, and that provides for the payment of compensation where the property of any person has been commandeered by the military authorities. Members of this Council are aware that when martial law is declared and when the military authorities take over control, they frequently have to, and frequently do, commandeer property for their own use, if such action is in the public interests necessary. All that this clause proposes is, that the Government should pay compensation for such commandeering and provides the means by which the compensation may be assessed.

“My Lord, summarizing what I have said, I want to make one or two points quite clear. First, this Bill is the inevitable consequence of martial law. Whether martial law was necessary or not, we must at least protect our officers. The Bill will not in any way forestall the decision of the Committee of Inquiry. The

indemnity of officers is limited, and reasonably limited, to those who have acted *bonâ fide*, the question of *bonâ fides* will be decided by the Courts, and the validating clause, to which I have referred already, does not affect either any case tried by the Commissions or any right of appeal to the Privy Council. Further, in order to prevent any injustice, and, so far as we are able, to enable us to exercise clemency, so far as is compatible with the public safety, we will have the cases of the men convicted by these summary Courts and still in jail revised by two of the best judicial authorities that we can procure. My Lord, I contend that this a reasonable Bill, a Bill of the most moderate character, and that it only affords such protection as it is essential for us to give to our officers, which they have a right to demand of us and which it is our paramount duty to give them. I may be asked, why the Bill is introduced at this season. Indeed, I promised the Council to explain this, and, having regard to what your Excellency said, if I am only to speak once both on the Bill and the amendment, save for my right of reply, I ought to explain now why the Bill is introduced at the present juncture. The reason is very simple. If it is not passed now, if it is not brought into effect now, then our officers, officers who, *ex hypothesi*, have behaved fairly and properly, will be left liable to suits at the instigation of any malicious person. Is that reasonable, is that fair? I may be told that no suits will be brought in the immediate future. My Lord, suits might be brought, might even be decreed against them before any Bill was brought forward in this Council, not against men who have acted *malâ fide*, but against those who have merely done their duty with the greatest care and in the most reasonable manner. I say to this Council that that is a position to which no reasonable man here can ask us to submit our officers. Many of the men against whom suits might be brought, against whom action might be taken, may have

gone from this country. Should they be left with this sword of Damocles hanging over them although they have done nothing to deserve it? Is that fair? Then, there is another point. If this Council does not validate the detention in jail of those criminals, to whom I referred just now, then we shall have at once to release the whole number of these dangerous offenders on the world. I have told you that we have consulted the Punjab Government on this matter, and they were definitely of opinion that such a release was not compatible with the public safety. The men are not convicted of minor petty offences at all; they are men who were engaged in the burning and looting of stations, in the attacks on railway lines and in the cutting of telegraph wires, guilty of theft and very many of them of arson. They are a class of men who cannot be released with safety at present, and I submit that this Council will be well advised if they do not ask us to release them. My Lord, looking round the Council here I see many members, who have large vested interests in the country. I should like to know how long they would retain their property, their wealth or even their lives if the forces of disorder were once to break loose in this country. I ask the Members of this Council to look at the question in that light. Is it not their bounden duty to afford protection to those who have undertaken terrible responsibilities in times of difficulty and done their duty *bonâ fide* and honestly? That is the question that I put to each Member here. I want them to visualize what the position of an officer of Government in such circumstances is. Take the case of a young military officer. He does not know whether martial law has been rightly or wrongly proclaimed. His one object is to perform his duty, to do it fairly and honestly. He is told that the country is in disorder and that his duty, to do it fairly and honestly. He is told able and fair way to carry out what he believes to be his duty, and then, when he comes

to this Council for protection, my Lord, are we to say, 'No, we cannot give it to you until an inquiry has taken place,' or 'Postpone it till some other day.' I do hope and trust that this Council will not endorse any such monstrous proposition. It is often assumed that it is only Europeans and Government that are interested in the maintenance of order. Hon'ble Members know that that is not so. Once rioting breaks out, who are the people who suffer? At least some Hon'ble Members of this Council know that they would be the first—their whole existence depends on the maintenance of law and order in this country. And how can they expect, how can any Member of this Council expect, military officers of Government to do their duty unless they receive reasonable support? A military officer is in a position of peculiar difficulty. If he does not suppress disorders, he is liable to censure, blame and punishment at the hands of his superior officers. If he does not take adequate measures, he may be removed from his office. Why, even civil officers in England have been held to blame for action of that kind. Take the case of the Mayor of Bristol. After the Bristol riots he was accused of failing to do his duty in not having taken adequate measures to quell the disorders and he was prosecuted. But, apart from his personal responsibility, every officer of Government in this country is responsible under the system of administration for the lives and property of many hundreds and thousands living under his charge. Let each Member visualize to himself what his position would be faced with these difficulties, often with insufficient forces at his disposal to cope with disorders, doing what he thinks to be his duty, acting according as God gives him to see the right, and then being penalized and held liable to prosecution and persecution afterwards for no reason whatsoever.

"My Lord, I have spoken with some heat because I want to make it plain that I conceive that refusal to grant the limited protection

which we ask for our officers would be a gross injustice to those whom we have solemnly undertaken to protect.

"My Lord, I have attempted throughout my speech to say nothing that can in anyway prejudice the result of the inquiry by the Commission. I have dealt solely with principles, not with particular actions. Whether any particular action was reprehensible, whether it was right or whether it was wrong, is not a matter which comes within the scope of this Bill. That is a matter either for the Committee of Inquiry and subsequent action by Government or for decision by the Courts. I have endeavoured throughout my speech to avoid saying anything which may prejudice the Inquiry. I have also, endeavoured, and I hope successfully, to avoid saying anything which might promote racial ill-feeling, and I would ask Hon'ble Members who follow me so far as they are able, to follow the same course, remembering always how far the deliberate promotion of racial feeling—no, I will cancel that word 'deliberate', for I do not wish to excite any bitterness, myself—I will say ill-feeling has been responsible for the deplorable loss of life, and for the terrible happenings in this country. I would ask each Member of this Council, in speaking to this motion, to realize that any intemperate language of his which may revive or promote such ill-feeling is a great danger, and to remember that the man who uses it is rendering a real dis-service to this country and is pursuing a course of conduct the dangers of which, in present circumstances, it is difficult to overestimate.

Sir William Vincent's closing speech:—
 "My Lord, I do not know if I shall be in order if, before replying on this debate, I give to Council some new information, with reference to the Committee of Inquiry. I think the Council will be interested to know that the Secretary of State has now sanctioned the addition of one Indian and one European member to that Committee. This information has

really no connection with the Bill, but it is a matter in which the Council is greatly interested.

"My Lord, when I closed my opening speech on this Bill, I said that I had avoided, as far as possible, prejudicing any question that would come before the Committee or saying anything that might provoke racial feeling. I believe it has generally been accepted by this Council that that was my attitude. But I was a little surprised to be accused by the Hon'ble Mr. Malaviya of all people in this Council, of attempting to prejudice the work of the Committee and that, because I had ventured to put it to the Council—and I think Sir George Lowndes also said the same thing,—that if the Committee of Inquiry appointed to inquire into this matter found that a man had acted reasonably and *bonâ fide* I was quite sure they would not hold him in any way to blame. Well, after I spoke the Council heard the various statements made by the Hon'ble Member himself, attempts to create prejudice, to minimize various facts and to place before Council *ex parte* statements as to particular incidents on which it was suggested that this Council should condemn particular officers or particular actions. My Lord, the Hon'ble Member has received such severe. . . .

The Hon'ble Pandit Madan Mohan Malaviya:—"May I rise to a point of order, my Lord?"

The President:—"Personal explanation or point of order?"

The Hon'ble Pandit Madan Mohan Malaviya:—"A correction, my Lord."

[*The President; Pandit Madan Mohan Malaviya; Sir William Vincent.*]

The President:—"Personal explanation?"

The Hon'ble Pandit Madan Mohan Malaviya:—"Exactly, my Lord. I never said that the Council should condemn any officer on *ex parte* statements. I said their actions should

be sifted by the Committee of Inquiry and then judgment pronounced."

The Hon'ble Sir William Vincent:—"My Lord, the Hon'ble Member has received such severe castigation from the Hon'ble the Law Member that it really would be an act of cruelty to say anything more of his speech. I can only say that, even if I had in any way been guilty of attempting to prejudice the decision on any point by the Committee or of creating an atmosphere of bias in respect of any matter, it would have been a case of Satan reproving the sin, for no man has been more guilty in that respect than the Hon'ble Member himself. But I leave it to Council to judge if I said anything which could prejudice the inquiry. My Lord, I regret very much, however, that an attempt has been made by the Hon'ble Member and by others to place particular incidents before the Council to make *ex parte* statements as to what happened on particular occasions, because I think that statements on the one side necessarily evoke from others contradiction, and that this Council was therefore placed in a very unfortunate position in regard to such incidents—incidents of which as the Hon'ble Mr. Sinha said, the Council do not know much of, which they now have had stories from one side and stories from the other and I feel that it would have been much better if both sides had left all these incidents alone. Such a course would not have affected this Bill and Council could have left the whole of the facts to the Committee of Inquiry to decide.

"I must, however, myself quite clearly disclaim any intention to justify any particular action. It was for instance suggested that I was attempting to indemnify officers who were concerned in the Jalianwalla Bagh incident. My Lord, I had no such intention, nor can such an intention be deduced from the Bill. The question whether these officers will be indemnified or not will depend on the findings of Courts as to whether their action was *bonâ*

fide, and reasonable or not. I do not seek in any way to prejudge the point.

"In the course of the debate the Hon'ble Sir Dinshaw Wacha inquired whether the passing of this Bill would in any way affect the Committee of Inquiry. The answer has been given. The Committee of Inquiry is an administrative Committee. Its report will have no legal effect. The result will be, when it reports that the opinions and recommendations will have to be decided by the authorities in order to see whether any person is to be punished or censured or commended administratively; but that has nothing whatever to do with the Courts. That Report will not be evidence in the Court. The legal liability of those concerned is a separate matter and can only be settled by either the common law or a Bill of this character.

"My Lord, it has been said that martial law was not necessary. I was anxious to abstain from expressing any view on the point at present; but as the subject has been dealt with at such length, I wish to add one word to the discussion, and that is to read the actual message—if I may with your Lordship's permission do so—on which the Government of India declared martial law. The Council have learned from Mr. Hailey's speech and from other Members all the incidents which preceded the 13th of April, and it is not necessary for me to reiterate them. Well, on that day, all other telegraphic communication being cut, we received the following message by wireless telegraph:—

'Railway stations between Kasur and Amritsar looted. British soldier killed.' (As a matter of fact there were two.) 'Two British officers injured at Kasur. (There were more people than two injured.) Bands of rebels reported on the move, Kasur treasury attacked; state of open rebellion exists in parts of the districts of Lahore and Amritsar. Lieutenant-Governor with the concurrence of the General Officer Commanding the 16th

Division and Chief Justice of the High Court requests the Governor General in Council to direct him to suspend the functions of the ordinary criminal courts in Amritsar and Lahore districts and establish martial law therein and direct the trial of offenders under section 2 of Regulation 18 of 1914. Situation critical. Moveable column starts marching from Ferozepore to Amritsar through worst tract with guns tomorrow.'

"I want to put it to any Member of this Council whether, if he had been a Member of the Government of India at that time, with the information which is now before the Council, on receipt of a telegram of that kind, he would not have acted exactly as the Government of India did: if any officer would have dared to take the responsibility of not accepting a recommendation of that character. That is all, my Lord, on the question of martial law, but I think that this message adds to the information before the Council.

"My Lord, it has been said that this present Bill goes too far. I do not think it necessary for me in any way to discuss that point. It has been fully debated already by the Hon'ble the Law Member. Many detailed criticisms of various clauses were put forward which, if I may say so, appeared to me to be irrelevant in a debate of this character. We ought now really only to discuss the question as to whether an Indemnity Act of this character is necessary or not, and that is a question about which, I believe, nearly all the Members in this council have been now convinced. It has been said, however, that we ought to postpone the Bill, because actions will not be brought at once, or if they are brought, postponement may be secured. Another suggestion was, 'you should bring the Act in now, but make it an Act which will only suspend civil or criminal proceedings against officers.' I would point out in answer to these suggestions that an action begun now may be decided before any Indemnity Act

could be passed after the report of the Committee is received, and any lawyer member of this Council will know how difficult it would be to pass an Indemnity Act in regard to a suit either commenced or decreed. As to pending suits, it is fair that we should leave officers, who *ex hypothesi*, as I said before, have done their duty, with a possibility of being sued—or that we should say to them, 'Well, you may be indemnified for doing what was right or you may not, we will tell you that six months later, when the Committee of Inquiry, which has nothing really whatever to do with your legal liabilities, has decided some other point.' I submit that is not a right position for Government to take.

"My Lord, there is only one other matter to which I wish to draw attention and that arises out of the remarks made by the Hon'ble Sardar Sundar Singh Majithia. He asked me to give him an assurance that those who gave evidence before the Committee would in no

sense be harassed by the police. I am glad to give him that assurance, and I am quite sure that His Honour the Lieutenant-Governor will give full effect to it.

"Another point was that I was asked whether if the Committee should find that any officer of Government had been guilty of improper conduct, he would be punished. My Lord, I have already said that it is our hope that we may be able to publish the report of this Committee, and it is certainly not our intention to treat the recommendations of this body as of no account in so far as we may accept their views. Any recommendations which they make will have to be considered, and such action as we think necessary will certainly be taken upon them."

The motion for postponement of the Bill was put and negatived.

The motion that leave be given to introduce the Bill was put and agreed to.

4. REPLY TO ATTACKS

Mr. J. P. Thompson:—With your Excellency's permission, I should like to make a few remarks on the amazing speech, to the last quarter of which we have just been privileged to listen. I do not propose to touch on the legal questions, or questions of constitutional law which have been raised by the Pandit. They will no doubt be dealt with by the Legal Member, if he thinks there is anything in them that merits a reply. Nor do I propose to deal with the details of the administration of martial law by military officers; that is a matter for one of my military colleagues to deal with. Nor again shall I touch on the general questions of the justification for the introduction of martial law, the alleged provocative action of the Punjab Government in deporting Kitchlew and Satyapal and excluding Mr. Gandhi from the Punjab, or such other matters of a general nature. I propose to confine myself to the specific allegations which have been made by the Pandit of misconduct and maladministration on the part of civil officers who were responsible for the administration of justice during the period of martial law. Before I start with the allegations made by the Hon'ble Pandit, there were two remarks which fell from the speaker who preceded him which, I think, require a passing notice. The first point was the statement made by Mr. Chanda that on the 11th of April orders were issued by the Punjab Government prohibiting the publication of any accounts in the newspapers. The order that was passed, my Lord, was an order requiring any newspaper, whether English or Indian, to submit any accounts which it proposed to publish of the events which had taken place for pre-censorship before publication. It was an order which, as I have said, applied both to the English and the Indian press, and there

was nothing whatever to prevent any newspaper which desired honestly, and for the public good, to publish true information from publishing it.

"The second point in Mr. Chanda's speech on which I wish to make an observation is his allegation that it was out of revenge for the fraternisation between the Hindus and Muhammadans at the festival of *Ram Naumi* on the 9th April that Sir Michael O'Dwyer excluded Mr. Gandhi. Now, my Lord, I have the greatest admiration for Sir Michael O'Dwyer, but I do not think that any one here would claim for him that he was a prophet. The fraternisation at the *Ram Naumi* took place on the 9th of April; the orders for the exclusion of Mr. Gandhi were passed, so far as I remember, some 48 hours before that fraternisation took place.

"I now come, my Lord, to the allegations which have been made by the Hon'ble Pandit. I am afraid my remarks must of necessity take rather a discursive form, but I do not see that I can deal with the allegations which have been made in any better form than by taking them in the order in which the Hon'ble Member has made them, and I think in all the cases with which I shall deal I shall be able to show the Council that the story which has been given by the Pandit is distortion or an exaggeration, or a misunderstanding of the facts. The first case he mentioned was that of the exclusion of a gentleman from the Punjab who was so well-known that the Pandit could not even give us his correct name; he called him Mr. Hume. . . .

The Hon'ble Pandit Madan Mohan Malaviya:—"Mr. C. F. Andrews."

The Hon'ble Mr. J. P. Thompson:—"His real name was Mr. C. F. Andrews, but the Pandit called him Mr. Hume. Now, my Lord,

the facts in regard to the exclusion of Mr. Andrews are these. On the 5th of May the Punjab Government received a telegram from the editor of the 'Independent' newspaper at Allahabad saying that he, along with the editors of the 'Bengalee,' 'New India,' the 'Amrita Bazar Patrika,' the 'Hindu' and the 'Leader' proposed to depute Mr. Andrews to the Punjab with a view to report to the Indian press on the condition of affairs in the Province with special reference to the administration of martial law. Now, my Lord, at the time when that request was made, two of the papers on whose behalf it was made, had been excluded from the Province—one more of them has been excluded since—and almost all of them have distinguished themselves by the bitterness of their attacks on the Punjab Administration. Now, my Lord, I put it to the Council, if these papers wished to obtain the good offices of the Punjab Government with the military authorities in order to enable Mr. Andrews to enter the martial law area, was this quite the most tactful way of doing it? Could the Punjab Government be expected to use their good offices on behalf of newspapers whose bitter criticism, whose unfair criticism of what had been done had earned for them exclusion from the Province? I do not think there is a single Member here, my Lord, who will answer that question in the affirmative.

"I now pass on to the Pandit's allegations about the Jalianwalla Bagh. I do not wish to dwell on this extremely painful incident, but I merely wish to offer one or two remarks in regard to the number of casualties. The Hon'ble Member has hinted that more than a thousand persons were killed there. He told us yesterday that his latest information was that 530 had been traced. Now, my Lord, I daresay we shall never know the exact number of persons who met their deaths in that garden. But what the Punjab Government have done is this. We made a proclamation in Amritsar and in the surrounding villages inviting all

persons who had any information in regard to the names of those who had met their deaths there to come forward and give that information to Government. We knew that private organisations were at work collecting information on the same subject. We gave instructions to the local authorities that they were to see that this proclamation was brought to the notice of those persons so that they might have no excuse for not coming forward and giving us any information that they possessed. I make no doubt, my Lord, that that proclamation also came to the notice of the Pandit. Our enquiries show that the total was 291, and I claim that any information which asks us to accept figures beyond this must be received with the gravest suspicion.

"I now come, my Lord, to the case of the Badshahi Masjid. In this case an Inspector of the C. I. D. was assaulted in the Badshahi Masjid in Lahore on the 12th April.

"The facts as given in the judgment are as follows:—

'On that day,'—on the 12th of April—'a meeting with political objects was held in the Badshahi Mosque, Lahore, which was to be addressed by leading Hindus. Many Hindus were present and many people armed with sticks. Maulvi Abdul Hai, having recognised Chaudhri Ali Gauhar, C.I.D. Inspector, who was present in plain clothes, made an inflammatory speech against the C.I.D. in general saying that no progress with their objects was possible until the C.I.D. were eliminated. He pointed out Ali Gauhar as an object of immediate attack and the others then set upon Ali Gauhar who was beaten with sticks on the body. His assailants had him at their mercy but did not kill him.'

"Now, what is the story to which the Hon'ble Member gives the weight of his authority, in regard to the origin of that attack. He tells us that that Inspector had drawn on himself the presentment of the crowd by certain remarks

that he had made. I have before me, my Lord, the record of that case. I have been through the whole of the evidence from start to finish, and there is not a suggestion anywhere, neither in the statements of the witnesses for the prosecution nor in the statements of the witnesses for the defence, nor in the statements made by the accused themselves; nor is there any hint in the cross-examination of the witnesses for the prosecution, of this story which the Hon'ble Member has told us.

"Now, my Lord, I do not wish to use hard words about the Pandit, but I put it to the Council that the suggestion that he has made is not one which comes within the limits of fair controversy, stretch them how far you will. In this Council, my Lord, we are all supposed to be Hon'ble Members. It is a title that is given to us on account of the position we occupy, and not with regard to the moral character of Members who occupy that position. But I do claim, my Lord, that that title justifies the public in expecting from Members who speak in this Council a standard of honour and fair dealing, straight dealing, which, I think, the Pandit has failed to reach in the present instance. . . .

The Hon'ble Pandit Madan Mohan Malaviya:—"I am sorry for that."

The Hon'ble Mr. J. P. Thompson:—"The next allegation with which I will deal is, one to the effect that the electric and water supply of the whole city of Amritsar, exclusive of the Civil Lines, was cut off for about five days, about the 12th of April last, and that a large number of wells in the city of Amritsar had been closed under recent orders when Mr. King was Deputy Commissioner there. I understand that six wells were so closed. As regards the stoppage of the supply of electricity, on the 10th of April the mob attacked the power house and stopped the electric light plant working. On the 11th they prevented repairs being done, and power was cut off that eve-

ning by order of the General Officer Commanding and remained cut off until the 19th. As regards the water supply, I am informed that on the night of the 10th the water supply was cut off by the Municipal Engineer, as there was a rumour in the city that the supply had been poisoned, though who published that rumour I cannot say, but it was found necessary to shut off the supply again on the following day, and it remained shut off until the 14th by order of the General Officer Commanding.

"The next incident that the Hon'ble Member dealt with was another Amritsar incident. He told us that several very respectable people, undertrial prisoners, including bankers, lawyers, doctors and so on—the class of people, in brief, who always 'rot' when sent to jail—were handcuffed in pairs and confined for several days in the racket court at Amritsar where they were subjected to several kinds of inconvenience. Temporary arrangements were made for the confinement of prisoners in the racket court in Amritsar; they were provided as soon as possible with shelter, but they were not handcuffed, so I am informed, for more than two or three days. And the picture which the Hon'ble Member has drawn of the inconveniences to which they were put is very largely exaggerated. I would remind the Council that at the same time at which these honourable gentlemen were confined in the racket court English women and children were also confined in the Fort because of the violence of the people outside. They remained there some days, deprived of all the comforts and conveniences that they had in their own houses, and in some cases without even the decencies of ordinary life. Is this Council going to condemn the temporary arrangements which were made for these respectable gentlemen of Amritsar, when it finds that English women and children were subjected to not dissimilar inconveniences within a few yards of the place where these people were confined?

"I now come on, my Lord, to the case of

Gujranwalla. The Hon'ble Member told us that on the 15th of April last Colonel O'Brien, Deputy Commissioner of Gujranwalla, with a strong body of police and soldiers and an armoured car marched round the city arresting people right and left; that the persons so arrested were chained together and marched to the city two and two, headed by a Hindu and Muhammadan, with a view to ridiculing Hindu-Muhammadan unity, and that, 'in the words of Colonel O'Brien,' two Municipal Commissioners marched in front of the procession so formed, and pointing to the aeroplanes hovering overhead, kept on shouting to the people to make way for the prisoners; and that, after having been paraded through the principal streets of the town, the prisoners were taken to the railway station and put into an open truck guarded by a number of European soldiers with fixed bayonets, and so on. Let me read to the Council a description which is based on information supplied by Colonel O'Brien himself to explain what it was that happened. I should tell the Council that the outbreak in Gujranwalla in which such a vast amount of damage was done to Government property took place on the 14th. On the morning of the 15th, Colonel O'Brien felt himself in a position to make arrests. He did not think it safe to lodge the prisoners in the local jail. In order to make certain that there would be no trouble, he asked by telephone that an aeroplane and a special train should come out in the afternoon. It was essential that no warning should be given to those who were to be arrested. He laid his plans accordingly. A list was prepared and a route arranged. He then started with the police to make arrests, as well as a party of British soldiers to prevent resistance. There was no armoured car. Pleaders, barristers and others believed to be concerned in the outrages were arrested and handcuffed. As the party pursued its route, a Muhammadan and a Hindu, both members of the Municipal Committee, went well in

front to warn the people against resistance. There was no intention of ridiculing Hindu-Muhammadan unity, and, if a Hindu was linked with a Muhammadan, it was by accident and not by design. The party arrived at the station within a quarter of an hour of the time fixed to find that the only accommodation for the escort and the prisoners was an open truck. It was nearly 5 o'clock, the journey to Lahore would take two hours, and there was no time to be lost. It is possible that all concerned may have been put to some inconvenience. It is not alleged that there was anything more than this, and the essential thing was to get the prisoners into Lahore as soon as possible.

"The Hon'ble Member's statement went on to deal with what happened at Shekhupura, where, he said, Colonel O'Brien had committed very much the same atrocities. The arrests at Shekhupura were made with equal celerity as he had to visit on the same day Chuharkhana, Moman, Dhaban Singh and Sangla, at all of which places outrages had occurred. The Shekhupura prisoners were taken to Lahore by an armoured train which Colonel O'Brien found at Chichoki Mallian.

"The next atrocities to which I turn were those which were committed at Kasur. Kasur is a small place, about 35 miles from Lahore, where two British warrant officers were killed on the 12th. I cannot lay my hands at this moment on the statement which was made by the Hon'ble Member in regard to the outrages on respectable persons at Kasur; but it related, I remember, to two pleaders, Ghulam Mohiyuddin and Abdul Kadir; it was stated, if I remember aright—the Hon'ble Member will correct me if I am wrong—that these two persons were confined for a long period, many weeks, in a lock-up at the station. The facts as given by the Sub-Divisional officer are as follows:—

'Ghulam Muhiyuddin and Abdul Kadir were arrested and were confined in the police

station; and once or twice they were detained by the Military in the temporary lock-up near the station when brought from the police station with other prisoners for evidence or identification. They were released after a few days at my request in my presence by the officer commanding when I had decided that the evidence as to their being rioters was not true.'

"The other Kasur case to which the Hon'ble Member referred was the case of certain boys who were said to have been flogged there. The story is true. Six boys, three of them belonging to the Municipal Board High School and three belonging to the Islamia School, were caned at Kasur. The headmaster of the Municipal Board High School had invoked military assistance to deal with the boys who had acted very insubordinately and joined hands with the pupils of the Islamia School. The officer commanding directed the headmaster to choose the worst offenders and send them up for punishment. In addition, two schoolboys sent by the commission for summary trial were caned—three strokes each—by the martial law officer after trial.

"The next case to which the Hon'ble Member referred was that of Mr. Manohar Lal, a distinguished graduate of Cambridge University and a barrister-at-law. He was one of the trustees of the 'Tribune' as the Pandit told us, and the question had been raised as to whether, when the editor of the 'Tribune' was being prosecuted, it would be possible to prosecute the trustees too, or at any rate the resident trustee who happened to be in Lahore at the time, and was believed to have taken considerable interest in the management of the paper. It is true that Mr. Manohar Lal was arrested and that he remained in confinement for the space of about a month. It is not true, as the Hon'ble Member stated, that his family were kept out of his house for a week; his house naturally was locked up after his arrest as it might have been necessary to make a search,

but his family were allowed to return and did return, I understand, the very next day.

"The Hon'ble Pandit then went on to tell us that hardship was inflicted on respectable persons in connection with the custody of martial law notices. Now, my Lord, that is a matter primarily which concerns my Hon'ble friend on my left. But it is matter of such vital importance to the civil population that the meaning of these punishments which were inflicted in regard to martial law notices and the procedure that was adopted in order to safeguard them should be properly understood, that I make no apology for making a few remarks to the Council on the subject. Martial law notices are a most important part of the machinery for martial law. If you create new offences you must advertise them; otherwise well-meaning people have not a fair chance. The man who tears down a martial law notice may be the cause of an honest man being shot. When such notices were first put up, it was found that they were torn down and defaced. Colonel Johnson interviewed the leaders of the people and they promised to arrange for the publication of the orders in the different quarters of the city. They failed to fulfil their promise. Colonel Johnson accordingly decided to impose on selected owners of property the duty of protecting them. It is true that a number of persons connected with public movements or interested in persons who had been arrested were selected because they were *primâ facie* the persons in whose custody the notices would be safest. My Lord, I can say with regard to this policy that its success was ample justification for any hardships that might have been inflicted. After this class of property owners had been made responsible for the safe custody of the notices, I believe hardly any were torn down or defaced.

"The Hon'ble Member then went on to state that in some cases tried by martial law officers, especially towards the close of the martial law period, the accused were convicted without the

whole of the defence evidence being heard, and even that witnesses who were present in the Court or attended the Court for that purpose were not heard. He gave the case of two pleaders, Lala Gurdasram and Lala Shivaram of Hafizabad, in the district of Gujranwalla. Well, my Lord, I have not had time to make inquiries from each Deputy Commissioner as to what happened in his district, but I have made inquiries from the district in which this particular case occurred, and the answer I have received is as follows:—

'It is not the fact that martial law courts refused to hear witnesses for the defence who were present in court or attended the court for that purpose. In the case mentioned, as in some others, the court exercised its discretion in not summoning certain witnesses named by the accused when such witnesses lived in distant places and the accused could allege no real reason for producing them as witnesses and it appeared they were named as such merely for purposes of vexation and delay.'

"From Gujranwalla, the Hon'ble Member went to Lyallpur and he stated that there was a man named Ram Lok at Lyallpur, son of one Daulat Ram, who was arrested on the 25th April, was detained in police custody for over three weeks and then released for want of evidence; that after his release his father appeared as a defence witness for one Ram Ditta and was asked to become approver but refused to do so; that on this, his son Ram Lok was re-arrested on the following day for the offence for which he had been arrested and released before. He then went on to say that the trial was unduly expedited at the end owing to the approaching termination of martial law. Now, my Lord, Ram Lok was not arrested on the 25th April, he was arrested on the 28th May. He was not detained in custody for three weeks; he was convicted on the 5th of June. His arrest had nothing whatever to do with the evidence given by his father on behalf of Ram Ditta and

indeed, the police at the time, I am assured, did not know what evidence his father had been giving in the case against Ram Ditta. Finally, my Lord, the accused pleaded guilty.

"The Hon'ble Member then went to speak of men who had been sentenced to long terms of imprisonment without any evidence having been recorded or any judgment having been written. Well, I can quite understand the Hon'ble Member feeling a little bit disoriented when he deals with cases in which there are not full records. Full records are what he has been accustomed to, and it gives him something of a shock to find that a man has been sent to jail on a scanty record. I need hardly perhaps tell him that a scanty record does not mean scanty evidence; but it may be news to him to know that no court martial ever gives any reasons for its findings, and the procedure of these courts was much more the courts martial than of the ordinary courts of law. The particular cases which the Hon'ble Member has selected are not very fortunate ones. He has taken the case of a man named Fazla, *tongawala*, who, he says, was sentenced to transportation for life for waging war against the King, without any evidence being recorded.

"I have seen the record and the Judge's notes. Two sides of foolscap are covered with the notes. . . .

(At this point the Hon'ble Mr. Malaviya got up.)

The President:—"Order, order. The Hon'ble member must not interrupt. He has had his way and Mr. Thompson now has the ear of the house."

The Hon'ble Pandit Madan Mohan Malaviya:—"The Hon'ble Member is wrong. I did not refer to the case of Fazla."

The Hon'ble Mr. J. P. Thompson:—"The record is in the possession of Sir William Vincent. I am certain of the facts I have stated.

"The other case the Hon'ble Member mentioned was that of Hari Ram and Hans Raj. These two men were prosecuted for being in

possession of Amritsar loot. It is true that in this case no evidence was recorded, but it is not true that there was no judgment. There was a judgment, which sets out the facts of the case and the reasons for the finding.

"Then the Hon'ble Member passed on to a consideration of what is known as the salaaming order at Lyallpur. The justification for this order is not really a matter for me, but I happen to have the record of the case he referred to; so I think perhaps I am justified in making a few remarks about it. I do not wish to justify, it is not part of my business to justify, the infliction of sentences of flogging for the non-salaaming of British officers. But in the particular case which the Hon'ble Member mentioned, the man who was convicted had previously been warned that he was committing a breach of martial law in not salaaming British officers and the offence for which he was punished was his second offence.

"My Lord, the Hon'ble Member read out to the Council the judgment of Colonel O'Brien in the Ramnagar case, in which the King was burned in effigy. This case has engaged the attention of the Punjab Government. We made some further inquiries with a view to ascertaining whether the facts were as found. As the Council will gather from what the Hon'ble Member has said, the case is one which has attracted a certain amount of attention. The case was examined by two officers independently of Colonel O'Brien, and both reported, after going through the case, that there was no ground for distrusting the conclusions arrived at by the officer who had tried the case. The Hon'ble Member tells us that some of the accused were not arrested till the 28th May. He then said that the people were of such position that it was impossible for them to have committed the offences that were alleged against them. My Lord, we have adduced against the reasoned judgment of an officer who had heard

the evidence, an officer of long experience, who must, I think, have been in charge of one district or other in the Punjab for nearly twenty years, we have adduced a misstatement and an opinion. I claim that that is not sufficient to justify Government in remitting the punishment of these men.

"The last cases with which the Hon'ble Pandit referred were certain cases tried by Mr. Hoyle. He said that the particulars in the judgments were scanty. The records I hold in my hand (shown to Council). This is the record of one case, 3 pages of evidence written in a small hand, and this is the record of the other case, 8 pages of evidence. The cases tried by Mr. Hoyle were, as a general rule, tried with great care, and I should not be afraid to show the records to the most hostile critic.

"That concludes the examination of the detailed allegation of the Hon'ble Pandit. I trust I have succeeded in convincing the Council that the allegations made by the Pandit show a degree of credulity, not to say gullibility, lack of proportion and a power of closing his eyes to everything that can possibly be said on the other side, that justify me in saying that it is difficult any longer to have any confidence in his power to appreciate any political situation, or his willingness to admit that there is anything whatever to be said in favour of those who are unfortunate enough to differ from him. As regards the Hon'ble Pandit's credulity, I should like to tell the Council a story. The Pandit has recently been paying a number of visits to Amritsar, in the course of which he has been making those inquiries the valuable results of which he has indicated to the Council in his speech. During the course of one of these visits he paid a visit to the Jalianwalla Bagh. After his visit there he reported to the Municipal Committee that there were corpses down the well and that they constituted a grave danger to the health of the locality. On examination it

was found that he had mistaken an earthen pot for the head of the corpse and a bundle of cloth that had been looted for the body. . . .”

The Hon'ble Pandit Madan Mohan Malaviya:—“There was one corpse, several of us saw it.”

The Hon'ble Mr. J. P. Thompson:—“I adhere to my statement of fact. If the Hon'ble Member believed in his own story, I am sure he would have found one little minute during the 4½ hours he addressed the Council to bring in that picturesque touch. This is an example of the Hon'ble Pandit's credulity. He tells us that he had the evidence of two of his senses, his eyes and his nose, as regards the presence of the corpse. I ask the Council whether we are to take statements which he has only on hearsay and to rate them at any higher value than the evidence of his own senses. I have mentioned this story because, I think, it is important for the Council to realise what a terrible enemy we have had to contend against in the rumours spread about the country during the past troublous months. I think it will help the Council to correlate the intelligence and mentality of the Hon'ble Pandit with that of the lower orders of the people among whom these rumours find credence and have currency. I should like to give the Council some examples of these rumours, because, I believe it is only in this way that it will understand what an unrivalled field the agitator in this country has if he chooses to set about sowing false rumours in the countryside. The rumours in regard to the Rowlatt Act are known to everybody here, and I need not do more than refer to them; such rumours as that no one should be allowed to possess more than 10 bighas of land, that 50 per cent. of the produce was to be taken as Government dues, that no marriages were to be allowed until the parties had been examined by a Government medical officer and so on. I do not wish to say anything more about those rumours, nor do I wish to deal with those rumours which dealt

with things which are not inherently impossible. For instance, there was a rumour going about which, I believe, found wide credence that at one period of the disturbances a personal attack was made on Sir Michael O'Dwyer, and his Private Secretary drew out his revolver and shot, not his assailant but the Hon'ble Mian Muhammad Shafi. No, it is another kind of rumour to which I want to draw the attention of the Council, they illustrate better the difficulties of the situation with which we have to deal, rumours which savour of magic or faerie. We had stories that the Germans had signed the peace with an ink which would fade and that there would soon be no evidence that the treaty had been signed at all. We had stories that Mr. Gandhi was distributing magic emblems in the shape of miniature swords which would inspire the holders with an undying hatred against the British Government. We had stories that the Amir, during the recent hostilities, had called to his aid a regiment of paladins from Samarkand, against whom no mere human force could stand. But perhaps the most extraordinary of all rumours which got about was a rumour which gained wide credence in the district of Muzaffargarh. It is a district which lies along the Indus in the extreme southwest of the province. It is inhabited mainly by Muhammadans. A rumour got about that on the night of the *Shab-i-barat* all those who had died in the influenza epidemic at the last autumn would rise from their graves. The *Shab-i-barat* is the night on which Mahammadans believe that God records the actions which will be performed by all human beings in the coming year, and the names of all those who are to die or to be born. Pious Moslems keep awake all night in the hope of catching a glimpse of the glory of the Almighty. The rumour, as I said, spread and with it went an order to the women of the district that they should be ready that night in the graveyards, with clothes for the dead, against their

expected resurrection. The rumour was contradicted before the night arrived, but I believe that there were many poor women who watched by the graves that night, in the hope that at midnight the graves would open and their lost ones would rise again.

"I have nothing more to say, my Lord. I do not propose, as I told the Council, to deal with the question of the causes of the recent discontents. But there is one statement which I do not feel I can let pass unchallenged. The Hon'ble Mr. Chanda and the Hon'ble Pandit Malaviya have both told us that the *Satayagraha* movement was innocent in connection with these disturbances. My Lord, I should like to tell the Council a story. It came to my notice a few days ago in connection with an appeal for mercy for an unfortunate man who had been condemned to death. There were in Lahore two brothers, Indian Christians. They were both in service and they lived with their families in the same compound. The master of one of them went to Bombay and took his servant with him, and he went away leaving his wife and two little children, aged six and three, in charge of his brother. While he was away his wife died. His brother sent word to him to return. He was very poor and so borrowed a few rupees for the funeral in the absence of his brother. A few days later his brother returned. When he returned, it was the days of the *hartal* in Lahore and the shops were all closed. He found both of his children ill; it was partly illness and partly starvation. Milk was what he wanted for them and milk he could not get. All day long he tried to obtain it, but without success. The shops were shut and none would sell. In the evening he returned in despair. Late at night his brother who had been out on the same errand like him returned with empty hands, and when he opened the door of the hut where the children slept, he found there two little bodies lying on the bed with their throats cut.

At whose door, my Lord, will those two lives be laid?"

The Hon'ble Sir George Lowndes:—"My Lord, this has been a day of telegrams and I should like to add my quota. I have received, as I am sure I ought to inform the Council, a telegram from the Wardha Home Rule League protesting against the introduction of this Bill. I have no doubt that this protest will meet with the consideration it deserves in this Council. The Hon'ble the Pandit also referred to, and read out a telegram from, the Indian Association of Lahore. Members of this Government have also received the same telegram, but in their case it has not been signed, and it should be interesting if the Hon'ble Pandit could let us know by whom this copy is signed. The Secretary of that Association, I understand, is now confined in one of His Majesty's jails, and, I think, we ought to know who has signed it on his behalf. (After a pause.)

"I do not think I need wait till the Hon'ble Pandit. . . ."

The Hon'ble Pandit Madan Mohan Malaviya:—"Perhaps I have given it to the Reporters. So far as I can remember, it was not signed, but I am sure it was signed. I can say, my Lord, that the Indian Association is an Association of long standing in Lahore. (After a pause.)

"I have just got the original telegram. I had it in my pocket, I thought I had given it to the Reporters and it had not come. The telegram is not signed."

The Hon'ble Sir George Lowndes:—"My Lord, I begin my remarks by saying that I regret very deeply the events which have happened in the Punjab and in other parts of India. No one deplores more than I do the loss of life, both Indian and European, which has occurred, and I could add no one deplores more than I do that it is in most cases the dupes who have suffered and the agitators behind them who have escaped. But my object

in rising at his late hour in Council is not so much to express my regret, though I am glad to have the opportunity of doing so, but to deal as shortly as I can with the constitutional position of martial law in our policy in India.

"And I doubt if, with all that has been said, the real position has been explained to the Council. The Hon'ble Pandit, I think it was, on a previous occasion contented himself with saying, as has been repeated to-day, that martial law is the negation of law. But an epigram like that never can contain more than a germ of the truth, and it was hardly sufficient for the Hon'ble Pandit and other lawyers who have followed him to dismiss the whole subject of martial law as summed up in that short epigram. There is a great deal more behind it which it is essential that we should consider in connection with this Bill. No doubt it is true in one sense that martial law is the negation of law, but in every civilized country in the world it steps into the place of the civil law when occasion requires. It is not only in our own Empire and in our own history that martial law has a definite place. It will be found in the constitution of pretty well every continental country of Europe. It is specifically provided for in the French constitution and is there known as a 'state of siege'—I am translating of course. It can be declared, in France, by the President on the advice of his Ministers, if the Chamber is not sitting. In our own constitution it has been known from the very earliest days. But before I come to the historical side, which I shall deal with—as shortly as I can—I think I should explain the basis of it. The law of which it is said to be the negation is the thing that provides for normal conditions, but for normal conditions only. Abnormal conditions are left to be met by extraordinary measures. The Code of Criminal Procedure in this country provides for police measures to deal with riots. If they get beyond the police, the police can call in the military to their aid, but it is still

the civil arm which is dealing with what has occurred, and the military are called into their aid only. If matters go beyond this, charge must be taken completely by the military. The law does not attempt to provide further than that. Abnormal conditions have now arisen, and the enforcement of law and order is, and has to be, handed over to those who can do it by force of arms. The line, I think Hon'ble Members will agree, between riot and insurrection and revolution is a very thin one in every case. What is a riot this morning may be an insurrection this afternoon, and a revolution tomorrow. If you are unable to put it down at the outset, you may find that a fire has been lighted which all the fire-engines of the country cannot extinguish. It is that thin line which is the difficulty in all such cases. There is the line first of all between disturbances which the police can quell by themselves, and others for which they must call in the aid of the military, and there is the line between what the police aided by the military can deal with, and the situation that must be handed over entirely to the military arm. Once that last line is overstepped, it is no longer a mere riot, conditions are no longer normal; it is a case for what we have called martial law, that the name is a convenient one and no more, I quite agree. It arises only when the civil arm is no longer able to maintain order. That is why it is a negation of the civil law; it is a negation of the law because the law has failed and for no other reason. Whatever we may like to call it, a rebellion or an insurrection—whatever politicians in this country may like to call it—we have to deal with the facts not with the words we use to describe them. The question we have to consider here is, whether at the time when martial law was put in force in India the situation was such that the civil authorities were unable to cope with it. Therefore, let us not quarrel over words or discuss the difference between rebellion, insurrection and revolution. The practical question before the

Council is, whether there had arisen in the Punjab at this time a state of things with which the civil authorities were unable to deal? We have been told in this Council that no such state of things existed. I would much rather have left the question where my Hon'ble friend, Sir William Vincent, left it in his opening speech, not discussing whether it was necessary to proclaim martial law, but leaving that to be considered by the Commission. I would rather merely assume that martial law was declared, for, as my Hon'ble Colleague puts it, it follows essentially from that that there must be an act of indemnification and validation. Some Hon'ble Members, led by that redoubtable champion of the liberties of the people, who is still sitting here after his temporary disappearance, thought fit to go into all the happenings, for what purposes, I frankly say, I cannot conceive. What this Bill proposes is that only acts which were done *bonâ fide* and which were believed to be reasonably necessary for the restoration or maintenance of order are to be the subject of indemnification, or validated in part, nothing else. The Hon'ble Pandit spent some hours telling us of a number of acts that would not be covered by the Act. He went through the whole history of what had happened in his own way, recounting to us a great number of things which he told us could not have been *bonâ fide*, which could not have been necessary, and therefore, if I may say so, would not have been touched by this Act. What was his object, I repeat, I cannot conceive, unless possibly the time has come when it may be necessary for the Hon'ble Member again to seek re-election, and we may consider this as an election speech, in which, *pace* Mr. Sinha, terminological inexactitudes are often thought to be excusable. But it was not only the Hon'ble Pandit, but other Hon'ble Members have taken up definitely the position that there was never any situation (I am not attempting to put it in their own words) with which the civil law could not have coped. We began the other day with my

Hon'ble friend Raja Sir Rampal Singh, whose absence I greatly regret to-day, for I dislike criticising any one in his absence, but he has, I may presume, thought it wise to be at a strategic retreat. The Hon'ble Raja Sir Rampal Singh, coming from the fastnesses of his ancestral castle in Oudh, said there was no rebellion, no insurrection—only a few little disturbances! Of course, sitting at home in safety, it was quite easy for him to say to himself there is no fire going on ; there is no trouble ! If you are a long way away and your house is not in danger of the conflagration, it is easy to take up this attitude. I strongly suspect that my Hon'ble friend from Oudh did not want to see the fire and I suggest that the most charitable way of looking at his speech is that it was written for him by a friend.

"Then we have my Hon'ble friend Mr. Ayyangar, who indeed is present, but whom I fear I shall not be able to make cognisant of my words at the moment. From the religious solitude of far Madras, he tells us again, that there was no rebellion, nothing serious was going on at all. I think the expression he used, so far as my memory serves me, was that only 'a few rash acts' were committed in the Punjab.

"Then we come to my Hon'ble friend Mr. Chanda. He put it in the forefront of his argument that there was no rebellion there, nothing that the civil arm could not deal with. And where does the Hon'ble Mr. Chanda come from? Assam! He too has come from the confines of India to say there were no serious disturbances in the Punjab. Can nobody tell us any better than this? Are there no members here who belong to the Punjab, who have been in the middle of these disturbances, who know what happened, who have seen what happened? There are surely many of them in this Council, but has any one of them told us that there was no rebellion in the Punjab, that there was nothing that could not be put down by the civil arm? Is it not an extra-

ordinary fact that to find support for the opposite view you have to go to a member from Assam, a member from Madras—I am glad I do not have to speak in the plural of Madras—a member from the fastnesses of Oudh and, if I may say so, the self-constituted Special Commissioners from the United Provinces. Now, if other members of the services who sit here had not replied in detail to what I do not hesitate to call the monstrous statements of the Hon'ble Pandit, I should have taken some pains to reply to them in detail; but it is not necessary for me to do so now. Let me come now to the speeches of my Hon'ble friend Mr. Sarma and of my Hon'ble friend Mr. Sinha, who seems to think that we come here to talk about martial law and the doings in the Punjab with kid gloves on our tongues. I do not. Let us all say what we think. I shall not blame any Hon'ble Member who says what he really thinks, and surely in this Council I am entitled to say what I really think. But I will only say that the speech of my Hon'ble friend the Pandit was characterized by certain terminological inexactitudes, a phrase which has, I believe, parliamentary sanction. I have said that no member from the Punjab has come here to tell us that there was not a rebellion in the Punjab; I only use that word for convenience. But is there no one else to whom I can appeal who, at all events, does not bear the ticket of Government upon his back? I seem to remember one Horniman as somewhat of an ally of the party which the Hon'ble Pandit, I believe, now leads. I have some recollection of a letter of his published in the newspapers. It did not seem to accord with the view which is taken by his lieutenant now. I have got the words here; the expression used by Mr. Horniman of *Bombay Chronicle* fame, if I mistake not, was 'the recent deplorable revolutionary outbreaks.' Then there was another stout ally, a former ally at all events of that same party, Mrs. Annie Besant. I am

sure many Hon'ble Members in this Council will remember the works of wisdom that fell from her with regard to the situation in the Punjab. Let me remind them; I quote from her letter in the *Times of India* of the 19th of April 1919:—

'I ventured to urge before this movement was started that its logical result was riot and bloodshed, and to point to the danger of a revolutionary movement here. Surely what had happened in Europe was warning enough and I even noted the elements here on which Bolshevik propaganda might work. Are there not in the Punjab signs of such a movement? The cutting of telegraph wires, the derailing of troop-trains, the burning of railway stations, the attacks on banks, the setting free of jail-birds, are not the actions of *Satyagrahis* nor even of casual rioters, but of revolutionaries.'

"I understand that Mrs. Annie Besant has now been disowned as an ally of the party over which my Hon'ble friend, the Pandit, now presides with such skill, but those were words coming from the very party of which the Hon'ble Pandit is now the lieutenant, and I doubt if there is any Member of this Council who, if the proposition is put in the way I have put it, namely, whether there was a situation with which the civil arm was unable to cope, could do otherwise than admit the fact.

"Let us get so far in the argument. Now the next question that arises—I am dealing largely with theory now—is, is it or is it not the duty of every stable Government to maintain law and order in the country? I might go a little further, and say, is it not the first duty of every stable Government to do this? There again I think that even the Hon'ble Pandit will not venture to answer me in the negative. If it is so, if it is the first duty of Government to maintain the public peace, if that is accepted, does it not follow essentially

from that that the Government must have the power to do so? If it is necessary to go beyond what I call the civil arm and invoke the direct intervention of the military, the situation is that which we describe as martial law. If it is the duty of Government to do that, do not Hon'ble Members think that it must follow that Government has the right to do it, and that there must be some sanction behind it? Writers on Constitutional Law have always struggled to find the sanction for martial law. There are three schools of thought which have existed in the past. The first school of thought, which has very much behind it historically, asserts that it is in the inherent power of the Crown to proclaim martial law. Let me not be misunderstood. I mean that if it is in the power of the Crown to put martial law in force, then the municipal courts are unable to take cognizance of cases arising out of it, because what has been done has been by the prerogative of the Crown. I say there is a great deal historically in favour of that view. I do not wish to trouble the Council at length with this, but I think it might interest Members to hear what such a great man as Pitt said in introducing the second Irish Indemnity Bill. He said:—"The Bill which I have to propose is not one to *enable* the Government of Ireland"—mark the word 'enable,' I am not merely emphasizing it, it is in italics in the report—to *enable* the Government in Ireland to declare martial law in districts where insurrection exists, for that is a *power* which His Majesty *already possesses*. That is probably the *locus classicus* of the doctrine that it is a right and a power which the Crown inherently possesses, but it goes possibly a little further than that, because it has been recited that the Crown has that power in at least two Statutes which have been passed by Parliament and therefore Parliament has at all events tacitly acquiesced in that doctrine. However many constitutional lawyers doubted whether the

right of the Crown to enforce martial law could exist after the Constable's Court by which it was ordinarily enforced and by which trials were held had been abolished—and that was in the late Tudor times—and therefore they struggled to find a substitute for the prerogative of the Crown in the sanction of the Common Law itself which the opposite school always denied.

"Here again I do not wish to labour the point. The argument was that the power, as we lawyers say, flowed from the duty, the duty connoted the power following the legal maxim '*necessitas, quod cogit, defendit*,' and there is a considerable school of thought who still maintain that position. But in more recent times another school of thought has taken what is possibly a half-way course and argues that though there may be a prerogative right in the Crown, though there may be a power under the common law to enforce martial law, the safer view at all events to take is that martial law should be followed by validation and indemnity. I think Hon'ble Members will see that this is common sense in many ways. After the disturbances have been put down, we do not want the battles fought all over again in the Courts; what we want is peace and quiet. For this reason the policy has always been to validate afterwards in order to prevent those discussions in the Courts when the crisis is over. That view certainly holds the field in modern times, namely, that though martial law may not be necessarily the negation of law, though it may have a foundation in the law, yet it undoubtedly takes the place of the ordinary civil law in abnormal circumstances, and therefore it is always desirable, always even necessary, for the reasons I have given, that a Validation or Indemnity Act should follow it. Hon'ble Members have referred, particularly Mr. Sarma, to the Regulation of 1804, under which martial law at all events in some districts was put in force. That Regulation, as no doubt Hon'ble Members will remember, gives to the

Government powers to establish martial law and for trials to be held by courts martial. Now, power to establish martial law is in itself a statutory sanction for martial law; remember that 'martial law' means, I need not cite again the quotation from Steven's History of Criminal Law, to which the Hon'ble Pandit has referred. Martial law means the military taking the place of the civil arm in order to enforce law and order. This power to establish martial law is derived from the Legislature in the case of the Regulation of 1804, and we have to read into the words 'martial law' the various things which it connotes, that is to say, if we have statutory power to establish martial law, that makes legal *ipso facto* every act which can be justified by martial law. We in India therefore are in the position of having statutory power to proclaim martial law though it none the less leads us to resort to indemnity. But martial law has not been enforced under the Statute in all districts. It has been enforced under the inherent power in other places. I need only to refer to the case of Bombay which is probably not covered by the Bengal Regulation. But notwithstanding that we have statutory power to put martial law into force in some parts of India, it is none the less necessary, for the reasons I have already given, to have an Indemnifying and Validating Bill. This, if I may say so, is agreed to by every sensible Member of this Council. The only argument I have heard against it is that of the Hon'ble Members who said that there were no serious disturbances in the Punjab, and of those who said 'By all means let us have an Indemnity Bill, but not to-day.' Well, that it is necessary to have some Indemnity Act is beyond question. I will tell the Council in a moment what a length of precedent there is for it. But apart from its being strictly constitutional, I should like to put the question very plainly indeed to some of my Hon'ble friends in this Council, and I would appeal especially to my Hon'ble friend the Maharaja of Kassimbazar, whose speech indicated a somewhat hesi-

tating acceptance of the proposals now before this Council. Do you or do you not want to be protected in your lives and property, whatever may happen in India? Do you wish the Government to do what, I have spoken of as the first duty of the Government, namely, to protect your life and property? And that if they cannot do it through the Police, do you wish them to do it by the use of the Military? Let us have a plain answer to that question from any one who is not prepared to agree to a Validating Bill. If you do not want it, tell the Government you do not want it and the Government will not do it. Let me tell you this that if this Council will not indemnify the soldiers who have had to enforce martial law in order to preserve the public peace, they will not willingly do it again. You cannot place these unpleasant duties on your officers and at the same time leave them, as Mr. Chanda suggests, at the mercy of the Courts. That is not the way to treat officers whom you have asked to protect your lives and property. You have got to indemnify them at the earliest possible opportunity, and unless, I say, you do that, they cannot be asked to take any risks in protecting you. Why should they? Why should a man, in order to protect your life and property or to protect my life and property or any one else's, do that which he knows may subject him to the direst penalties of the law? Remember when we talk of indemnifying officers, it is not the high officers of Government that you are asked to indemnify. It was the Gurkha soldiers who fired on the mob and, may be, killed people; it is the Indian soldiers and Indian officers whom you are asked to indemnify just as much as the British officers. Every soldier who fires according to orders and, may be, kills a person, may be liable under the common law of the country to be indicated for murder. If my property is in danger, or my life is in danger from a mob, whether it be in Amritsar, Delhi or Lahore, can I ask the soldiers to fire upon the mob to protect me if I am not pre-

pared to back them up afterwards by an Indemnity Act at the earliest possible opportunity? Surely not. Let Hon'ble Members come out into the open, let them say that they do not want to be protected, they do not want their lives and property to be protected, let them do what the Hon'ble Pandit suggested constitute among themselves a body of watch and ward, let us get rid of the police. . . .

The Hon'ble Pandit Madan Mohan Malaviya:—"We do not want our lives to be protected at the expense of others."

The President:—"Order, order. The Hon'ble Member has had his say."

The Hon'ble Sir George Lowndes:—"I think the Hon'ble Pandit. It reminds me of a statement once made by one of the most eminent Judges in India to counsel who protested against being interrupted. He said do not worry, Mr. So-and-so; an interruption always shown me where the shoe pinches. . . .

(The Hon'ble Mr. Malaviya here rose to interject a remark.)

The President:—"The Hon'ble Member has for a long time been a Member of this Council and knows perfectly well what order means. I must ask him to observe order."

The Hon'ble Sir George Lowndes:—"It may interest the Council to hear that I had the curiosity to have looked up in our reports the number of interruptions recorded in this Council during the whole of last year. The total was 51. Of these, the Hon'ble Pandit was responsible for 29. It appears to me that he has had rather more than his due share.

"Now, I say if you want officers of Government and soldiers under their orders to protect the lives and property of people, you must be prepared to indemnify them. I say it is necessary, and in accordance with common sense, and that it is in accordance with the practice of hundreds of years in this great Empire to which we have the honour to belong. The limits are perfectly well understood. The limits within which indemnity will be given are the limits

of good faith and doing that which is reasonably necessary.

"They are clearly laid down in every book on Constitutional Law. We are not asking Hon'ble Members in this Council to go beyond that. I shall show in a moment that we are not asking them to go nearly so far as has been done in some cases. If Hon'ble Members will look back to constitutional history, they will note that in the earliest days the turbulent Barons were controlled by martial law.

"In Wat Tyler's rebellion in the time of Richard II martial law was put in force, and though it was directly contrary to the terms of the Magna Charta, men who had taken part in that rebellion were tried by court martial or even put to death without any legal form of trial at all. Coming on to later times we find it again put in force in Jack Cade's insurrection in Henry VI's reign. I do not want to go back for a precedent to ancient days. I only want to make it quite clear to the Council that the enforcement of martial law has been a part of the British constitution from the very beginning, from the Norman times through Tudor times, down to the days of the Hanoverian House and on to the present day.

"When we come to the Georges the questions involved are probably more important, as we get the Acts which have already been referred to. I do not propose to refer to them in any detail except to correct certain inexactitudes which have crept into the Hon'ble Pandit's arguments with regard to them. We have first of all the 1715 Act to which my friend the Hon'ble Pandit referred. I regret to have to refer to it again, but almost characteristic inexactitude the Hon'ble Pandit only read from the preamble of the Act and forgot to read the operative part of the Act. He told us that the Act did not do what as a matter of fact it does. One cannot always, I am afraid, collate from the preamble to an Act what is enacted by it. But let me read on after the long preamble,—the enacting part is there. The only

part which the Hon'ble Pandit did not read, as far as I remember, was this: 'All personal actions, etc., for anything done in order to suppress the Rebellion in 1716, shall be discharged. And if commenced again, the person sued may plead the General Issue, etc., Double Costs.' But the preamble was the only part in which the Hon'ble Pandit was interested, because he preferred to . . .

The Hon'ble Pandit Madan Mohan Malaviya:—"May I rise to a point of order?"

The President:—"On a point of order."

The Hon'ble Pandit Madan Mohan Malaviya:—"I want to explain that I was arguing, on the preamble, and it was not necessary for me to read the whole of the Act."

The Hon'ble Sir George Lowndes:—"Neither necessary, my Lord, nor advisable for my Hon'ble friend's arguments.

"I do not think I need say anything more about this. Hon'ble Members have heard the Act read, apart from the operative part, by my Hon'ble friend the Pandit.

"Next we come to the 1745 Act, and there again the Hon'ble Pandit's researches did not go far enough. The Hon'ble Pandit referred to 19, George III, Chapter XX, which was an Indemnity Act, and which was passed after the disturbances, but he apparently did not find out that before the rebellion began Parliament passed another Statute authorizing martial law being put in force. Therefore, they began before the Pretender's invasion by authorizing the putting in force of martial law, *i.e.*, you have got, curiously enough, almost the same position which we have in India now, that is to say, they were allowed by Statute to establish martial law, as we are here, yet after it was all over they proceeded to indemnify by the Statute to which the Hon'ble Pandit referred. The Indemnity Act of 1745 is practically in the same terms as the one of 1715. The Hon'ble Pandit put forward a tentative argument with regard to these Acts that they can be no model for us because they were dealing with invasions from

outside, 'rebellions' in what may be called the technical sense. He suggested that that was quite a different case. There he said 8,000 Scotsmen flocked to the Pretender's flag and there was a regular war. But I am afraid that argument is destroyed entirely by the next Act of 1780 which dealt with the Gordon riots,—as the Gordon riots were nothing in the world if not purely internal disturbance. My Hon'ble friend Mr. Hailey reminded you of their history, —most Members of this Council will no doubt remember the story in 'Barnaby Rudge,' it was hardly more than a riot, but a riot in the morning which might have been a rebellion in the afternoon and it had to be dealt with by martial law. In that case there was, I believe, no statutory power given to proclaim martial law, but afterwards Parliament granted an indemnity in respect of all the acts that were done. I may perhaps read from the Act of 1780 again. It is very interesting, because it shows how far Parliament went. After the part the Hon'ble Pandit cited namely:—"Divers Acts which cannot be justified by the strict Forms of Law, and yet were necessary"—that is the part the Hon'ble Pandit read—it goes on 'That All Personal Actions and Suits, Indictments and Informations, which have been, or shall be, commenced or prosecuted, and all Molestations, Prosecutions, Proceedings whatsoever, and Judgments thereupon (if any be), against the said Magistrates, or other Persons for, or by reason of any Act, Matter or Thing commanded or done on the Occasions, and for the Purposes aforesaid, or any of them before the twentieth day of June, one thousand seven hundred and eighty, shall be discharged and made void; and every Person, by whom any such Act, Matter or Thing, which shall have been commanded or done, before the said twenty-fourth Day of June, one thousand seven hundred and eighty, shall be freed, acquitted and indemnified, as well against the King's Majesty. * * *'

"It will be seen that the Hon'ble Pandit was again somewhat inaccurate in saying that it

had only a very limited application. It may seem so if you read only the preamble, but if you read the operative part of the Act, it indemnifies and makes good every act done by every person for the suppression of that rebellion.

"Well, let me continue the history as shortly as I can. We come next to the Irish trouble in 1798, which resulted in what is often called the Battle of Vinegar Hill.

"There, again, they not only had the Indemnity Act, 41 George III, C. 104, but Parliament gave beforehand power under Act 39, Geo. III, C. 11, to enforce martial law. So, again, the position was almost exactly what we have here. First of all the power given by the Legislature to put martial law in force, and secondly, the indemnity for anything done under it. It is in connection with the 1798 rebellion in Ireland that the case of Wright and Fitzgerald arose. I think the Hon'ble Pandit referred to it, or, at all events, to the summing up of Mr. Justice Chamberlayne. It is a typical and illustrative case and, I think, the Council may like to know just a little bit more about it. Fitzgerald was a High Sheriff and Wright, as the Hon'ble Pandit told us, was a school master. Fitzgerald ordered Wright, at any rate according to the allegation, to be flogged with 500 stripes (they did not do things by half measures in those days), and he was flogged, and according to the evidence flogged in Fitzgerald's presence, under the most harrowing circumstances, circumstance, I may say, almost as harrowing as those which the Hon'ble Pandit, with such oratorical effect, described to us yesterday. The Judge summed up, as the Hon'ble Pandit has told the Council, there was a sympathetic Irish jury, and he was awarded £ 500 damages. The Hon'ble Pandit did not care to read any further than that. If he had looked on a little further, he would have seen that the case went on to the Court of Exchequer and was quashed and Fitzgerald, the High Sheriff, got his full costs. Therefore, the end

was not quite where the Hon'ble Pandit left it. So much for Vinegar Hill and Wright and Fitzgerald.

"Now let us pass on to 1803, Emmett's Insurrection it is usually called. That was a case which was curiously like the present one. A mob went about in Dublin killing everybody they met who did not belong to their persuasion. In a fit of what, I suppose, my Hon'ble friend Mr. Ayyangar would call rashness, or it may have been pleasantry, they killed the Lord Chief Justice. There was no time for Parliament to authorise the proclamation of martial law, but the Government put it in force and they passed the usual Indemnity Act 43, George III, C. 117. I do not wish to speak about martial law in Ireland at this day, though it is a matter which touches us very nearly. Many Members of this Council may no doubt know that Ireland is at present under martial law, but they have not got to the indemnity stage yet. Let us now go to South Africa. I am only endeavouring to show the Council how entirely constitutional the putting in force of martial law is when the civil arm cannot cope with disturbances, and that in every case it is almost necessarily followed by an Indemnity Act at the earliest possible moment. In South Africa, the story begins with 1835; again in 1846, and again in 1850, martial law had to be put into effect, and in every case there was an Act of Indemnity passed by the local Legislature. The case, therefore, is in this respect nearer to our own. Then in 1900 and again in 1902 and again in 1914 in South Africa, we find martial law in force and Indemnity Acts, passed which the Hon'ble Pandit has or would have referred to, if he had had the books. In 1900 there was Act VI of 1900 which was a full Indemnity Act, much fuller than this one. I think perhaps I may go into the terms of it very shortly. Hon'ble Members will find in that Act that very objectionable clause which, I think, my Hon'ble friend Mr. Sarma, and, if I remember aright, Mr. Sinha, have referred to; 'every such act, matter or thing re-

ferred to in the preceding sections shall be presumed to have been advised, commanded, ordered, directed or done, as the case may be, in good faith until the contrary shall be proved by the party complaining.' The terms are little wider than in our Bill. By that Act they indemnified people in respect of 'any acts, matters and things whatsoever in good faith advised, commanded, ordered, directed or done as necessary.' I draw attention to those words because, in drafting the Bill which is before the Council, we have had all these models before us, and what we have in the Bill about 'in the reasonable belief that it was necessary,' is merely a translation of the expression I have quoted which you find all through these recent South Africa Acts—I mean '*done as necessary*.' I think any lawyer will agree with me that 'done as necessary' means done in the belief that it was necessary. But in order that there should be no doubt about it, we have thought it was better to translate it into plainer language.

"When we come to the second of the more modern South Africa Acts, we find exactly the same words; it is to be an indemnity 'for or on account of or in respect of any acts, matters and things whatsoever in good faith advised, commanded, ordered, directed or done as necessary for the suppression of hostility and the establishment and maintenance of good order.' Then, again, there is exactly the same clause with regard to the presumption; 'every such act, matter or thing referred to in the preceding section shall be presumed to have been advised, commanded, ordered, directed or done, as the case may be, in good faith until the contrary is proved.'

"Let me for one moment dismiss, if I can do so, the argument that has been raised on this. It has been suggested that we are doing something outrageous in providing in this Act that the onus of proving ill faith is to be on the man who alleges. But is this not the essence of our criminal law? I may be wrong in thinking so, but this is why I ventured to interrupt

my Hon'ble friend Mr. Sinha, who put forward, as I thought, the suggestion that it was not for the prosecution in criminal cases to prove intent or ill-faith. But, is it not the basis of the law which we have inherited from the British constitution, that you presume every man to be innocent until the contrary is proved? And does this go any further than that? At all events, it has been adopted in every modern Validation Act, and we have frankly followed on the same lines. I was asked by the Hon'ble Pandit whether I had taken the Act of 1906 for my model. I told him that the actual model was the most recent Act of all, the 1915 Act. I think probably the Council will agree with me, that, so far as I am responsible for the drafting of any Bill, I follow the most recent model; and that is what I have done, though, as I said before, we have, I believe, examined every Indemnity Act we could get before we started to draft this Bill.

"Now as to Act XI of 1915, of which I am glad I was able to give my copy to the Hon'ble Pandit though I am afraid rather late. It provides that 'every act, matter or thing referred to in sub-section (1)'—the general words are in the previous section—'shall be presumed to have been advised, commanded, ordered, directed or done (as the case may be) in good faith until the contrary is alleged and proved by the party complaining.' We have that again. Then we have the specific provision with regard to sentences, which again I may read and, I think, Hon'ble Members will see that our Bill does not go nearly as far as this really.

"The several courts martial and military and special tribunals constituted and convened by or on the authority of the Government or its officers during the period aforesaid for the trial and punishment of persons guilty of treasonable, seditious or rebellious conduct, or of persons subject to military law shall be deemed to have been constituted in accordance with law, and the several sentences pronounced by all such

courts and tribunals, as well as by Magistrates' courts or other inferior courts, for any contravention of, or failure to comply with, any law or statutory regulations known as martial law regulations, or any orders or instructions, given on the authority thereof, are hereby confirmed.'

Hon'ble Members will notice that we have not gone as far as that in our Bill. Sub-section (2) says:—

- (2) 'Every person confined in any prison, gaol, lock-up, or in any other place whatever under and by virtue of any such sentence aforesaid shall continue liable to be confined therein or elsewhere as the Minister of Justice may direct, until the expiration of such sentence, or until released by the Governor General in the exercise by him of the Royal mercy, or until otherwise discharged by lawful authority.
- (3) 'Every such sentence shall be deemed to be a sentence passed by a duly and legally constituted court of the Union, and shall be carried out or otherwise dealt with in the same manner as the sentences of such a court.'

Those are the material sections of the latest South African Act, and there is a great deal more in it that my Hon'ble friends will see follows largely the previous models of 1900 and 1902.

"Then if I may pass away from South Africa and follow up the other cases in which martial law has been proclaimed and followed by indemnity, we have the very well-known case of Jamaica in 1865. A long pamphlet dealing with all that happened has been published at the Tribune Office, an office, I think, not unknown to my Hon'ble friend the Pandit; and it was to me rather remarkable that he did not refer to the contents of that pamphlet in any way at all. Perhaps we should be glad he did not or he might have been addressing the

Council till now. But there was much in that pamphlet which, I am sure, gave him food for reflection. It deals with the well-known case of Governor Eyre. He arrested a man called Gordon, who was believed to be the centre of the insurrection in Jamaica, outside the martial law area altogether, and executed him. An Indemnity Act was passed by the local Legislature, and then Gordon's widow came to England and prosecuted Eyre under an Act which allows Colonial Governors to be prosecuted in England, for the death of her husband, claiming damages. The case was a *cause célèbre* at the time, and allegations much like those that have been made by the Hon'ble Pandit were made with regard to the doings in Jamaica. The case came before the Grand Jury. The Grand Jury were charged by one of the greatest of Judges, and they did as they were entitled to do, as men of common sense would do presumably in such case, they threw the indictment out and there was an end of it; they would not allow it even to be tried. There was another case to which the Hon'ble Mr. Sinha, if I remember aright, referred in connection with the Jamaica riots. That was the case of Eyre and Phillips. But the sole question there was, whether Eyre the Governor was within the Indemnity or not; there was no other question concerned. My Hon'ble friend Mr. Sinha has referred to the report of the case in the Queen's Bench. I should have liked to refer to the report in the Court of Exchequer, but when I asked for the book, I found that the Hon'ble Pandit had unfortunately taken it away to the farthest end of Simla. It has now been given to me, but too late for me to quote. All I need point out is, that the only question before the Court was whether this case was covered by the Indemnity Act or not, whether an Indemnity Act passed by a local Council could indemnify its own Governor because he was a party to it. I am speaking from recollection, but I think, the Hon'ble

Mr. Sinha will agree that that was substantially the sole question decided in that case.

"Then let us come nearer home, to Ceylon. In Ceylon, they had martial law in 1848 and they had a local Indemnity Act there, but I am afraid I have not got it. The same thing happened in St. Vincent in 1862 ; material law proclaimed and followed by an Indemnity Act. And as the Council have been told, in India, after the Mutiny, we had an Indemnity Act, Act XXXIV of 1860. It is rather material perhaps to refer to that Act because Hon'ble Members will at all events see that, in bringing this Bill before the Council, we have not gone as far as we might have. The Act of Indemnity of 1860 was in very wide terms. I need only read section 2, which is the material one.

'All acts done since the tenth day of May, 1857, in connection with the late disturbances by officers of Government or by persons acting under their authority or otherwise, in pursuance of an order of Government, or which shall have been or shall be ratified by the executive Government, are hereby confirmed.'

That meant that the Executive Government was made the sole arbiter as to whether a man was to be indemnified for a particular act or not. Surely we have got a good deal more liberal a measure here, in that we leave it to the Courts to decide whether any act complained of was done *bonâ fide* and in the reasonable belief that it was necessary for the suppression of disorder.

"With regard to the question of reasonable belief, which has been somewhat attacked, it may be useful to read to the Council what one of the greatest Lord Chancellors said in the House of Lords in a debate on the Gordon Riots in 1780. It appears to me very material on this point. Lord Thurlow was the Lord Chancellor at the time, and he came down from the Woolsack to address the House. Of

course I am not going to read the whole speech, but only a very short passage. Hon'ble Members will remember that the Gordon Riots were purely civil disturbances. There was no case of an invasion from outside. The Gordon Riots were very similar to the present case. They were an attempt to overawe the Government and induce them to repeal the Catholic Disabilities Act which had recently been passed. The cry was 'No Popery' 'Repeal repeal.' This was very much like the object of these disturbances in the Punjab which was to get this very timorous Government to repeal the Rowlatt Act. Lord Thurlow said:—

'Under the circumstances it was, and after it had been in vain endeavoured to quell the riots by the intervention and authority of the Civil Power, that the Military were employed; and therefore, the case being so far similar to the Rebellion in 1715 and 1745, that there was an actual insurrection, that the law of the land were trampled under foot, and the King's Government opposed. The military as well as everyone in a brown coat were justified in the commission of such trespasses and acts of homicide for the purpose of restoring the public peace as were justified in the year 1715 and in the year 1745.'

This disposes entirely of what I may call the argument of the Hon'ble Pandit that martial law is only applicable where there is a case of invasion. In the Gordon Riots the military and private persons were entitled to do everything that they were entitled to do in 1715, and in 1745 when martial law, as Hon'ble Members will remember, had actually been declared by Act of Parliament, though here it had not. I will continue my quotation 'to do everything that was justified in the years 1715 and 1745 for the purpose of putting an end to the rebellion then on foot in the Kingdom.' Not that he meant to say that either soldiers individually or collectively any more than private persons might not in their endeavours to quell the out-

rages, etc., lately committed have been guilty of some things which, under a cool legal investigation would appear to be contrary to law and punishable either by the Common or Statute Law of the Realm, for, undoubtedly, in opposing, repressing, and quelling such daring outrages as had been perpetrated, the military, as well as individuals, must necessarily have been forced into excesses; but when the occasion was duly considered, and the extreme hurry and violent confusion in which all men who joined in restoring the public peace were obliged to act, those excesses would be seen to have been unavoidable, and to be the proper objects of an Act of Indemnity, but not an Act more necessary for the military than for other persons who had done as the military had done, and been instrumental in effecting that good purpose which the military had effected.

"My Lord, I think three points emerge very clearly from this speech of Lord Thurlow. The first is, that the power of enforcing martial law where disturbances have gone beyond the civil arms is very akin to the right of self-defence; it is so not in the case of soldiers only, but of everybody else. Secondly, it shows that we should look at the acts done in the light in which Council are asked to look at them, under this Bill, namely, considering whether the persons who did them did them in good faith and in the reasonable belief that they were necessary. The third point is quite clear from what the Lord Chancellor says. In doing that we have to take into account the circumstances of the time, the excitement of the moment, and the fortunate fact that the man may have no one to consult. These are the legitimate circumstances which have to be taken into account. That, I venture to submit, is very material. In this connection I draw the attention of Council to the fact that the Bill reserves power to Government to prosecute in any case where it

may find it necessary. No one in dealing with this Bill has referred to that point. Clause 6 (c) runs 'Nothing in this Act shall prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever. Thus Government is not precluded from taking any action against an officer that is necessary. Then I draw attention to clause 6 (b), in which though we have confirmed sentences we have not gone nearly as far as was the case in the South African Acts. We have left the right of appeal to the Privy Council fully open. Under that clause if any appeal goes to the Privy Council, it will be decided as if this Act had not been passed. We cannot do more. If these sentences are monstrously unjust, if these tribunals have no jurisdiction, if there has been a denial of justice, if there has been a travesty of justice, (I believe I am correctly repeating expressions which have been used in this Council), the Courts are open and in England, the Privy Council will listen to any appeal on these grounds if a case can be made out. Years ago in Dillet's case it was laid down on what lines the Privy Council will hear appeals in criminal cases. If, as I say, there has been any denial of justice, we have left it open to the persons aggrieved to go to the Privy Council, if there has not been a denial of justice, surely the sentences must be confirmed.

"There is much I should like to say in answer to my Hon'ble friend Mr. Sinha and again in answer to the speech of my Hon'ble friend Mr. Sarma, but I am afraid that at this hour I must resist the temptation. However, I cannot help referring in conclusion to one dictum of my Hon'ble friend Mr. Sinha. He said 'what is the good of my trying to persuade the Government.' I think I may console myself with the retort 'What is the good of my trying to persuade Mr. Sinha?'"

5. WHAT THE PUNJAB MEMBERS THOUGHT

The Hon'ble Sardar Sundar Singh Majithia:— "My Lord, I must confess that some of us, non-official Members, who are not well versed in legal technicalities—being laymen so far as law is concerned—are placed in a very awkward position when they are required to assent to a measure like the one we are discussing to-day and for the introduction of which leave has been asked by the Hon'ble the Home Member. Persons like myself feel the weight of responsibility very heavy; I cannot say for others but for myself I have felt very keenly. We have, as dutiful subjects of the King-Emperor, a duty to His Majesty the King-Emperor and to the Government established under law in this country; but, on the other hand, being representatives on this Council of the people we owe a duty to our fellow subjects which we have to discharge to the best of our abilities. I can assure your Lordship that I have been feeling this responsibility very keenly and the tension on my feelings for the past few days has been very great. Under such circumstances one could only bow before the All-Omnipotent for light being granted for guidance in the path which may be the right path.

"When I first heard of the Indemnity Bill I was under the impression that we were to be asked to indemnify all actions of Government officers, whether they were done in good faith or not. Till I had seen the Bill, I was under this impression and as such I felt that I could not give support to such a measure, knowing as I do some of the inconveniences and indignities that some of my countrymen have suffered during the currency of the martial law in my province. I have not the remotest inclination to defend those who have broken the law, and I have no hesitation in saying that no Government can afford to let

such actions go unpunished. No man who loves peace and order could possibly side with such people who break law and commit atrocities which cause feelings of horror and contempt in the minds of right-thinking and law-abiding persons. But, on the other hand, one cannot shut one's eyes to some of the doings in my province. My Lord, this, however, is not the place to talk of those things, So I would not touch that point at all, as I believe and as I think that they are to be sifted into by the Committee of Inquiry that has been appointed by your Excellency. On the other hand, I would not withhold protection to those officers of Government who have done their duty during these trying times conscientiously, and whose actions have been taken in good faith and in a reasonable belief that they were necessary for the maintenance of law and order in the country. I understand that after martial law an indemnifying measure has always been enacted. Such a measure was passed in 1860 in India. I am not a lawyer, but I am told that that measure was of a more severe nature and went much further than the one introduced to-day. I am also told that indemnifying measures have been passed in other countries also, such as South Africa and nearer home at Ceylon. I would therefore be prepared to give my assent to the measure before us to-day; but I want to be assured fully that Government has no intention to afford protection to those who have acted against the strictest sense of justice and against good faith. Though personally I have no doubt on this point and I am sanguine that Government have no intention of that sort, but an assurance of this nature will satisfy public opinion in the country. One thing more, before I give my assent to the measure before the Council, I would like Govern-

ment to agree and concede that all cases tried under martial law will further be examined and that wherever injustice is found to have been done, those who are detained in jails will be given their liberty. I am glad that the point has been conceded and that two High Court Judges will revise these judgments and I thank Government for this. I have no wish to ask any clemency for those who have committed atrocities; but on the report of the Committee of Inquiry I would suggest that amnesty be granted, as I think that many of those unfortunate persons have in the heat of the roused feelings been led astray from paths of righteousness and of their duty as law-abiding citizens of the Empire. With this assurance that the Act does not white-wash all actions done in bad faith as against good faith and with the promise of a further reconsideration of the cases tried by martial law courts, I would give my assent to the measure before the Council. I have avoided making any mention of the unfortunate happenings in my province as this Council Chamber is not now the right place for these to be ventilated. They are in a way *sub-judice* and till the report of the Committee of Inquiry is published, we must suspend our judgments. The other day I asked for an assurance for the protection of persons who come to tender evidence before this Committee of Inquiry. I understand that the Home Member is willing to give that assurance and that steps will be taken to duly proclaim this to the people. I would, therefore, beg my Hon'ble friends and colleagues to refrain from bringing in matters which are now in the province of the Committee of Inquiry to inquire into and sift."

The Hon'ble Major Malik Sir Umar Hayat Khan:—"My Lord, a telegram has just been received, and I believe two or three pleaders sitting together have drafted it in the name of the whole of the Punjab to delay this Bill. Of course, all the other subjects of His Majesty, who form about 99 per cent., have also to be

kept in view. I had agreed, some of the members had agreed, if Government did not bring forward this Bill, to remain silent; but now that the Bill is before the Council, I wish to say what I originally wanted to.

"While welcoming the Bill which is a very ordinary measure and always follows disturbances and martial law, I am of opinion that it has come rather late, and now that it has come it should be passed at once. It is a good thing that hitherto no one has sued any of those subordinates who acted under orders of their superiors and who in turn acted with the best of intentions to speedily quell a fire, the flames of which would have spread to the rural population from which the Army is recruited and that, *plus* the Frontier troubles at a very critical time of the year, may have proved disastrous for a while. I hope that the loyal soldiers and other officials will not be left a minute more without the protection of this most urgent Bill and that it will be passed into law.

"Before the Bill was introduced we had many consultations, and the main objections to the Bill were that it would prejudice the Committee of Inquiry and hamper its work and that the unwarranted acts of various individuals and officers would go unpunished. It looks as if the Government of India had deputed a spy with us because they have framed the Bill in such a way that they have met all the possible objections which one could raise. This could be seen from the Statement of Objects and Reasons where it is clearly pointed out that 'It gives protection only to acts done in good faith and in a reasonable belief that they were necessary,' etc. It continues further:—"It thus leaves open the question of fact in any given case to be considered by the intended Committee of Inquiry, and does nothing to prejudice the Committee's findings or the action which Government may take upon its report.

"Now coming to the preamble of the Bill in

which it is said:—'It has been necessary for the purpose of restoring orders to resort to martial law' I would like to offer certain observations to show the state of various places in the province where martial law was necessary.

"Apart from the section which was responsible for the disturbances the general population deplored it and positively knew that this was all due to an organized conspiracy, and it will not be out of place to quote a portion of the address presented by the Muhammadan community of the Punjab on the eve of Sir Michael's departure. This community form the majority of the population. On that occasion representatives of nearly all the districts of the Punjab were present. It runs as follows:—

'Although towards the conclusion of your Honour's brilliant régime the enemies of law and order as a result of an organized conspiracy which may be the outcome of a foreign influence, succeeded in deluding a section of the people into riots and disturbances, yet it is a standing tribute to your Honour's far-sighted statesmanship and firmness that the situation was soon got well in hand and by using the speedy and effective method of martial law peaceful life is once more possible for the law-abiding citizens of our chief towns.'

"Later on when all the spiritual leaders met to condemn the action of the Amir of Afghanistan in declaring war against India and thus naturally against His Majesty's Muhammadan subjects and to say farewell to Sir Michael they said:—

'We condemn the actions of those enemies of the country whose conspiracy has brought about disturbances in the country.'

"So from this it will be seen that the general public apart from evil-doers recognized that there was a conspiracy at the bottom of all these affairs.

"The Hon'ble the Home Member held an

inquiry into the doings of the *Gadhr* Party, *i.e.*, those who wanted to bring about mutiny in the beginning of the war and what were their methods? They intended to cut the telegraph wires, break the railway lines, derail the trains and plunder the public, etc. What did the recent conspirators do? They took exactly the same line and the whole thing was very cleverly managed. Meetings were convened in the mosques to unite Muhammadans. It was known that the Muhammadans had strained feelings about the Turkish affairs, and if their mosques were bombed or fired upon, it would infuriate them. Such meetings were held in Delhi, Lahore and various other places. The same thing was planned in Amritsar with regard to the Sikhs in which they succeeded to a good extent and spread all sorts of rumours about the Durbar Sahib, the Golden Temple. But it was owing to the loyalty and far-sightedness of the Sikh nation that their designs were frustrated. The similarity of action which I explained the other day in various centres at one and the same time illustrates that the origin was the same. The time of a great fair chosen to spread the propaganda with most ease was cleverly fixed where people from all the rural parts of the country assemble so that they may carry it with them to the villages. The columns of the extremist newspapers were engaged for propaganda and though we may now satisfy ourselves that the editors of some such papers were punished they had done their work.

"On the 5th of April last every thing was so ripe that all sane thinkers knew the trouble had arrived. Though this was also known to the authorities and though some arrangements of police and troops were made as a safeguard, I am sorry to say the authorities were yet doing things in a half-hearted manner. Knowing that there would be trouble, I offered my services with my men and sowars to help the Police which were accepted and from that time onward I continued to work throughout

the disturbances helping the Police, Publicity Board and the military authorities.

"From this it will be clear that everyone knew perfectly well the impending danger. Although the Lahore authorities prohibited the forming of any procession next day, the 6th of April, all such orders were disregarded and though the facts were reported and later on they saw it for themselves, they were weak in not enforcing their orders. This weakness so encouraged the mob that from that date onward no man with a title or one considered to be of the Government party could appear among the public. The war cries of 'Hindu Mussalman ki jai' meant that both the communities had joined in a common cause by eating and drinking together. The excitement of the public went on increasing while the prestige of Government went on decreasing. When on the 10th, things reached their climax, all this time the Punjab Government was hesitating and minimizing the gravity of the situation.

"As the martial classes of the Punjab were about to give a farewell party to the Lieutenant-Governor, and as most of the leading men including the members of the Provincial Council were present a deputation waited upon a high official to impress the delicacy of the situation just before disturbances had broken out. When the disturbances had broken out on the 10th, the Punjab Government summoned all the representatives of Lahore, as well as those of the other parts of the Province, to discuss the situation, and out of thirty or forty members representing all sections and classes, except two, were all unanimous in advising the Government to be firm and take strong and immediate action so that the disturbances would not spread to the rural areas. But I am sorry to say that the Punjab Government did not follow the advice and still hesitated to take any proper action. This was interpreted by the people as inability of the Government to do anything, and disturbances at various places like Gujranwalla, Kasur, etc., were the result.

Had martial law been introduced earlier it would have saved many lives and disastrous results. I have dealt with this at some length to show the state of affairs. Most of the students who were approached by some of their teachers were wearing the black badges of martyrs and did not attend the schools and colleges. The Railway employees had also been approached and had struck work. Apart from the various strikes a Danda Battalion with heavy clubs was in charge of Lahore city who terrorized all the peace-loving people who wanted to assume normal conditions. Free food was supplied to all these and other evil-doers while the rest of the population could not get sufficient to eat, many having reached the point of starvation. The Council will have heard the sad story which Mr. Thompson has just related of these children who could not get food.

"A regular agency of exaggerated rumours against the Government was opened. The emissaries reached Peshawar and then further on to Kabul. This will prove, I hope, the necessity of the preamble of this Bill.

"It will be admitted on all hands that acts committed by the soldiers under orders of their superiors are *bonâ fide*. But if it may be considered that the higher officials are to be blamed for harshness I have already stated the case of some at Lahore for so delaying action.

"In Gujranwalla, the rebels the whole day burnt building after building belonging to the Government as well as the records, church and station, and the authorities took no action till evening, when some aeroplanes turned up. If the night had fallen before their arrival none can foretell what would have happened during that time.

"The excuse that the local authorities have put forward at Gujranwalla that they did not fire and allowed everything to be set on fire all the day long was that young children were put forward as a shield, and had they fired upon the mob the children would have been

killed. But this was no novelty as the same thing was tried at Malakwal and even at Amritsar, which fact you would have heard and seen when a photo was shown in a debate the other day. The law clearly provides in section 106 I. P. C. for it.

"Thus the authorities cannot hold it as a good excuse. It is said one of the bombs was thrown intentionally on a Boarding House at Gujranwalla, and the officer in the machine is accused for it. It will not be out of place if I say this from my experience that bombing by aeroplanes is not always very accurate and generally does not hit the target one wants to. At an Arab village we had a camp scattered in about a mile square. A famous Turk came to bomb us in an up-to-date German machine. In all his attempts he missed the whole camp and hit a mule at a good distance away from the camp.

"In many other places all the Government stacks of fodder were being burnt and all the grass preserves were used as common property. Even His Majesty's effigies were made and burnt.

"It was not only in Gujranwalla that this was done, but I know of certain cases in Lahore where students and a few others did this. The evidence was not sufficient to prosecute, but it is a fact that this was done. All attempts were made to approach soldiers to detract them from their allegiance, but thanks to God, owing to their staunch devotion and loyalty as well as their knowledge of the strength of the British arms, all attempts were frustrated on which mostly the conspirators depended and all their calculations went wrong as those of the Kaiser William, and law and order was restored. All of those who were trying to quell disturbances and at the same time had to meet the Frontier troubles, faced a critical situation, and no one for a moment could predict that all this dark cloud and storm would pass away in such a short time. So provision had to be made for all eventualities

"If all this does not show that it was a conspiracy of waging war against the Crown and the necessity of martial law, no one can understand what more was needed.

"My Lord, when all are accusing the Punjab Government for hasty steps, we who know the facts complain of their over-cautiousness which has been mostly the cause of some of the mufassil disturbances and maintaining martial law for such a long time. Had martial law been introduced three days earlier it would not have been necessary to continue it more than a week or two, and there would have been no necessity of constituting courts under the law nor would so many people have gone to jails.

"My Lord, I have patiently heard my friend the Hon'ble Pandit Sahib and I not only praise his endurance but congratulate him on his masterly speech in defence of those accused in the recent disturbances. It is simply natural that in so doing he should advocate their cause and theirs only. But this is only one side of the shield. The accused that he has pleaded for are a fraction of a class which in itself is a fraction of the population of our province. The dumb masses of the rural population were never counted an asset in politics, but now they have become such so as to be reckoned. The acts of some of these criminals brought restrictions on the free movements of this overwhelming peace-loving population and the inconvenience that they had to undergo for the acts of the above-mentioned few made them come out of their general silence. Their feelings could be only known to those who live among them and know their language. In the village Daras as well as in trains abuses were levelled on the class which brought about the troubles in the Province, through which they were suffering so much. But as they do not possess an organ their prepondering voice is lost.

"Though a case has been made out minimizing the gravity of the situation and certain

challenges have been thrown out, I accept some. It has been said in the debate by my Hon'ble friend who sits on my left that the Government communiqué said everything was quiet at Lahore.

"The feelings in Lahore, though at the highest, which could be ascertained from many acts, had to be minimized when a communiqué for the general public in the Punjab was prepared. Any intimation of gravity to the public would have brought about disastrous results in the rural masses.

"There was a question of joint press telegram not coinciding with the Government communiqué. The reason was that one of the criminals was responsible for so wrongly reporting, who has been brought to book and is now in jail.

"I would now like to state some questions of fact not in a form of speech but taking them one by one.

- (1) It is said that of the cases where the Indemnity Act came into operation in England there were sixty thousand people who demonstrated against the Law. I can safely say that the mob in Lahore was well over a lakh and perhaps even two.
- (2) It has been discussed that one of the acts to justify martial law was in the case where jail-birds were set free. This was being attempted in Gujranwalla that evening, if the aeroplanes would not have arrived.
- (3) There is no denial about the fact that when the *Ghadr* Party started its operations there were widespread disturbances in the rural places like Jhang and Muzaffargarh, etc., and if not nipped in the bud by the Punjab Government, things might have resumed exactly the previous course even this time.

"Jhang and Muzaffargarh disturbances were in rural parts and it was possible that such

could occur in that connection all over the country.

"On the 6th, many of the students in defiance of law went to the River Ravi and formed a procession which was strictly prohibited by the Government authorities. When I first met them, as I had volunteered to do, there was no policeman in uniform so as to stop them. Their demeanour in forcing the shops to be closed and keep away people from their business was such that it was essential that they should be forbidden to take part in politics, and I hope the authorities responsible will be called on for not exercising better control.

"During this time when there was a grave danger that the rural population might be affected I was deputed to go to my district for two days. I found that a campaign of false statements was being carried out in trains as well as in the mufassil. Some of these were that Lahore and Amritsar were lost to the Government, and that they were rapidly losing other places, the army was out of hand and the Europeans were being killed wholesale. The rumour was that all the communications were being cut and parties had started for doing so in each district. In my district I had to raise within a day three hundred horse-men to look after a long Railway line and the authorities had to raise some more men to guard various other portions of the Railway line.

"A reserve had to be kept in hand at the Headquarters to rapidly move to any site of disturbances. It was owing to these precautions that nothing happened there and the same sort of measures had to be taken in nearly all the districts.

"It has been said that Jai of King Emperor was also repeated by the mob. I am sorry to say that it was not the word 'Jai' but it was 'Hai, Hai.'

"From Delhi came letters and men to press on the shopkeepers to suspend business. Some of those who used to buy cloth from the big

firms and were given latitude to pay money after it was sold, the demand came that if they would not suspend business they would be required to pay money immediately. If this was done their bankruptcy was sure and certain. Thus they were forced into the arena.

"Some poor men who were in debt to these people had also to join them.

"Then it is said that nothing serious happened in Lahore. The reason is that later on ample arrangements were made ; the army was on the spot and the evil-doers were absolutely helpless to be able to do anything. As long

as they were not checked some heads were being split in the language of my Hon'ble friend on my left.

"The Western Punjab next to the Frontier was so frightened by the disturbances in the east and declaration of war in the west that they all collected to form organizations to save themselves.

"I only put forward these few remarks at the end to throw some light on the real state of things, and with these remarks I support the Bill."

6. THE SOLDIER'S POINT OF VIEW

The Hon'ble Lieutenant-General Sir Havelock Hudson:—"My Lord, my only reason for intervening in this debate is to clear up one or two remarks which have been made by my Hon'ble friend, the Pandit, as regards the action of certain officers and others connected with the suppression of rebellion in Amritsar. I do not think the Hon'ble Member has given these events in their clear perspective, or in their proper perspective. The first event to which I shall refer is the Jalianwalla Bagh, and in order to give the situation as it would appear to the Officer Commanding at Amritsar, I must ask your Lordship's permission briefly to state the situation at Amritsar on the 10th of March. We have the attempts of the crowd in the Civil Lines, the troops stoned and ordered, after due warning, to fire; the attack on the Telegraph Office; the Telegraph Master rescued by an Indian Officer when in the hands of the mob; the murder of a European guard at the goods station; the murders of the Manager and Assistant Manager of the National Bank; the murder of the Manager of the Alliance Bank; the attack on the Chartered Bank; firing of the Town Hall and its sub-post office; looting of other post offices; attack on the Zenana Hospital; the assault on Miss Sherwood, the burning of the Indian Christian Church, and attempt to fire the C. M. S. Girls' Normal School; the murder of a sergeant of the Military Works Department; a second attempt of the mob to break into the Civil Lines; troops again stoned and ordered to fire, later on towards nightfall systematic destruction of all lines of rail and telegraph communication; and, finally, the destruction of two small railway stations and the looting of a goods train,

"My Lord, does not this read rather like the preamble of the Indemnity Act on the Gordon riots of which the Hon'ble Pandit kindly made us a present? The above would be the situation as it would appear to an officer who found himself in a position such as confronted the General when he assumed command at Amritsar on the 11th April last. It will be realized, I think, that the situation was one of unexampled gravity. The Commissioner of the Division had definitely stated 'that the situation had passed out of his control,' that he must rely on the military authorities to restore order by the exercise of military force. The city was in the hands of an unruly mob; organized attacks had been made on Government property; Banks had been burned and looted; railway and telegraph communications had been interrupted; inflammatory posters inciting to 'die and kill' had previously been posted on the clock tower in the heart of the city, and the lives of Europeans had been taken in circumstances which I shall not describe in detail. It would be clear to the officer in command that the rebellion was not confined to Amritsar alone. He would be aware of the riots at Delhi and Lahore, and he would have had an opportunity of gauging the temper of the people by his personal observations. He would have been aware of the danger of the spread of the rebellion into the surrounding districts. As an officer in a highly responsible position he would know that it was his duty to take all measures necessary to restore order, and that his actions would be judged by the measure of his success in so doing. He would also know that he would be held personally responsible for any action of his which might be considered to be in excess of the reasonable

requirements of the situation. You cannot conceive that any officer on whom such a responsibility had been thrown would enter on his task in any spirit of light-heartedness ; nor would an officer of his seniority and experience (he had 34 years' service) set about his task with a disregard of the sanctity of human life or with a desire to exact reprisals for the acts of rebellion which had already been committed. His first act would be to dispose his troops with a view to the protection of life and property. His second would be to warn the populace as to the result, if it became necessary, to use military force in the suppression of further disorder. These are the steps which were in fact taken by the officer in command at Amritsar.

"On the 11th and 12th he re-organized his troops and on the 12th he marched a column round and through the city in order that a display of force might have its effect on the minds of the populace. We have it on record that the bearing of the inhabitants was most insolent, and that many spat on the ground as the troops passed. From the shouts of the mob it was clear that they were in an entirely unrepentant spirit. No military force was used on this occasion as the officer in command decided to issue proclamations as to his future intentions before employing such force. From a military point of view he would have been quite justified, I hold, in using force on that day, but the General Officer Commanding decided to pursue his policy of patience and conciliation. A proclamation was issued on the evening of the 12th and on the morning of the 13th April, the Officer Commanding marched with a body of troops through all the main streets of the city, and announced by beat of drum his intentions of using force should occasion arise. The people were permitted to collect in order to hear the proclamations.

"The announcement that unlawful rassemblies would be dispersed by fire was received

with jeers and cries indicating that the mob had no belief in the sincerity of the warning given. While the troops were still in the city, information reached the Officer Commanding at about 12 o'clock that, in spite of his proclamation, a big meeting of rebels would be held at the Jalianwalla Bagh at 4-30 that afternoon. As this place had been used before for meetings, and as large assemblies had been addressed by the heads of the agitations on the 29th and 30th March and the 2nd April, and as a dense mass meeting had assembled here on the 6th during the *hartal* and had listened to speeches intended to bring Government into hatred and contempt, it would have been clear to the officer in command that he might expect deliberate defiance of his orders. Now, he was well aware of the events of the 10th April when the murders of Europeans and the attacks on property had been made and when the firing which had been employed to suppress these disorders had been totally inadequate. The Officer Commanding at Amritsar had to decide about midday on the 13th of April how he would act if the projected meeting took place in direct defiance of his authority. After making dispositions for the safety of his command, he found that he had but a small striking force at his disposal. I believe the number was 25 men of one regiment and 25 men of two other regiments, belonging to the Indian Army, and, in addition, 40 Gurkhas armed with *kukris* only, and two armoured cars. Realizing the gravity of the situation the officer commanding did not send, as he might have, a subaltern in charge of this small force. He realized that it was an occasion on which he, and he alone, must exercise the full responsibility. He marched this force straight to the Jalianwalla Bagh leaving the armoured cars which he had also taken with him behind, because they could not get into the Bagh. On reaching the Bagh his force was confronted by a vast assembly, some thousands strong, who were being

harangued by a man who was standing on a raised platform. The Hon'ble Pandit would give us to believe that this was a fortuitous meeting of villagers and that they were listening to a lecture. That was not so in accordance with the facts, so far as I have been able to gather. It was clearly the duty of the officer in Command to dispose this unlawful assembly. Realizing the danger to his small force, unless he took immediate action, and being well aware of the inadequacy of the measures taken to restore order on the 10th of April, he ordered fire to be opened. The crowd was dispersed and the force was withdrawn. I have given the Council this narrative to show how the situation would be viewed by the soldier, and will content myself with saying that from a military point of view the sequence of events justified the exercise of military force, and that the subject of its exercise was fully attained. Also, from a purely military point of view, the Officer in Command would have been gravely at fault had he permitted the elements of disorder to continue unchecked for one moment longer.

"The next point which I wish to turn to is another one to which reference has been made. It is the issue by the Officer in Command at Amritsar of orders that any persons who wished to pass the scene of the assault on Miss Sherwood should be made to crawl on their hands and knees. As this incident has been described at a meeting of the Bombay Provincial Congress Committee and All-India Home Rule League as a 'petty assault on a woman,' I think it only right to remind this Council of what actually had occurred. In the first place, I would say that this is not merely an isolated instance of an attempt to assault European ladies. We have it on record that on the 10th of April the mob entered the Zenana Hospital in their endeavours to find the lady doctor in charge, who however escaped. After leaving the building the crowd again returned, on information given by a disloyal

servant, to search for her again, breaking open the rooms and cupboards in their search which was fortunately fruitless. On the same day the mob attempted to set fire to the Church Missionary Society's Girls' Normal School, in which were four lady missionaries who remained hidden. I am sorry to have to refer in some detail to the assault on Miss Sherwood, but it is necessary, because I wish this Council to view the situation as the Officer Commanding on the spot must have viewed it. This lady had for many years been working in the city and was greatly respected, and the assault on her was characterized by extreme brutality. The following abridged account is taken from the judgment of the Commission which tried her assailants :—

'When she was bicycling from one of her schools to another, she encountered a mob which raised cries of 'kill her! she is English.' She wheeled round and tried to escape but took a wrong turning and had to retrace her steps.

She reached a lane where she was well-known and thought she would be safe, but the mob overtook her and she was also attacked from the front, being hit on the head with sticks. She fell down, but got up and ran a little way where she was again felled, being struck with sticks even when she was on the ground. Again, she got up and tried to enter a house but the door was slammed in her face. Falling from exhaustion she again struggled to get up, but everything seemed to get dark and she thought she had become blind.'

"Her dress was seized, her hat was pulled off, she was struck with fists, she was caught by the hair and beaten on the head with shoes and was finally knocked down and struck on the head by a *lathi*. She suffered grave injuries to the scalp and was in a critical condition when she left for England.

"I feel sure that the Council will agree that it is not surprising that the Officer in Command took the view that some unusual measures were necessary to bring home to the mob that such acts of violence directed against defenceless women could not be tolerated. Something was required to strike the imagination and impress on all the determination of the military authorities to protect European women. This Council can readily understand how easily the feelings of soldiers would be outraged by acts of this nature and that they might be led to uncontrolled reprisals. Incidentally it is worthy of note in this connection that we have no charge against any of our soldiers during this rebellion. It is easy, my Lord, to criticize the orders issued by the Officer in Command at Amritsar, but the circumstances were altogether exceptional and the punishment, though humiliating, was not such as to cause danger to life or physical hurt. Except on one occasion when a body of prisoners were brought down the street in which Miss Sherwood had been assaluted, no compulsion was brought to bear on any individual to submit to the order. The order remained in force for a period of five days and there is good reason for the belief that, except for the party of prisoners already mentioned, those who were subjected to the order came voluntarily to submit to it for the sake of notoriety or martyrdom. One man after going down the street on his hands and knees three times had to be stopped giving further exhibitions.

"My Lord, the order was of course an unusual one and not one which might have been considered necessary by other officers in like circumstances. The Officer in Command at Amritsar will doubtless be prepared to justify his action should he be called upon to do so.

"The next point to which I wish to refer is, the use of aeroplanes at Gujranwalla. I am not concerned in justifying to the Council the order given by responsible authority to

send aeroplanes to Gujranwalla on the 14th and 15th April. I merely wish to explain from the point of view of an officer who receives such orders how he would act in aid of the civil power and for the protection of life and property when so ordered. The situation, as far as it was then known, would be explained to him and his action would be left to his discretion. In this particular instance information was received by the military authorities at Lahore that a mob had attacked the railway station at Gujranwalla, had looted the goods shed and had set fire to the Tehsil, the Dāk Bungalow, the court house and the Church. It was known that there was only a small body of police at Gujranwalla at the time and no troops. Owing to the interruption of communications, to despatch troops would have involved excessive delay. If any measure of protection were to be afforded in time, the use of aeroplanes provided the only possible solution. Well, I think, I must explain to the Council the limitations of aeroplanes when used for such a purpose. It is not possible for the pilot or observer to communicate with persons on the ground, either to obtain information or to issue warnings as to the measures he intends to adopt. In the first place, the noise of the engines precludes all verbal communication, and aeroplanes have not yet reached that development when they can hover in mid air. From their bird's eye view the pilot and observer are able to ascertain that buildings are burning, that railway communications have been interrupted and trains destroyed, and that crowds are collected; they cannot easily discriminate between the innocent and the guilty; but, on the other hand, from this bird's eye view the observer is able to get a much better idea of the general situation than an officer who is only on foot. When, however, it is clear from the nature of the damage that general rebellion is in progress it may be a reasonable assumption that the crowds are collected with criminal

intent. The presence of an aeroplane over a crowd is in itself a warning to those engaged in disorder that they are likely to be taken to account unless they disperse; and the dropping of the first bomb (the effect of which is local but the noise of which is considerable) affords a further warning which can hardly be mistaken. It may of course be argued that a bomb cannot be dropped nor a machine-gun fired from an aeroplane with any great degree of accuracy. This may be true, but when the mark aimed at is an unlawful assembly it is not very material whether those in front or behind are made to suffer. It may be remembered that it is often just those persons who are most responsible for incitement to disorder who keep in the background and urge others forward to commit excesses. There is even a third category which never appears on the scene at all. Even admitting that the aeroplane in its present state of development is not an ideal instrument for enforcing order, still whereas in the case of Gujranwalla no other military assistance was available, we must not blame the Officer Commanding the aeroplane for the limitations of his machine. My Lord, my object in recounting to this Council in some detail the measures taken by the military authorities to reconstitute civil order out of the chaos produced by the state of rebellion, is to show that there is another side to the picture which is perhaps more apparent to the soldier than to the civilian critic. No more distasteful or responsible duty falls to the lot of the soldier than that which he is sometimes required to discharge in aid of the civil power. If his measures are too mild he fails in his duty. If they are deemed to be excessive he is liable to be attacked as a cold-blooded murderer. His position is one demanding the highest degree of sympathy from all reasonable and right minded citizens. He is frequently called upon to act on the spur of the moment in grave situations in

which he intervenes because all the other resources of civilisation have failed. His actions are liable to be judged by *ex post facto* standards, and by persons who are in complete ignorance of the realities which he had to face. His good faith is liable to be impugned by the very persons connected with the organization of the disorders which his action has foiled. There are those who will admit that a measure of force may have been necessary, but who cannot agree with the extent of the force employed. How can they be in a better position to judge of that than the officer on the spot? It must be remembered that when a rebellion has been started against the Government, it is tantamount to a declaration of war. War cannot be conducted in accordance with standards of humanity to which we are accustomed in peace. Should not officers, and men who through no choice of their own are called upon to discharge these distasteful duties, be in all fairness accorded that support which has been promised to them? My Lord, I feel before I conclude, I must make a reference to the amendment which the Hon'ble Mr. Chanda has proposed. I must confess that I heard this with some amazement. I suppose there is no class that has really suffered more by the disturbances in the Punjab than the forces of the Crown. Here they were at the close of four years of war; most of them were looking forward to demobilization and their hard-earned leave and many of them to a return home. They were suddenly called on to perform what is the most distasteful duty, as I have said before, which soldiers are ever required to carry out. They had nothing to do with the outbreak of the disturbances or with the imposition of martial law. They only did their duty and as a recognition, the Hon'ble Member suggests that Government should defer till some indefinite date the fulfilment of their promises of support. My Lord, it may be within the recollection of Members of this Council

that Hon'ble Members both inside and outside this Chamber, have repeatedly referred, and that with legitimate pride, to the services rendered by India and more especially the Indian Army. It was only last week that this Council listened to the Hon'ble Mr. Sarma's eloquent tribute to the services of that Army, and yet it is that very Army that the Hon'ble Mr. Chanda by his callous amendment to this Bill would leave in the lurch. For what effect would the amendment have if accepted? Officers and men would be liable to prosecution for any illegal act committed under martial law, and as martial law is in itself no law, all their acts under the law would be illegal. Actions for damage, for illegal arrest and a host of other charges could be preferred against them, and the question whether they acted in good faith would have no force with the courts which try their cases. My Lord, I think all soldiers would view with suspicion, if not horror, the airy suggestion that Mr. Chanda made the actions would not come up at once, that they would be postponed for a month, then perhaps for two and then again for three months and so

on indefinitely. The Manual of Military Law, which is the soldier's only guide, is silent as regards martial law; there is only one chapter in the whole of that book relating to martial law, but that chapter is written by Lord Thring, and there is one sentence in it, which is the soldier's sole guarantee, which I quote below. It runs as follows:—

'It is only necessary to add that, when a proclamation of martial law has been issued, any soldier who takes, in accordance with the official instructions laid down for the guidance of those administering martial law, such measures as he honestly thinks to be necessary for carrying to a successful issue the operation of restoring peace and preserving authority, may rely on any question as to the legality of his conduct being subsequently met by an Act of Indemnity.'

"The Government, my Lord, have taken the only honourable course and that is to introduce an Indemnity Bill on the earliest possible occasion. To have done otherwise would have been the negation of Government and repudiation of its obligations."

7. THE LEGAL ASPECT

The Hon'ble Sir George Lowndes:—"My Lord, if the only speech against the Bill to-day had been that of the Hon'ble Mr. Sinha it would not have been necessary for me to trouble the Council for long. His speech was made in the lighter vein that I am afraid carries us a very little way. But we have had a long and powerful speech from his leader Pandit Malaviya. He gave us a bountiful display to-day but we sitting in this Council Chamber cannot be swayed by beautiful words or impressive sentences.

"We are here as the responsible Government of a great country and we have got to carry on that Government not with our hearts but with our heads. I will only say for myself,—it may be a rash thing to say,—that not one word of that extremely eloquent speech, carried conviction to my mind. I said on the last occasion when I addressed this Council that it was necessary for the Hon'ble Pandit as a preliminary to certain proceedings outside this Council to make a great display, and it may be that that is again the explanation of the necessity for it to-day. But I venture to suggest that nine-tenths of what my Hon'ble friend said had no bearing whatsoever on the question before this Council. Let me reiterate it again. It has been said, almost to weariness already, that what we are considering here is not whether acts which are alleged to have been unnecessary, which are alleged to be *mala fide*, are to be protected but whether indemnity is to be granted in respect of acts which were *bonâ fide* and which are held to have been necessary. It is no good to get up and reel out a string of so-called facts which the speaker pretends are outside the principle of the Bill. If they are, we are not concerned with them. They will be judged in another place. What we are concern-

ed with here is simply the case of a man who has acted *bonâ fide* as a servant of Government or under the orders of a servant of Government. If he has done what was necessary for the maintenance or restoration of order, is he to be indemnified? I venture to think that I did not exaggerate when I said that nine-tenths of the Hon'ble Pandit's speech had nothing whatever to do with that point. But here again, as on a previous occasion, I am glad to be able to follow the lead of my Hon'ble friend Mr. Sinha, and I need do no more than quote his words which, I hope, I have taken down accurately. 'I shall not say a word about Mr. Malaviya's statements. I shall take them all as inaccurate.' Those are the words which Mr. Sinha used just before he sat down and they suit me down to the ground.

"But let me turn to one or two arguments in the remaining tenth of the speech which I think necessitate some answer. There were in the Hon'ble Pandit's speech, many, no doubt unconscious, perversions of fact. Let me refer to one of them at least. The Hon'ble Pandit said that the Bill seeks to validate all the acts that were done,—he puts it in two parts, prior to the 13th April, and subsequent to the time when the disturbances had ceased. But this Council has been told over and over again that we are not proposing to validate any of those acts. It was, if I may say so, a confusion which has run through the Hon'ble Pandit's mind from the very commencement of his debate, a confusion between validation and indemnity. I explained just now what the proposed indemnity is and how far it goes. Validation is something quite different. The English Acts which my Hon'ble friend has quoted, the South African Acts which he has quoted, validate all acts which were done under martial law. We do not

propose to do this. Validation in this Bill, let me repeat once more, is confined to the validation of the sentences of men who are now in jail and whom we, as a responsible Government, consider that we cannot in the public interest release. That is the utmost extent to which validation goes under this Act, and it is no good to try and pervert facts and put forward to the public that we are trying to validate every act which has been done under Martial law; to say so as is a perversion of facts.

(Here the Hon'ble Pandit got up to interrupt the Hon'ble the Law Member.)

The President:—"The Council has listened to the Hon'ble Member with unexampled patience. It is now his business to exercise that same patience towards the Hon'ble the Law Member."

The Hon'ble Pandit Madan Mohan Malaviya:—"May I explain a fact?"

The President:—"I think the Hon'ble Pandit has had 6½ hours of this Council's time and should now let the Hon'ble the Law Member have a little time of the Council."

The Hon'ble Sir George Lowndes:—"Let me explain another thing which seems not to have struck the minds of many lawyers in this Council. My Hon'ble friend Mr. Sinha suggested that he knew all about law and there was no necessity for my Hon'ble Colleague in this Council to lecture him,—I think that was the word he used,—on the law; I do not doubt that my Hon'ble friend knows all about it; though it is sometimes convenient to forget what one knows. Now let me remind him what is the position with regard to validation. We propose to indemnify only the officers of Government against the consequences of acts they have done and not to validate the acts themselves. We leave any remedy there may be against Government entirely open. If there is any complaint to be made in a civil action, any claim to damages open, let the man who complains sue Government, let him take his chance in the courts: we all know how the Government is sued,—in the name of the Secretary of State.

Have we attempted by this Bill to preclude actions against the Secretary of State? Are not we responsible? Have not we from the very first as a Government taken responsibility for what we have thought to be necessary? Any act that has been done unjustly, contrary to orders, *mala fide*, unnecessarily, the man who did it must answer for; it was outside the scope of his agency. But for any act done under our orders Government must be responsible. We are the principal, he was merely our agent; such remedy as there may be, must be against the principal. There are many lawyers in this Council besides my Hon'ble friend Mr. Sinha, but I feel certain that even he must be well acquainted with the maxim, a *Respondet superior*. Let Government answer; it is we who have ordered these things to be done. If they were reasonable, in accordance with the necessities of the case, we must be responsible. We have not attempted by the Bill to preclude any possible action against Government. So far as validation goes, we are, as I said, validating nothing but existing sentences. One would also have thought that it might have been worth while for one or other of those who have spoken today to refer to the pledge that has been given that everybody who is now in jail merely for a breach of a martial law regulation and nothing more, will be released. That is, it appears to me, a concession which answers a great deal of the most eloquent portion of the Hon'ble Pandit's speech.

"But my Hon'ble friend began with one of the most astounding arguments I have ever heard in any law court or even in this Council. He is much in love with the preambles of Acts, and he quoted from the preambles of the English Acts about acts that were necessary, and recitals that the putting in force of martial law was necessary; and he said that this is the only foundation for an indemnity. It is only justified if you can assume that martial law has been necessary. My Hon'ble friend went on to point out somewhat disingenuously I thought,

that we had, of course at his request, omitted the word 'necessary' from the preamble. Then came the astounding argument that because we had omitted the word 'necessary' from the preamble, therefore Government must give up the whole Bill. That is an argument which is solemnly addressed to a council of some half a hundred reasonable men. Will it carry conviction to any man in this Council or outside it? I think the Hon'ble Pandit did not even refer to the reason why the recital of necessity which was in the English Act to which he referred was omitted here? Is it that he does not understand the reason for it, the reason why we have omitted the word 'necessary' from the preamble? Even the Hon'ble Mr. Sinha did not venture to suggest that Government does not believe martial law was necessary.

"I can only say that, speaking for myself as a responsible member of this Government, I have not the least doubt that it was necessary. But why did we leave out the recital of this at the request of the Hon'ble Pandit? Because it was said that there is a Commission coming out to examine that question and it would not be fair to prejudice it by putting this into the preamble."

(The Hon'ble Pandit Malaviya rose to make a remark.)

The President:—"Order, order, the Hon'ble Member must sit down."

The Hon'ble Sir George Lowndes:—"That is the reason why the reference to necessity was omitted from the preamble, and not because we have had the least doubt that it was necessary. In the case of the English Act of 1789, to which the Hon'ble Pandit referred there was no commission coming, and the conclusion of reasonable men was that it was necessary and therefore the recital of this appeared in the preamble of the Bill. But my Hon'ble friend's prediction, if I may so put it, for preambles was so great that he proceeded in the course of his argument to tell the Council that you do not find any recital of necessity in the South

Africa Acts. I am glad that I am able to say that the Hon'ble Pandit in this respect is absolutely correct. The Council will perhaps be amused to know why it is correct,—it is because no South Africa Act ever has a preamble. But in dealing with the South Africa Act it was much more convenient for the Hon'ble Pandit to quote from the operative part of the Act, which he proceeded to do, without saying that he was doing so. In this case he quotes from the operative part of the Act because it suits him. When he is dealing with the English Act of 1789, as I pointed out on the previous occasion, he quoted only from the preamble and not from the operative part, because the operative part of this 1789 Act validated all acts done, whether they were necessary or not. Apparently, the—what shall I say—the necessities of elocution produce this unfortunate result, that when it pays the Hon'ble Pandit to quote one particular part of an Act, he quotes it; when it does not pay to quote that, he quotes the other part. I protest that is not a scheme, either of argument or logic to which I have been brought up.

"Then my Hon'ble friend went on, with a magnanimity which I admire, to defend his absent friend,—I hope I did not err again in that expression—his absent friend Raja Sir Rampal Singh. No one regrets more than I do, and I said it on a previous occasion, that the Hon'ble Raja Sir Rampal Singh has not been able to stay for this debate. But I am afraid I cannot recognize the fact that an Hon'ble Member is not able to stay for the whole of the Council proceedings as disentitling me to reply to arguments he has used. The Hon'ble Pandit tells us that he has taken the trouble to send Raja Sir Rampal Singh a telegram asking him whether he had written that speech (of course it was a written one, we know that) and Raja Sir Rampal Singh has unblushingly admitted that he had. I accept the statement; I have no doubt that it is true, and I do not doubt that his was the

hand that wrote it, but I am still inclined to think that though the hand was the hand of Esau, the voice was the voice of Jacob. But let me give that point up. But what does the Hon'ble Pandit's contradiction mean? It was not a statement of fact on my part. The Council will no doubt remember that all I said was that I thought the most charitable interpretation of Raja Sir Rampal Singh's speech was that it had been written for him by a friend. I always like to be charitable, but the Hon'ble Pandit now has told me that there is no room for charity and I must now take what the Hon'ble Raja said in all its baldness as a statement of fact by a gentleman from Oudh (who is not here to tell us anything more about it) as to the condition of the Punjab at a particular time. The Hon'ble Pandit went on to suggest that I was quite unjustified in referring to Mr. Chanda having come from Assam. Well I doubt if there was anything particularly unparliamentary in that reference, but the argument was a very simple one and I will repeat it for the Hon'ble Pandit's benefit. I was not arguing that the Punjab wanted this Bill; that has been sufficiently explained by one of my Hon'ble friends opposite. All I was dealing with was the question 'was there or was there not at the time we put martial law into force a state of affairs in the Punjab that the ordinary civil arm could not cope with?' And I said that it was a remarkable fact that, with all these members here from the Punjab, men of weight, men of standing, men of honour, men of truth, that there was not one who could get up in this Council and say the situation was not one of that sort, and that it was only Hon'ble Members from Assam, from Oudh, and from Madras, who made that statement? We have plenty of members in this Council who come from the Province where those things were taking place and who knew—it was not the case of having an opinion—who knew for certain whether it was necessary to put martial law in force for the restoration of order or not, and I would

still ask the Council to judge whether that is not an argument of some weight. You have them all here, do you believe they are untruthful, do you believe that they do not know what was going on in the Punjab? And yet I say there is not one who knows the facts who states that there was not a situation such as the civil arm could not deal with. And I repeat, it wanted a gentleman from Madras, a gentleman from Assam to say it—perhaps I must not say again the Special Commissioners from the United Provinces because that appeared to arouse some indignation on the part of my Hon'ble friend the Pandit. I really thought he was a self-constituted commissioner at that time, but he has told us he was a constituted commissioner by some body (I do not mean some person, but some body) of which he gave the name though I was unable to catch it. I am quite willing to assume that he was appointed a special commissioner by some body to enquire into the facts in the Punjab. But there again it does not affect the argument. The argument is that the Punjab people who know do not say this; the only people who say there was no rebellion there are people from outside who have only second-hand information. I apologize sincerely to the Hon'ble Pandit if I have overstepped the bounds of courtesy by referring to him as a special commissioner for this purpose, and I am the more anxious to make the apology in that I understand from what he has told us to-day that a considerable portion of his duties was merely sanitary! The Hon'ble Pandit also referred to my having mentioned Mr. Sinha in this connection. There I think he is mistaken. I think he is confusing his two allies in this Council. Mr. Sinha and the Hon'ble Mr. Ayyangar. I do not doubt that he will offer suitable apologies afterwards. But I did not refer to Mr. Sinha in this connection. My Hon'ble friend Mr. Sinha had made no statement whatever on the subject of the situation in the Punjab; he very carefully abstained from doing this, and if I may say so, wisely. And here again,

the larger part of the Hon'ble Pandit's speech on this point was a mere perversion of my argument. I was not dealing with the question whether this Bill was necessary; I was dealing solely with the constitutional question whether, when martial law was proclaimed, a situation had arisen which necessitated its use, nothing else.

"With regard to the second portion of my Hon'ble friend's argument which dealt with certain questions of law, we know that under my Hon'ble friend's auspices a number of cases have gone to the ultimate court of appeal of the Empire, the Privy Council, and are lying there for decision. I do not propose to answer my Hon'ble friend on these legal points. I will only say let them be urged in the Privy Council. As no doubt they will be; and let their Lordship's attribute what weight to them they deserve. I am content at all events that they should judge upon them between him and me.

"The real point which the Council have got to consider,—I venture to reiterate it once more, but for the last time I hope—is 'Do Hon'ble Members regard it as the first duty of Government to enforce law and order in this country and to protect the lives and property of its citizens?' If they do recognize that that is the duty of Government, if Hon'ble Members wish that their lives and their property should be protected, and wish Government in cases of emergency to employ the ultimate force of the Army for that purpose, then they must, at the first possible opportunity, indemnify those who in carrying out the orders of Government have acted *bonâ fide* and in the belief that what they have done was reasonably necessary for the purpose. If Hon'ble Members think that it is not the duty of Government to protect their lives and property, if they do not wish that done, then let them refuse an Indemnity Act. But if they do that, they cannot expect protection when these great emergencies, these great crises, arise.

"Some reference was made by the Hon'ble Pandit to martial law in Bombay. Have Hon'ble Members forgotten the ghastly fate that over-

took an Indian in connection with those disturbances? Have they forgotten how the mob seized one of their own community, a *mamladar*, soaked him in kerosine, set fire to him and burnt him alive? That is a fate which overtook, not a European bank manager, not a European lady missionary, but one of their own community. If they do not wish their lives and their property protected by Government, I venture to suggest that that is a fate that may overtake any one of them on the next occasion.

"Then the Hon'ble Pandit referred to the legal position of soldiers under martial law and he read us out quotations from law works on the point which, I am afraid, did not appeal to me very much because the answer is so obvious. It is because soldiers may find themselves in this extraordinary position of having on the one hand to fulfil the orders of their commanding officers on pain of being tried by court martial, and on the other of being tried by the civil courts, it may be for murder, if they do,—it is because of this extraordinary position in which the soldier may find himself, that it is necessary to indemnify them. That is the reason and the object to a great extent of indemnifying them against actions, indemnifying them against suits and against criminal prosecutions. It is perfectly immaterial for the Hon'ble Pandit to read out long citations about the legal position of soldiers. I hardly cared to listen to them, the answer is so clear. It is because of that position that it is necessary to pass an Indemnity Act and has been so held in the other cases where martial law has been enforced throughout the Empire.

"There is much more to which I should have liked to reply in many passages of the Hon'ble Pandit's speech; but we are now on the second day of this debate nearly at eventide, and I think, it would be kinder if I left the rest unanswered. I do not want the Council to think that it is because there is no answer to the points that have been made by him, but only because it seems to me at this hour not to be worth attempting."

8. A MODERATE OPINION

The Hon'ble Sir Dinshaw Wacha:—"My Lord, I did not intend to make a speech of more than 10 minutes, but after the very lucid and illuminating speech of my Hon'ble friend the Law Member I shall detain them for even a briefer time. I think every Member of the Council must feel grateful to Sir George Lowndes for his very clear and convincing exposition of the legal and constitutional technicalities to which the Hon'ble Pandit and the Hon'ble Mr. Sarma had taken such pains to expatiate on in their respective speeches. After the light thrown on these technicalities by Sir George Lowndes and the terse manner in which he expounded the facts and the circumstances under which the various Indemnity Bills referred to by the Hon'ble Mr. Malaviya had been enacted I am fully convinced that there cannot be any two opinions on the expediency of the introduction of the Bill originally. I am free to confess I was in favour of the amendment for the postponement moved by the Hon'ble Mr. Chanda, but I repeat I cannot help supporting the legislation after the clear exposition of the Hon'ble the Law Member. Before the Hon'ble the Law Member made his speech I was a little doubtful as to whether or not I should accept the Bill, but having heard it explained to-day by the Hon'ble the Law Member with his usual forensic ability, a fact with which we were familiar in Bombay before he came here, I think the Council will be satisfied that the Bill should be allowed to pass. Well, there was one point that puzzled me and it is this. In all the cases put before us I should like to know from the Hon'ble the Law Member or the Hon'ble the Home Member whether the inquiry that is now going to be made will clash with the Bill, that is to say, what will be the effect if the Commission think

that certain officers had committed such excesses that they could not be tolerated and therefore of course that they must not be indemnified. I should like to know also if there are any instances, as in the present case, of an Indemnity Bill being followed by a Committee of Inquiry."

The Hon'ble Sir George Lowndes:—"My Lord, may I answer the question?"

The President (addressing Sir Dinshaw Wacha):—"Do you wish Sir George Lowndes to answer that question?"

The Hon'ble Sir Dinshaw Wacha:—"Yes, for this reason that a doubt exists in the minds of some people in Bombay and other places. They think that a postponement is necessary in order that we may know exactly the scope of the inquiry."

The Hon'ble Sir George Lowndes:—"The question has rather a double-barrel aspect. In the first place as regards the South African case there was a Commission of Inquiry appointed by the very Act which granted the Indemnity. That very Act created the Commission; therefore although there was a Commission of Inquiry an Act of Indemnity was passed. The Commission appointed by His Majesty was empowered to inquire into sentences and they validated the Acts just as we do now.

"The second aspect of the question was whether the Act will in any way affect the position. I have not the least hesitation in answering that question. The only thing that we by the Bill seek to validate are acts done *bonâ fide* for the maintenance of law and order, and the Council may take it from me that this Bill will not in any way prejudice the Commission of Inquiry."

The Hon'ble Sir Dinshaw Wacha:—"I am satisfied, my Lord, and I hope other Members of Council are satisfied too. I support the Bill."

9. SUMMARY OF THE DEBATE

The Hon'ble Sir William Vincent:—"My Lord, before I address myself to the main motion, I should like to reply to two remarks of Mr. Sinha. I regret that he is not here, but it is not my fault that he is absent. The Hon'ble Member began by complimenting me, perhaps undeservedly, on the moderate tone I had adopted throughout the debate. He went on immediately afterwards, however, to cite with approval, with gusto, if I may say so, an extract from some paper, which condemned, in no measured terms, the whole of the substance and language of my speech. This does not seem to me reasonable.

"I am content, however, to leave the matter to the decision of Council. I do not think that any Member here can say that I have been intemperate in my language in this debate.

"The Hon'ble Mr. Sinha then went on to suggest that, as I had quoted Mr. Gandhi in regard to the Indemnity Bill, I should remember also that Mr. Gandhi had repeatedly found fault with the convictions and sentences of various persons. My Lord, we are having these cases examined, but may I point out to the Council that although Mr. Gandhi condemned these convictions, in spite of his feelings on that point, he has still supported this Bill. That is a fact which many Members of this Council might do well to remember. I did not quote him as an authority for whom I myself had any very great respect but the Hon'ble Pandit Madan Mohan Malaviya having cited him frequently, in this Council, as a man of the greatest weight and one almost inspired, I hoped that I might use the name of Mr. Gandhi in appealing to him and to other Members of this Council to support the Bill.

"Turning to other speakers, my Lord, may I say that in my opinion the whole debate

on this motion to pass the Bill has resolved itself into an occasion for a discussion of totally irrelevant matters? All kinds of details have been brought up which really are not before the Council at this stage at all. Many Members have indeed taken the opportunity of the motion to answer criticism (that have been made) of their speeches on previous occasions, and a part of the day at least was spent in recriminations. Statements of fact made on one side were almost inevitably answered by others and the result has been, however, that the Council has been invited indirectly by some Members like the Hon'ble Mr. Malaviya, and almost directly by others, such as the Hon'ble Mr. Thompson, to come to definite conclusions on inadequate information and *ex parte* statements, as to particular incidents during these rising. You have one Member saying one thing; another Member saying some thing quite different, on many occasions neither of them speaking from first-hand knowledge; and on their statements this Council is asked to condemn or justify the conduct of individual officers; I use the word 'condemn' deliberately—I took down one statement used by the Hon'ble Mr. Madan Mohan Malaviya when he said that a particular officer was guilty of criminal dereliction of duty.—I put it emphatically to the Council that such a statement is neither fair nor reasonable. These are matters for the Committee. I will take one incident which has been repeatedly referred to this unfortunate Jalianwalla Bagh affair. My Lord, no one deplores the loss of life on that day more than the Government. It has been, and must be to all of us, a source of great distress, and it does not really make so very much difference from this point of view whether the number killed was 300 or 500. In either

case the loss of life is serious enough in all conscience and greatly to be regretted. But we have no right in this Council either to justify or condemn that action. It is not part of our duty; it does not come within the scope of the Bill. General Hudson has, it is true, put before the Council certain considerations relating to this occurrence, but as I understood him, he was merely attempting to put the matter as it might have appeared to a military officer at the time and was not in any way putting his personal views before the Council. That is the way I understood his remarks. I mention this because his statements have been made the ground for attacks on him; and it was suggested he sought to justify what was done. I do not think that the Council, when they have considered the position, will for one moment accept that as a fair presentment of his intention. What I ask the Council to do now is not to prejudge this matter in any way, either to condemn nor to justify any action, neither to say a man is innocent nor to say he is guilty until the proper time for such a decision shall arrive. Does this question come within the scope of this debate? Is there anything in the Bill that justifies a man or condemns a man? I maintain there is nothing. All that the Bill enunciates is a principle. It does not say that a man is justified or blameworthy for his conduct on any particular occasion. It leaves that to the Court to decide from a legal point of view. In so far as administrative action is concerned, that is also a question outside the Bill altogether, which can be decided, as I have repeatedly explained to this Council, only after the Report of the Committee is received. What could be fairer? The question whether an officer acted *bonâ fide* or not is left to be decided from the legal point of view by the Courts save for this provision, that there is a presumption that he has acted *bonâ fide* and reasonably. Let me take the case again of Jalianwalla Bagh. What is the position? If the action of any parti-

cular officer is found to be unjustifiable, if all the allegations made to-day are true, what will be the result? It will be a matter for the Court; either the Court will find it justifiable and reasonable or unjustifiable and unreasonable, in which latter case the normal legal results will follow. Similarly, so far as administrative action is concerned, if the action was unjustifiable, then undoubtedly the Committee will condemn it. But is it fair to any officer to condemn him behind his back unheard and without his having an opportunity of making a statement and offering his explanation? Is it fair to him to come here and make statements which affect his character, his honour, his sense of justice, and his sense of humanity?

"My Lord, the Hon'ble Pandit Madan Mohan Malaviya made an admittedly powerful speech; many parts of it were very powerful, but I submit that it was, as I have tried to point out to the Council, both irrelevant to the motion before us now and unjust to many who are not here. The Hon'ble Member in the course of the debate made more than one reference to the Almighty and to his conscience. I wish, my Lord, that it would induce him to be fair to others. I regard the whole of his speech, however, as a desperate attempt by creating preference to recover a position that was really lost. The whole principle of this Bill had been accepted by the Council on the understanding, as I say, that the question of *bonâ fides* or *mala fides* was to be decided by the Courts. When that principle has been accepted, the Hon'ble Member again attempts to prejudice the minds of the whole Council by citing specific incidents, the merits of which are really not before this Council at all.

"My Lord, the Bill has, however, been attacked as premature for more weighty reasons than these. It was said—at least if I understood the argument correctly—it was said 'you should pass no Indemnifying Bill because the legislature has had no opportunity of satisfying

itself as to the actions taken.' The answer to this argument seems to be very simple. We are not dealing with individual actions or specific actions at all. We are dealing with principles, that is, the principles upon which a man in such circumstances ought to be indemnified. If Council will not give a Government officer even this qualified indemnity, then he is liable in the Courts for any action which is not legal or justifiable by the strict law though it may have been proper and necessary. Such an argument, namely, that you should not pass an Act of Indemnity until you are satisfied as to the character of the act indemnified, would be of some weight and more could be said in favour of it, if we were here granting complete indemnity and completely validating all that has been done. My Lord, that is exactly what we are not doing, and the reason we are not doing more is because we do not think it would be right to ask for more complete indemnification at present. If Council will look at the older Acts, either the English Acts or the Indian Act of 1860, they will see that these Acts give complete indemnity to everybody for any acts done in suppressing disorders irrespective of any question of *bonâ fides*. The indemnity we propose to give is however definitely qualified, for reasons I have given, namely, because we cannot with the Committee coming on ask Council to pass a more comprehensive Act.

"By taking our present course, we leave it to the Courts to decide whether a particular action was *mala fide* or wrong from the legal point of view; and from the administrative point of view we await the report of the Committee of Inquiry. It is said that the words 'reasonable belief' mean nothing. My Lord, to my mind the meaning is perfectly simple. The only legal definition of the term, I know, is in the Indian Penal Code, where reasonable belief is defined as belief for which there is sufficient cause. I will read the exact words: 'A man is

said to have reasonable belief if he has sufficient cause to believe it, but not otherwise.'

"Another objection taken to the passing of the Act now, is that the preamble has been altered since the Bill was introduced. This point has been dealt with so ably by my Hon'ble Colleague, that I really do not think I need dilate on it at any length. But I should like to put one aspect of it to the Council. First we were told that by retaining the original words in the preamble we are making this Council admit that martial law was necessary. Well, we say, 'All right; we will alter the preamble; we do not want to commit you to any such admission; and we modified that portion of the preamble to which objection was taken; the next day two new objections are put forward, the first by the Hon'ble Mr. Malaviya, who says 'You cannot pass the Bill because you have withdrawn that statement from the preamble' though we did so to meet objection of non-official Members. The second by the Hon'ble Mr. Sinha, who said 'Oh, you have now admitted that martial law was not necessary.' Hon'ble Members have heard the whole of the discussion, and I leave it to them to decide whether they think that either of these arguments are of any weight.

"My Lord, it has been repeated more than once in this debate that martial law was not necessary. The facts are before the Council and I do not want to reiterate anything which has been said already, but I have here a short statement of some of the leading outrages that occurred in the Punjab which, I think, will be interesting. There were seven murders of Europeans, 15 serious assaults, some of them murderous, there were 44 cases of arson; there were 34 cases of serious tampering with railway lines, any one of which might have caused gave accident—I am quoting from information supplied to me—and there were 132 cases of cutting telegraph wires or destruction of telegraph posts and insulators. I think that with this additional information before it this Coun-

cil will conclude that there was some reason at least for supposing that this was not a case of ordinary disorder, for crimes of this kind are not committed in cases of local rioting.

"The Hon'ble Mr. Ayyangar (I wish I could make myself heard by him) indeed went so far as to suggest that martial law was instituted merely because Sir Michael O'Dwyer wished to pay off old scores. I have read out to the Council the telegram that we receive from the Punjab, the Council have heard from Mr. Hailey and from others well acquainted with the facts, including my friend the Hon'ble Major Umar Hayat Khan, what the actual position was. Is it generous, is it fair, is it honest, in these circumstances, for an Hon'ble Member of this Council to come forward and make or quote an allegation against Sir Michael O'Dwyer of that character, to stab him in the back in this way? For myself I may say that I have heard many unfair things said in this Council—but I have never heard a more cowardly attack in the whole course of my experience.

"Then we had another allegation by the Hon'ble Pandit Malaviya to which I wish to make some reference. He made what was to my mind a very serious statement. An allegation that the telegram from the Punjab Government to the Government of India did not state the truth."

The Hon'ble Pandit Madan Mohan Malaviya:—"The whole truth, I said."

The Hon'ble Sir William Vincent:—"The Hon'ble Member said 'truth' first—though he subsequently corrected it. I took down the words."

The Hon'ble Pandit Madan Mohan Malaviya:—"My Hon'ble friend did not take the words down accurately. I said 'the whole truth'."

The Hon'ble Sir William Vincent:—"I maintain that what the Hon'ble Member first stated was 'truth'; he corrected it later. I submit in any case that there was no justification for

such an allegation against the late Lieutenant-Governor of the Punjab. There is nothing whatever in the speech of the Hon'ble Member which can be held to be justification of such a serious accusation as that. Whatever were the exact words used—the truth, the whole truth, the insinuation is that Sir Michael O'Dwyer deliberately withheld facts from the Government of India, and I maintain that there is no information before Council to lead us to think that there is any basis at all for such a suggestion.

"Then it was said that the declaration of martial law was really due to unsympathetic treatment of the people by the Punjab Government. If that statement is correct, my Lord, what was the case in Bombay? Was Sir George Lloyd unsympathetic? We have heard nothing but praise of Sir George Lloyd's conduct throughout, yet we know that martial law was enforced in parts of Bombay for a short time, at any rate, and we do know that the most deplorable excesses were committed there. The Council has heard of the unfortunate *mamladar* who was burnt alive.

"The fact is, my Lord, that in many of these cases where martial law is declared, it is easy to criticize the action taken and often the measures taken deprive the authors of evidence of the necessity for them. This is very well put in the Report of the Commission on the Jamaica Rising—in the following words: 'how much easier it is to decide such a question after than before the event and sometimes the success of the measures adopted for the prevention of an evil deprives the authors of those measures of evidence they would otherwise have had of their necessity.' I maintain that this has been a great deal the position in the Punjab. The very success of the measures taken has deprived the authorities of evidence of their necessity.

"But, my Lord, we are not now deciding whether martial law was necessary or not, but whether in any case to protect our officers

when they have acted *bonâ fide*? It was for this reason I deprecated the discussion of the necessity for martial law in this Council altogether. I asked the Council then to forbear from discussing that question, because it necessarily must come before this Committee of Inquiry. The position I have always taken up is, that we believe that martial law was necessary, but whether it was necessary or not we must protect our officers who have acted *bonâ fide*; and I have never yet heard any argument which has satisfied me that I was wrong on that point. We do not seek to indemnify our officers for specific acts, we are not doing so either administratively or in respect of legal liability; we are only laying down principles on which indemnity should be granted. I am told, however, that officers need no such protection, and that they must depend on their protection under the common law. This point has also been dealt with by the Hon'ble the Law Member, and I will only say to Council

that these references to legal dogmas leave me cold—the real question is a simple one on which any man of sense can judge for himself. Each Member of this Council must judge whether a soldier or any officer of Government who carried out the orders of his superior or did his duty in suppressing these disorders *bonâ fide* and honestly is or is not entitled to be indemnified against legal liability for his action. There is no good citing legal dogmas and constitutional theories in such circumstances; the question is 'are you going to afford the men reasonable protection or not'?

"Well, my Lord, I have placed all the facts relating to the Bill before the Council. I maintain now that it is a perfectly fair and reasonable measure, that it is entitled to receive the support of this Council, and I now leave the issue with all confidence in the hands of Hon'ble Members."

The motion that the Bill as amended be passed was put and agreed to.

10. THE BILL ITSELF

[As passed in Council.]

A
B I L L
T O

Indemnify officers of Government and other persons in respect of certain acts done under martial law, and to provide for other matters in connection therewith.

WHEREAS owing to the recent disorders in certain districts in the Punjab and in other parts of India, martial law has been enforced;

AND WHEREAS it is expedient to indemnify officers of Government and other persons in respect of acts, matters and things ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order, provided that such acts, matters or things were ordered or done in good faith and in reasonable belief that they were necessary for the said purpose;

AND WHEREAS certain persons have been convicted by courts and other authorities constituted or appointed under martial law, and it is expedient to confirm and provide for the continuance of certain sentences passed by such courts or authorities;

It is hereby enacted as follows:—

1. This Act may be called the Indemnity Act, 1919.
 2. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government, whether civil or military or against any other person under the orders of any such officer for or on
- Indemnity of Government Officers and other persons for certain acts.

account of or in respect of any act, matter or thing ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order in any part of British India where martial law was enforced, on or after the 30th of March, 1919, and before the 26th of August, 1919, by any such officer or person; provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes;

and if any such proceeding has been instituted before the passing of this Act it is hereby discharged.

3. For the purposes of section 2 a certificate of a Secretary to Government of evidence that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.

4. Every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue liable to confinement until the expiration of such sentence, or until released by the Governor-General in Council or otherwise discharged by lawful authority.

5. Where under martial law the property of any person has been taken or used by any officer of Government, whether civil or military, the Governor-General in Council shall pay to such person reasonable compensa-

tion for any loss immediately attributable to such taking or using, to be assessed upon failure of agreement by a person holding judicial office not inferior to that of a District Judge to be appointed by the Government in this behalf.

Savings. 6. Nothing in this Act shall—

(a) apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919,

(b) be deemed to bar a full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or to affect any question or matter to be decided therein, or

(c) prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever.

H

Rumours Regarding the Effect of the Rowlatt Act*List of rumours as to the effect of the Rowlatt Act*

- (1) If a policeman coveted a handsome woman, he would get the husband out of the way by means of the Rowlatt Act.
- (2) That under the Rowlatt Act any police officer could imprison any one without trial for any offence.
- (3) That any man could be imprisoned on mere suspicion on the confidential report of a police underlying and that the trial would be conducted *in camera* without a counsel or witnesses for the defence.
- (4) That police and executive have power to make arrests and house searches on mere suspicion.
- (5) Rowlatt Acts are referred to as "Martial Law" and as granting extraordinary powers to the police; that the Bills are forced on the Government of India by the Government in England and that Gandhi is acting on behalf of the Viceroy.
- (6) That the police is empowered to arrest any person they please at any time, to search their houses and to commit them to jail without trial.
- (7) That Government had ordered that shops should be closed and that any one attempting to trade would be liable to punishment.
- (8) That the Rowlatt Act permitted the arrest by a police constable without a warrant of any person seen talking together.
- (9) That a farmer is required to surrender half the produce of his land.
- (10) That every bride and bridegroom will be inspected by a British doctor before the wedding takes place.
- (11) That parents of bride and bridegroom will be liable to remit to Government a sum equivalent to that spent on the marriage.
- (12) That farmers are required to hand over half the ploughing animals in their possession.
- (13) That farmers are liable to pay fees to Government in proportion to the number of buffaloes they possess.
- (14) That on the birth of a child every parent must send Government Rs. 25.
- (15) That more than four men are not permitted to follow a dead body for the purposes of performing funeral ceremonies.
- (16) That not more than four men are allowed to sit together at any one time or place.
- (17) That Government intend to impose a tax on marriages; the father of the bride having to pay Rs. 100 and the father of the bridegroom Rs. 200.
- (18) The zemindars owning over 60 bighas will have the surplus confiscated by Government.
- (19) That groups of men in conversation are liable to arrest.
- (20) That not more than two persons may take part in any one marriage procession.
- (21) That not more than four people are allowed to sit together at any one time or place.
- (22) That a certain portion of the grain harvest will be taken by Government.
- (23) That Government intend to take 80 per cent. of the zemindar's grain, leaving him on only 20 maunds in every 100.
- (24) That at weddings, if the bride's portion is worth Rs. 200, the Government will take Rs. 100.
- (25) That Government will seize the zemindar's grain leaving him whatever it considers sufficient for his wants.

(26) That the land of persons who die without heirs lapses to Government.

(27) That the police are empowered to commandeer half of all private property.

(28) That no one, Hindu or Muhammadan, will have any right of ownership to his land and property nor will any one have power to speak freely.

(29) That three men cannot stand in one place nor can they go to a mosque.

(30) That Hindus cannot go to their

temples. If they go there or collect, they will, without investigation and at the word of the Criminal Investigation Department, receive punishment.

(31) That if three or four people were found talking together they could be locked up at once.

(32) That the Rowlatt Act empowers any police officer to arrest without warrant any three Indians engaged in conversation and to enter and search without warrant any house.

I
Resolution by the Government

GOVERNMENT OF INDIA

HOME DEPARTMENT

No. 549, dated Simla, the 14th April 1919.

RESOLUTION—By the Government of India, Home Department.

The present situation arising out of the agitation against the Anarchical and Revolutionary Crimes Act (commonly called the Rowlatt Act), renders it imperative on the Governor General in Council to define the attitude of Government on the subject of that agitation and the serious disorders which have resulted therefrom, and to indicate the nature of the concerted action which it is now necessary to take for the preservation of law and order.

When the Bill was under discussion, its opponents publicly stated that if it passed into law, a campaign of agitation against it, on a scale hitherto unattempted, would be organized throughout India, and a section of them indicated that they would support that campaign by resort to what is known as "passive resistance". No one cognizant of the conditions of India could have been ignorant at the time of the dangers of initiating a widespread movement of this nature; they were clearly pointed out by many public men of moderate views; and the representatives of Government did not fail, during the debates on the Bill, to emphasize the serious consequences to the public peace which would follow from an agitation such as was then threatened.

These warnings were unheeded, and to the agitation which has succeeded the passing of the Act, must be directly attributed the open breaches of the public peace, the defiance of authority, and the criminal attacks on life and property which have lately been witnessed in certain parts of India. The agitation has follow-

ed a double line of action, namely, direct criticism of the Act by means of public speeches and publications, and the initiation of the threatened movement of "passive resistance". The latter movement was ushered in by a demonstration consisting of the observance of a day of fasting, and the closing of shops and places of business. Such a demonstration was not in itself illegal; but there is ample evidence to prove that in more than one place those locally responsible for its organization overstepped the limits of lawful persuasion, and resorted to direct interference with the business of many who were not interested in the movement, and to forcible obstruction of the traffic in the public streets. But the indirect consequences of this aspect of the agitation have been far more mischievous, in that it promoted a sense of unrest and of excitement which was bound to react, and has reacted, on the more ignorant and inflammable sections of the population. The campaign of criticism has involved in many quarters the use of most flagrant misrepresentations regarding the character of the Act. It is clear that large numbers of ignorant people have been deliberately led to believe that the new law gives the police unfettered authority to interfere with public meetings not only of a political, but of a religious and social nature, and to arrest summarily persons engaged in political work, and that it empowers the executive authorities to imprison without trial any person criticising the action of Government.

The Governor General in Council thinks it

necessary to reiterate here the following salient facts concerning this Act. It is specially directed against revolutionary and anarchical crime, and can only be brought into force in any locality when it has been proved to the satisfaction of the Governor General in Council that such crime, or movements tending to such crime exist. It has not so far been brought into operation in any part of India. Its first part merely provides for the speedy trial of certain grave offences; in the second and third parts provision is made for preventive action (similar to, but much more restricted in scope than that now provided by the Rules under the Defence of India Act) against persons suspected of revolutionary or anarchical crime. Action cannot, however, be taken against any individual without the previous order of the local Government. There is nothing therefore which can justify the widespread rumours, for which the promoters of the agitation must be held responsible, that unusual, or even extended powers have been given to the police; nor is there anything which need cause fear or apprehension to any person other than the revolutionary or the anarchist. Not only do the terms of the Act definitely exclude its use in any case not falling within the definition of anarchical or revolutionary conspiracy; but the Government has given the most categorical pledge (which the Governor General in Council takes this opportunity to reiterate) that the tenor and intention of the Act will be scrupulously safeguarded should occasion arise to put it into operation.

The Governor General in Council considers it unnecessary to detail here the deplorable occurrences resulting from the agitation against this Act. The offences which have occurred at Delhi, Calcutta, Bombay and Lahore have one common feature, the unprovoked attempt of violent and unruly mobs to hamper or obstruct those charged with the duty of maintaining order in public places. At Amritsar and Ahmedabad they have taken a far graver form, a murderous attack on defenceless individuals, and

a wholesale and wanton destruction of private and public property. The Governor General in Council thinks it right to state that at Amritsar the loss of life might have been greater but for the protection afforded by unofficial Indians to those who were threatened by the mob, and he takes this opportunity of expressing the gratitude of Government for this conspicuous example of loyalty and humane feeling.

It remains for the Governor General in Council to assert in the clearest manner the intention of Government to prevent by all means, however drastic, any recurrence of these excesses. He will not hesitate to employ the ample military resources at his disposal to suppress organized outrage, rioting or concerted opposition to the maintenance of law and order; and has already sanctioned the application of the State Offences Regulation, 1804, in a modified form, to certain districts of the Punjab. He will further use all preventive measures provided by the Statutes to check disorder at its source, and in Regulation III of 1818, and the corresponding regulations applicable to Bombay and Madras, and in the rules under the Defence of India Act, he has powers which will enable him to deal effectively with those who promote disorder. He has sanctioned the extension of the provisions of the Seditious Meetings Act to the districts of Lahore and Amritsar in the Punjab, and will authorize a similar extension to other areas in which local Governments see reason to require it. The Police Act of 1861 enables a local Government to quarter additional police on any locality which is guilty of organized offences against the public peace, at the charge of the inhabitants, and to levy from the latter compensation for those who have suffered from injury to their property. The Governor General in Council will advise the Governments to make a free use of these provisions where necessary.

The Governor General in Council feels that many of those who inaugurated this agitation must regret the lamentable consequences which

have ensued the loss of life and property, and the damage to the reputation of India. He now appeals to all loyal subjects of the Crown, and to all those who have an interest in the maintenance of law and the protection of property, both to dissociate themselves publicly from the movement, and to exert themselves in quieting unrest and preventing disorder. To all those who render such assistance to the cause of the public and the State, and to those servants of

Government who are charged with the onerous responsibility of suppressing excesses against public peace and tranquillity, the Governor General in Council extends the fullest assurance of countenance and support.

ORDER.—Ordered that the Resolution be published in the Gazette of India and communicated to all Local Governments and Administrations and all Departments of the Government of India.

PART II

**Oral Evidence and
Written Statement of Witness**

At Lahore, Tuesday, the 19th November 1919.

P R E S E N T :

The Hon'ble LORD HUNTER.

The Hon'ble Mr. Justice RANKIN.
The Hon'ble Mr. W. F. RICE, C.S.I., C.I.E.,
I.C.S.
Major-General Sir GEORGE BARROW, K.C.B.,
K.C.M.G.

The Hon'ble Pandit JAGAT NARAYAN.
The Hon'ble Mr. THOMAS SMITH.
Sir C. H. SETALVAD, Kt.
Sardar Sahibzada SULTAN AHMAD KHAN.

Mr. H. WILLIAMSON, M.B.E., I.P., *Secretary.*

Lieutenant-General Sir H. HUDSON, K.C.B., K.C.I.E., *Adjutant-General in India.*

By the President—

Q. You are Adjutant-General for the troops in India?

A. Yes.

Q. You communicated a statement to us about the situation so far as the army is concerned?

A. Yes.

Q. In the first part you mentioned the dates on which Martial Law was proclaimed and I think you have given us the dates on which it was removed. In connection with that question I think you had a communication from the General Officer Commanding, Lahore Divisional Area, on the 28th May as to the relaxation of orders and measures under Martial Law?

A. Yes.

Q. In consequence of that communication did you advise him as to the relaxation?

A. No; we never advised him at all as regards its relaxation in civil districts, but we did advise the Government of India as regards the railway lands. I am to explain that as Adjutant-General, my duties are connected with organization, recruiting and discipline; the latter also includes law in all its aspects, my duties also include military measures taken for the maintenance of civil order, but only up to a certain point. When disturbances become so serious as to constitute rebellion then I hand over the maintenance of order to the General staff, and that I did almost directly after the first account

of the trouble at Amritsar. Up to that point we dealt with it as ordinary civil riot.

Q. On this question of relaxation so far as the railway lands were concerned you expressed a strong view that it was inadvisable?

A. Yes, Sir. We had very good reasons for it which if you like I will explain. I have brought you here a series of maps which I have had prepared to show firstly the situation in India taken as a whole from time to time during the disturbances, and secondly the actual damage to communications during the same disturbances. (Witness here put in several maps which showed where disturbances were expected or had occurred from time to time during the months of April, May and June.) I think you will agree that so far as we are concerned there were indications that the roots of possible disorder were widespread, and not, as is supposed by some, nearly confined to the Punjab and in a lesser degree to Ahmedabad. When we come to actual disturbances you will see from this map how systematic were the attacks on communications; in the case of the Punjab you will see that the destruction of railway lines had every appearance of a systematic attempt to isolate the province—whilst the fact that for more than 24 hours the only means at the disposal of the Government of India for communicating with the rest of India was the wireless installations. All telegraph lines seem to have been systematically cut. I think you will agree from an examination of these maps and the general diaries of the situation as reported from time to time to Simla that there were good grounds for believing that the disturbances or possible elements of disorder were by no means local—and that there were *primâ facie* good grounds for suspecting that the systematic destruction or interruption of all means of communication was the work of some central and guiding organisation. Then we had the Afghan disturbances and a large force was concentrated for operations on the Khaiber line and beyond in the Afghan plain about Dakka. The Afridis were also giving

trouble, interfering with our main line of communications in the Khaiber and threatening the subsidiary line from Peshawar to Kohat and from Kohat to Thal and the Kurram Valley.

To the north of the Kabul River are the Mohmands, who were also a doubtful quantity and through whose country Afghan troops had actually advanced to within a day's march of our frontier post of Shabkadr.

South of the Kurram we had serious trouble in Waziristan, both in the Tochi and at Wana and this spread southwards into Baluchistan down the Zhob Valley.

Based on Quetta, we had troops operating from the frontier cantonment of Chaman on the Kandahar line, combined with considerable tribal unrest and Afghan intrigue within our border on the flanks of this line of operations.

We were thus faced with Afghan concentrations in three zones (*a*) at Jalalabad against the Khaiber; (*b*) in the Khost salient ready to act against the Kurram, Thal or the Tochi; and (*c*) opposite Chaman on the Quetta-Kandahar line. These were in addition to minor collections of Afghan tribal levies stiffened by some Afghan regulars along the border between these main lines of operations.

To add to our difficulties, the Pathans of the Khaiber Rifles, mainly Afridis, who held the Khaiber posts deserted. A large proportion of the North and South Waziristan Militia proved equally unreliable, and serious defections occurred even in the Zhob Militia in Baluchistan.

As regards the maintenance of the troops engaged on the frontier, our main base for supplies is Lahore. If you look at the railway map you will observe that the North-Western Railway from Lahore feeds the whole of the frontier zone from Peshawar to Quetta, the main lines being the Peshawar *viâ* Rawalpindi and to Quetta *viâ* Sukkur. From near Rawalpindi an important branch line runs to Kohat *viâ* Khushalgarh and also down the left bank of the Indus.

The point I wish to emphasise is the import-

ance of the North-Western Railway and how our safety depended on this railway and our telegraph communications being kept open.

Q. When did you anticipate trouble on the North-West Frontier and when did trouble actually arise? I want the dates?

A. I will give you the actual dates, but it came, as I think you are aware, very very suddenly; in fact, it came whilst we were in the midst of these Punjab disturbances.

Q. I think it actually was on the 8th of May?

A. 6th to 8th of May.

Q. What I wanted to know was whether sometime previous to the declaration of war you had not anticipated trouble on the North-West Frontier.

A. It is always a possible trouble, a trouble which is always present and which generally declares itself without warning. The last big outbreak was in 1897 in which nearly the whole of the tribes on the North-West Frontier were involved. It will be remembered that it was sudden and unexpected. A party of our troops had paid a friendly visit to a village at the head of the Tochi Valley, when they were suddenly attacked whilst at lunch by the tribesmen and several officers were killed. That was how the last big rising commenced—but we have had several less important risings since—in fact as a rule an expedition has to be undertaken against one tribe or another on an average every five or six years. The recent war was no exception—we had to send a punitive expedition against the Wazirs in 1917—whilst it was necessary to blockage other tribes at an earlier stage of the war.

Q. So that in connection with the occurrences on that frontier we may say that you may have peace one day and war the next day?

A. Quite so.

Q. In view of that circumstance, the maintenance intact of lines of communication, like the Punjab lines, is of vital importance?

A. Yes, of vital importance for all our

depôts of supply, are dependent on those lines of communication with the Punjab.

Q. Would I be wrong in putting it this way: that apart altogether from actual occurrences in the nature of destruction of property in cities and even the taking away of lives in the course of the riots, from a Military point of view the two occurrences, *viz.*, the destruction of the railway plant and the destruction of the telegraph system, were of such importance that you would have regarded Military Law as absolutely essential?

A. Yes, Sir, if it had only been the case of frontier tribes and there had been no internal disturbances, we certainly would not have asked for the application of Martial Law to railway areas; we would not in normal circumstances ask for it.

Q. With the internal disturbances, Martial Law became, from your point of view, essential?

A. Yes, Martial Law and the maintenance of it was essential. You will see that from the map. Without secured communications it would be impossible to carry on the campaign. I will now give you some letters intercepted from Afghanistan which show that the same ideas had occurred to the Amir, *viz.*, the destruction of communications. On the 5th of May, the field army received orders to mobilize. I will just give you a brief outline of events. Towards the end of April, Saleh Muhammad Khan, the Afghan Commander-in-Chief, arrived at Dakka with a force of two companies and some guns, ostensibly to inspect the Afghan frontier. On 3rd May, a caravan proceeding from Landi Kotal towards Afghanistan was held up just on our side of the frontier by Afghans, who refused to allow the Khaibar Rifle escort to proceed to the usual spot at the frontier where caravans are handed over. On the night 4th/5th May five coolies employed at the water-works within our border were killed by a gang of Afghan tribesmen. On May 4th, large numbers of leaflets, concluding with an unmistakable

exhortation of *Jehad*, were sent to be distributed in Peshawar City through the agency of the Afghan Post Office. About the same time the Afghan Postmaster returned from Jelalabad with a motor car load of leaflets, announcing that the Germans had resumed war, and that India and China had risen. On the 5th of May, the army received orders for mobilization. I will quote from a despatch. It is not a publication I am authorised to quote, but it is an advance copy of the despatch on the subject. It is to be regarded as privileged in that way.

Q. And those letters to which you said you would refer subsequently?

A. I will give you this later on.

Sir C. H. Setalvad:—Was not this information General, about the doing of the postmaster published at the time.

The President:—I think it was, there is nothing secret about that.

Sir C. H. Setalvad:—I remember to have read them in some official *communiqué* at the time about the doings of the postmaster and all that.

The President:—I only referred to the actual wording of the despatch.

Q. What you bring out in your statement more or less is this: that in connection with such disturbances, you must have the maximum of troops kept for internal purposes?

A. Yes, Sir; that is quite right. Perhaps I may explain what the state of feeling in the British Garrison was; it has a great bearing on the question. I think you remember, Sir, that when the armistice was declared there was an elaborate scheme of demobilization. It was really idealistic, and it was believed that the whole nation would, by that scheme, immediately settle down to what it was before the war, and with that idea they had a Ministry of Reconstruction, which was going to settle everybody down into his respective trade. For that reason it was decided to demobilize the forces by what they call "trade categories." There were certain main industries called pivotal in-

dustries and certain men were the key to those pivotal industries and the idea was that these men who were essential for the starting of these trades, such as coal mining trade, etc., would be the first to be demobilized. That idea left out of consideration human nature altogether. It did not take into consideration the fact that there were lots of men who had volunteered five years before to take their part in the war. These men were not called back, because they were not classed as belonging to pivotal industries. The men who were called back were men who had been conscripted. The Army did not feel that was right; and as you know, Sir, there was great trouble on the Rhine and elsewhere. There was active resistance to this order of demobilization. The whole thing had to be changed, and it was decided to hand the army over to the War Office to demobilize on what they considered to be the fair plan, *i.e.*, that the men who had served longest should be the first to go. It was some time before that decision reached India. The men in India (I mean European), rightly or wrongly, felt that their claims to demobilization had not received full consideration. There was a lot of trouble about it at the time and we had to send out many orders explaining everything we could to the men. The War Office said they could not be replaced. One has to remember that the War Office had to demobilize millions of men, Americans, Canadians, Australians, and India could only get her share; whether she got her fair share or not we cannot say. The men certainly did not consider so and they were not content at the time. Then about the time that the Punjab disturbances commenced, we got news of the killing of Europeans at Amritsar. We had about 4,000 men concentrated at Deolali, a place about 100 miles from Bombay, where we concentrate troops prior to embarkation. The Chief sent down a telegram pointing out the circumstance in which Europeans had been killed and that there were signs of serious trouble in India and asked them to volunteer. The men

accepted the situation and said they would come. It was all right with regard to those men. About a month later, about the 6th May, when the Afghan disturbances came on, we had also in the country some 17,000 men from Mesopotamia. I may say in this connection that we use India as a sort of station for collecting men from Mesopotamia before putting them in ships. Some of the demobilized men may not be going to the United Kingdom. In fact, this is a changing station. These 17,000 men also were detained. We did not ask them to volunteer. But we pointed out to them that the other people had volunteered. Meanwhile we informed the War Office of the situation and told them that the situation was critical, we were very much depleted in numbers and instead of having 75,000 men we were entitled to, we had only 60,000; we asked if we could detain these men. The War Office sent an order compulsorily detaining them. This they were allowed to do under the Military Service Act, which permitted them to keep men up till April 1920 or July 1920. All these men resented this very much. They said that they did not mind remaining in India to help their fellow-countrymen, but a war with Afghanistan was not their business, but the business of the Indian Government and they ought to keep enough men in India to do it. They were not at all in a contented frame of mind. Therefore the British garrison such as we had, was really not an efficient one. Prior to the war in the matter of infantry we had 52 regular battalions. At the time I am speaking of, *viz.*, about the time of the disturbances in the Punjab and the war with Afghanistan, the number had been reduced to 8 regular battalions. In addition we had 15 territorial battalions. I consider that the territorials were quite up to the quality of the ordinary battalion during the war; they were very good men and we had no trouble with them. Our weak point was with regard to garrison battalions. I will give you some figures about garrison battalions. The men are com-

posed of various classes as follows:—Men who had been wounded two or three times, or even four times during the war, and men of any age up to 55; in fact we had got a few older than 55. But the Government of India accepted these men and in their place released territorial battalions. These men were all right to show white faces, but not for utilisation for the purposes for which a soldier is utilised. I will go through one or two divisions. With regard to Rawalpindi Division, it had 3 garrison battalions, nominal strength 2,925; actual strength 1,348 of whom only 51 were fit and available for service. In the same division there was a company of garrison artillery, nominally 140, of which only 6 men were fit for service. In the Lahore Division which is the division where the disturbances took place, we had 2 garrison artillery companies with a nominal strength of 280, actual strength 249, of whom only 38 were fit. As regards the territorial battalion, we had 789, of whom 380 were fit, just about half; in the garrison battalion of 539 only 5 men were fit and in addition we had 1½ special battalions which, I may explain were composed of men of all sorts of units from the 17,000 I have spoken of as having been detained from Mesopotamia. They were very much better off and there were 600 fit men. Going on to the Mhow Division, we had 1 territorial battalion; out of 754 only 588 were fit. In 2 garrison battalions, nominal strength 1,950, actual strength 1,130, only 68 were fit. Going on to the Poona area we had 3 garrison battalions, nominal strength 2,925, actual strength 2,249 of whom only 65 were fit for duty. I may say that the standard of being fit for service duty was that they should be able to march 12 miles; the ordinary standard of B1 in a garrison battalion is ability to march 5 miles. That is the limit of the value of the battalion. I do not think I need weary you by going on with other divisions, but they all disclose very much the same state of affairs.

Q. All point to the disadvantage of depleting the North-West Frontier of fit men?

A. That was our trouble; we had also to make allowance out of these for reinforcements, casualties, etc. In a hot climate like this, you cannot certainly put it down at anything less than 12 per cent. per mensem.

Q. The maintenance of Martial Law reduces to a very large extent the number of men that it is necessary to maintain in any particular area? That is what you held?

A. We cannot say we held it on that ground because happily the occasions on which Martial Law has been imposed have been very few. In fact, I have got 39 years' service nearly and I never remember its imposition, except in South Africa during the South African War. The view we take is that if the soldier on the spot had a free hand to do what he liked and was entrusted with the maintenance of order untrammelled by the operations of the Civil Code, he could do it with very much fewer soldiers.

Q. Based upon your experience, have you in your mind any figure as to the extent to which you increase the numbers by having Martial Law?

A. I am afraid it will be purely academic.

Q. Can you say that it increased the value by 100 per cent? That is the figure which one previous witness indicated to us?

A. Yes.

Q. In your opinion were these causes that you indicated sufficient to justify the Government in not taking off Martial Law earlier than it did in the areas affected?

A. I think so, Sir, having regard to your position as regards the British troops. I will just give you the figures as they were for the last few years. On the 1st August 1914 before the war broke out we had 77,200 British troops. It had gone down a bit less; it always happens before the next trooping season that casualties and discharges bring your figure down. On the 1st November 1918 we had 83,710; that keep up drafts and replace casualties in Meso-

potamia. By the 1st January 1919, it dropped by 10,000. We had 73,368. By the 1st April it came down to 63,000, and by the 1st May to 60,000, by the gradual process of demobilization; and among this there was a tremendous number of men employed in *quasi*-civil duties; for instance, we had to be responsible for getting square the accounts of the British soldiers in both India and Mesopotamia and they had to be re-written entirely on new forms to suit the War Office. That necessitated the employment of something like 3,000 soldier clerks. That was one drain. Then we developed our Mechanical Transport to a tremendous extent at the expense of the infantry. We had also to expand our Supply and Transport services also at the expense of the British troops, and we had to replace our shortage in artillery, which was very considerable. I will give you the figures: before the war we had 11 horse batteries; after the outbreak of hostilities, we only had 2. We used to have 45 field batteries, regular. We only had 19.

Q. At what time was this?

A. That was at the time of the disturbances.

Q. At the outbreak of hostilities?

A. The outbreak of disturbances practically synchronised with the outbreak of hostilities. The conditions never altered. We had to form British machine-gun corps and motor batteries. We formed these in order to strengthen our position and so enable us to give more regular troops for operations in Mesopotamia, France and Egypt. The Government of India accepted the responsibility and events justified their acceptance.

Q. I suppose in connection with a situation like that you must not leave out of account the possibility of a recurrence of such disturbances as had actually occurred?

A. No. I think the last map that I showed you shows that we still had these disquieting reports from all the different places. This is a summary of reports from Local Governments and was taken for our information. The general

tenor of the reports is as follows:—United Provinces (April, May and June), general fear of disturbances throughout the province, took precautions, though no disorders actually occurred. Main reasons for the expectations of trouble, firstly, protest against Rowlatt Bill, second activity on the part of extremists, Muhammadan Maulavis, especially in Lucknow. Bihar and Orissa also had fears of general disturbances, chiefly on account of the protest against the Rowlatt Bill, *anti-cow* killing agitation feelings regarding Turkish peace terms. Bengal Government had fear of trouble especially in Calcutta and Dacca, owing to the Rowlatt Bill, *Satyagraha* movement, political dacoities, general looting and economic unrest. The Bombay Government had general fear of trouble in April owing to Gandhi propaganda and meetings held by extremist Muhammadans. This Government anticipated trouble in Ahmedabad in September. Madras and South India expected trouble at Hyderabad on account of the Turkish peace terms, also North Malabar for the same reason. Such was the information that was placed at the disposal of the General Staff by the Home Department.

Q. Before the actual withdrawal of Martial Law from the railway lands had you been consulted by the Government of India to the desirability of doing so?

A. Both the Government of India and the Punjab Government had consulted us on the question, and their view was that there was danger to our railway and lines of communication. In fact, this is almost exactly the same as we apprehended. As a matter of fact, it could have been withdrawn a fortnight earlier, but there was an unfortunate misunderstanding between the Home Department and the Army Department. It is due to the present system of circulating files by which very often they are being hung up. It could have really been abandoned a fortnight earlier.

Q. As far as railway lands are concerned?

A. What I mean is that the Commander-in-

Chief had agreed a fortnight earlier, but there was delay of a fortnight in communicating the decision.

Q. So far as the affected districts of the Punjab themselves were concerned, Lahore, Amritsar, Kasur and Gujranwalla and railway lands, do you consider that it would have been prudent or advisable to withdraw Martial Law any earlier than it was withdrawn?

A. About that the Commander-in-Chief always took up the attitude that he must defer to the views of the Local Governments.

Q. You indicated a few minutes ago that you had some communications in connection with the position of the Amir of Afghanistan in connection with the riot?

A. That is "direct incitement" which I put down under 'D'. It is an autograph letter, dated 29th April from Muhammad Tarzi. I think you know him. "The printed proclamation will make the situation clear—Don't let the opportunity slip. Please obtain oaths of allegiance in the name of Amir Amanullah from Hindus and Muhammadans. Ask the Government of India what is this law opposed to humanity, which they have passed. If you see the time is opportune, publish excitement in newspapers. Don't spare money. Maulvi Obaidulla is with the eastern armies and Abdur Razak among the frontier. Get into communication with them through trustworthy men.

Then Mirza Ghulam Hyder (postmaster) and others should win over the hearts of Hindus and Muhammadans."

Notes in the Afghan postmaster's own handwriting:

"1. What is the number of the guard at the Attock bridge and who are they?

"What is the distance between the guards and the bridge?

"2. Is Sukkur our cantonment or not? (Sukkur is a big Railway workshop where there is a big bridge over the Indus down the line to Quetta.)

"If a cantonment, what is the number of garrison, and who are they?"

"3. What tribes, Malikis and Khans, are in favour of the British?"

Letter from the Amir's Commission Agent, Peshawar, to one Haji Sahib "Reports state of Peshawar city and reports that as soon as Ghulam Hyder reached Peshawar, he armed his servants, gathered 200 to 300 Kabul and Afghan refugees around him, the city was placarded with *firman*s which were considered a declaration of *jehad*. . . ."

Then as regards 'E' (Afghan intrigues), on the 7th May correspondence from Kabul; the Afghan Envoy was intercepted and the following documents disclosed: First, Persian leaflets bearing Amir Amanullah's seal to the people. This is the purport. Refers to tyranny and oppression of Hindus and Muhammadans in India by the British Government. No Indian is any longer master of his property. Musalmans cannot go to their mosques nor Hindus to their temples. The duty devolves on Afghanistan. . . . Abdul Kudus has been appointed to command the forces in the west.

Secondly, 50 copies addressed to the people of Eastern boundaries of Afghanistan (clearly referring to the frontier tribes).

Thirdly, 30 copies of a leaflet headed Aman-i-Afghan (Afghan newspaper): professes to give state of India, states army is on the side of the people, which has taken possession of certain places in Amritsar. Telegraphs and railway station have been shattered. The English are besieged in Lahore Fort. British troops and Gurkhas fought each other. People from India have fled to independent territory. Concludes by similar events in Egypt.

30 copies of a leaflet entitled, "the condition of our neighbour India." That refers to British oppression in India. Refers to tyrannical law having been passed under which no man's life or property is safe. Slaughtering of defenceless people; events in Delhi, *hartal*, Hindu-Muhammadan unity, Gandhi and the *Satyagraha*

campaign, burning of English banks and churches, concludes with curses on the English.

Fifth, letter from the Kabul Foreign Minister for a grant-in-aid for a Moslem paper in Ceylon. Muhammad Tarzi forwards this to the Afghan Envoy and states that a sum of Rs. 3,000 is sanctioned as a grant-in-aid for newspapers. That ends with instructions to the Envoy as follows:—Some copies of proclamation printed under orders of His Majesty are sent; distribute them as you consider proper in suitable places. Spend money as you can. Keep your movements according to the proclamation and consider this as a hint.

On the envelope of this letter was a list of 16 newspapers, 6 Urdu and 10 English, classified as reliable, the *Bombay Chronicle* and the *Independent*, for instance being shown as reliable.

Letter from Muhammad Tarzi to Shah Abdul Khair of Delhi, enclosing letter from Rahman; the communication is somewhat in an allegorical style; the real meaning of it is quite clear, *viz.*, that the Amir is determined to proclaim the *Kalimah* of faith for the treatment of diseases and that there are great difficulties in the treatment of vicious diseases. There is need for prayers.

I have read to you the other one. A letter from Ghulam Hyder to the Amir.

"The English are distracted in mind on account of the European war, and have not strength to attack the Afghans. People in India will never let slip an opportunity for rising and revolt if they can find an opportunity, as their hearts are bleeding."

Letter from Muhammad Tarzi, dated 3rd May, informing Ghulam Hyder of the Amir's proclamation, and telling him to circulate it in every city.

I have given you the notes from the Amir to Ghulam Hyder, dated 24th April, authorising him to spend Rs. 10,000 in certain useful purposes,

Letter from Ghulam Hyder to the Amir, dated 7th May:—"The people of Peshawar, Hindus and Muhammadans, having got the news that this postmaster was to be arrested, came within half an hour to rebel. Total number 8,000 kissed my hands saying that I was King of Islam, they are ready to die for me. Message received at 2 o'clock in the night that a force of police have come to arrest me, but in the face of the crowd of my friends they could do nothing."

Letter, dated 10th of May, from the Amir to Ghulam Hyder acknowledging two letters from Haji Sahib of Turangazi (tribesman) ordering postmaster to communicate the *firman* to the Haji, by one of his trustworthy followers.

Then there is a letter of the 10th May from the Amir to Qazi Muhammad Wali of Peshawar thanking him for his services.

Letter, dated 5th May, from Muhammad Umar to Ghulam Hyder asking to send 10 or 20 copies of the Afghan proclamation.

Then there are two letters, dated 1st and 5th May, from Ghulam Hyder to the Amir. Gives extracts from the *London Times*, 20th to 29th April, concerning world politics, Bolshevism, German, Egyptian and Japanese affairs and showing how uncertain is the position of the British Government.

I have got a certain number of documents captured at Dakka after we obtained possession of Dakka. One was a letter from Dost Muhammad Khan to Sarbaddar of Dakka, dated 1st May, acknowledging receipt of letter and stating that he is conveying Amir's news to the Afridis who are thirsting for British blood.

Another captured letter from Ghulam Ali of Lalpura, a Muhammadan village on the other side of the Kabul river; all over India stories of mutinies of Indian troops; the British in desperate condition.

Then there is a letter found in the same place from Hakim House telling them that the Amir is in sympathy with Muhammadans of India and telling them to join in the *jehad*.

There was an endorsement by Haji Abdul Razak on the Amir's proclamation sent to Hindustani fanatics found in the Afghan post office, Peshawar, that Muhammadans will demand unity amongst Musalmans and the release of the people of India.

As regards Bolshevist ideas, our information goes to show that if they see any chance of creating disturbance in a country, which will place the Government of that country at a disadvantage, we have reason to believe they would seize that opportunity; it is not necessarily with any idea of spreading their views, but it is first to create embarrassment on the part of other people. I think Mr. Thompson has given you most of it. You have a rather curious confirmation of it; for instance, it is only last month that we got a telegram which came from Central Asia about Mahendra Pratap, sent from Germany to Moscow by aeroplane to get through to Afghanistan, to organise a general rising in India during the war (May and June last), but he could not get there.

We heard that the secret departments of the German Government were being re-organised from the following extract from a booklet entitled 'After Peace.' "Agents are now being deputed to spread Bolshevism into Persia and the whole of Asia. This will come perhaps as the greatest danger to the English. . . ."

Then we got letters from Central Asia about two Chinese subjects, Bolshevist agents endeavouring to reach India *via* Yerkaud. These men turned up in August and had in their possession Rs. 8 lakhs of notes, *i.e.*, rouble notes. I think Your Lordship is aware of the regulation proscribing rouble notes. The only way they can pay for spreading their propaganda is by these rouble notes. They have not got much gold to send, and for that reason rouble notes have been proscribed all over India.

Then you have got certain other facts. I think you know that before the war the whole of the hide industry was in the hands of the Germans; I think that is pretty well known.

(*The President*:—I noticed it even in Amritsar.)

That was the reason why we had to regard Amritsar with a certain amount of suspicion after the war began. We had Caucasian Tartars coming across, and in that book "Who's Who in Afghanistan," we have got a very long list of Indians (20 or 30 pages) who were in Kabul, and another 10 pages of different people who are in Kabul now; we have got Austrians, Russians, a large number of Turks and Egyptians. For instance there was one man who was in correspondence with the German General Staff in Berlin in 1915. It is just a sort of guide and is a confidential document. If anybody cares to look at it I can give it. That takes you right down to the bottom of 'G'.

The next is 'H' as regards the weather conditions. I will again quote from this despatch on the North-West Frontier. "Shortly after the outbreak of hostilities, heat waves of remarkable severity occurred over the whole of the Punjab and North-West India, the temperature in Peshawar in May, June and July being 5.7 degrees above the figures for the past 20 years. The Government of India appreciate how great a strain is imposed on the troops."

Then as regards Railways, I may quote another extract from this despatch:—

"The situation was somewhat abnormal; civil traffic had been considerably curtailed and serious damage caused to certain outlying stations during internal disturbances. The effect it had on civil officers is a matter of common knowledge."

Then last of all is a point on which the Afghan envoys laid great stress on the peace negotiations, what the terrors of Bolshevism would be for us. They had not got the idea out of their heads at all. It is rather significant, and it also had an effect on the frontier tribes. That is one of the cards the envoys were playing the whole time in their demand for easy terms,

Q. The negotiations started in June and peace was not signed till the 8th August?

A. They started in June, and there were delays. The Afghan delegates were always procrastinating.

Q. There is one subject which has been brought to our notice more than once. I do not know whether you will be able to give us any information upon it, and that is as regards the attempts that have been made to undermine the loyalty, particularly of the Indian troops?

A. I have got a considerable amount of evidence of that nature. It is not very definite and I can only describe it as indications showing which way the wind was blowing. We were naturally on the look-out for any signs of tampering with the troops. I do not think that any information would give you more than you have already got from Mr. Thompson. Most of our information of this sort is received from the Civil authorities. In fact, as regards soldiers, we had very little from regimental officers. There were some suspicious cases, of an office being burnt at Ambala, several cases of men being heard talking disaffectedly at Dakka, at stations, in railway carriages; but as far as organised attempt is concerned I do not think there was any.

Q. You have no evidence or information beyond this?

A. We have heaps of evidence, but they relate to very small things. They are not important.

Q. I suppose you would agree with Mr. Thompson that rumours like rumours connected with the burning of the Golden Temple at Amritsar or the examination of Sikh girls by British Soldiers could only be circulated with one object, and that object is the possibility of undermining the loyalty of the Sikh soldiers?

A. Yes. There has recently been some agitation over what I may call the *Kirpan* case. A *Kirpan* is one of the religious emblems

of the Sikhs. It is a sort of dagger or knife used for ceremonial purposes at marriages and initiation ceremonies. You will know that a man is not born a Sikh but has to be baptized as in other religions. Every Sikh is supposed to wear a miniature *Kirpan*. The full sized *Kirpan* is often 12 inches long—and is not normally worn by Sikhs. Not many years ago, on the advice of the Lieutenant-Governor of the Punjab, the *Kirpan* was exempted from the operation of the Arms Act. The recent agitation had as its object the recognition of the right of all Sikhs to wear the full sized *Kirpan* at all times and even for Sikh soldiers to wear it in uniform. There has never been any general demand for this in the Army, and one can only regard the agitation as an attempt to create trouble among the Sikhs and to give the matter a religious aspect.

It was, I think, for this reason that the story about the examination of Sikh girls by British soldiers was exaggerated. It was not suggested that the girls were assaulted but that there had been interference with the religious emblems of the Sikhs.

Q. I suppose the incidents that General Drake Brockman referred to us would have been communicated to you ?

A. I have not thought it necessary to repeat those cases, because I know that you had those things already. I have been through Mr. Thomson's evidence too ; so I do not propose to repeat them, except to corroborate them.

By the Hon'ble Mr. Justice Rankin—

Q. You have told us that on account of these disturbances and the Afghan war, it delayed the getting home of a great many British Troops ?

A. Yes.

Q. As regards the people who were at Deolali and from whom special battalions were composed, they were induced to volunteer, as I understand, entirely by reason of these disturbances ?

A. That only applied to the first 3,000. It does not apply to the men from Mesopotamia, because we got a definite order from the War Office to keep them in view of the serious situation ; and I think, after what I have told you about the *moral* and strength of the British garrison in India, it was very necessary that we should have that extra 17,000.

Q. Were the 17,000 detained before the outbreak of the Afghan War ?

A. No.

Q. So that, these disturbances and the Afghan War would work together in detaining them ?

A. Yes.

Q. As regards, at any rate, the first people, who were ready to go on board, they had to be sent to Quetta ; was that entirely on account of these disturbances ? Was that before the Afghan War broke out ?

A. It was entirely due to an appeal from the Commander-in-Chief to support their fellow-countrymen in a crisis.

Q. Whatever the declaration of Martial Law might have brought to India, there is no doubt it brought a very great loss and extra pain and suffering to a great many of the British troops ?

A. It was more than that. It prevented the men going home before the hot weather. It meant labour and extra expense, because we had to give men special accommodation for going home ; but we did feel and the Government of India felt that we should do everything we could to get these men home ; many of them had not seen their wives and families for nearly 5 years.

Q. And I think, in fact, the great bulk of these men did not get troopships until about September ?

A. Yes, Sir. We got rid of the whole lot of 17,000 by about the end of September.

Q. The moment it became decided to institute Martial Law, the control and adminis-

tration from headquarters ceased? Is that correct?

A. There were cases of riots at first, for instance, in Delhi, and the men there asked for help and extra assistance to put them down, and I, as Adjutant-General, got extra assistance from elsewhere. But when it was decided, after consultation with Adjutant-General and the General Staff by the Commander-in-Chief, that it passed out of the stage of civil disturbance and assumed that of open rebellion, the movement of troops was taken over by the General Staff as a combination of operations was required to put it down. I merely dealt with the details which pertain to the Adjutant-General, maintenance of discipline, and things of that kind.

Q. That being so, there is just one question that has been troubling me; perhaps you can help me. In one district, at any rate, we have had the case of an Area Officer acting under the proclamation of the General Officer Commanding, 16th Division, General Beynon. In ordinary cases he administered punishments laid down in the proclamation. But in cases where he felt that the offences could be treated as minor offences, he seems to have visited the offender not with any of the three authorised punishments, but with minor punishments of his own discovery. Is that correct according to the opinion of headquarters, or would that be misunderstanding the position?

A. No; I think you must hold it as perfectly correct. May I explain the extent to which Martial Law is dealt with in our book? Perhaps you are familiar with it.

Q. I am afraid I am not very familiar with it.

A. The book contains 900 pages. Exactly only one page is allotted to Martial Law. I suggest that the committee may read it right through. The soldier has got very little to go upon. The question of the proclamation of Martial Law is immaterial. It is immaterial whether it is proclaimed or not. If the civil

officer says 'I am unable to maintain order, you maintain order, that *ipso facto*, according to what we understand, is Martial Law. Under that law the only standard is that the *bonâ fides* of the officer acting under it must be genuine.

By the President—

Q. There is one element, I think, and that is in connection with any repressive measure he must not do anything in excess of what is necessary for the occasion.

A. Yes.

Q. Whatever may be the regulations so far as the soldier is concerned, from the legal point of view, there is a limitation upon the powers.

A. He is supreme. The responsibility of maintaining order is his and he is told in the last paragraph of Chapter I (on what is believed to be very high authority) that when a proclamation of Martial Law has been issued any soldier who takes, in accordance with the official instructions laid down for the guidance of these administering Martial Law, such measures as he honestly thinks to be necessary for restoring peace and the preservation of authority may rely on any question as to the legality of his conduct being subsequently met by an act of indemnity.

Q. Underlying that, there is an element of illegality which requires to be sanctioned by an act of indemnity?

A. I take it that everything requires to be sanctioned by an act of indemnity, because, I do not think you can recognise Martial Law.

Q. Martial Law means the negation of law?

A. Absolutely. I think there is always an Indemnity Act after the imposition of Martial Law.

Q. It has also been held that though you have an Indemnity Act, still, there is the question whether on a particular occasion an officer went on in excess of his authority.

A. Of course he has got no code by which

he can work. There is absolutely nothing to guide him.

By the Hon'ble Mr. Justice Rankin—

Q. Certainly it is not so much the attitude of such an officer before the Civil Law, but the position between himself and his own superiors in the army. General Beynon issued a proclamation on 19th April and laid down three forms of punishment. There is one case, if not more, in which the area officer could have inflicted any of these three forms of punishment. But he thought it fit to impose upon the civil population slighter punishment on the analogy of what is sometimes called minor punishments in the army. I want to know whether that point was considered at headquarters, whether it was the intention of the headquarters at Simla or the 16th Divisional Officer that officers could exercise their discretion or whether it was their intention that they should treat that proclamation as a sort of instruction to the officers and that the officers should confine themselves to the three classes of punishments mentioned in that?

A. I think it gave some latitude to deal with such cases, but I think it has always been the intention, at any rate, that when you give any punishment, you should record it. That applies to minor punishments and punishments of every kind. There should be no punishment given without a record of it being made.

Q. There ought to be in some sense a fair trial and a record kept?

A. Yes.

Q. In this particular case, another thing that has been troubling me is this: none of these minor punishments appear to have been reported. I cannot see whether any records of the trials were kept. None of them appear to have been reported to the divisional headquarters. None of them appear in the tabular

statement. That is why I have been asking you whether it could have been the intention of the higher Military authorities that unauthorised punishments could be inflicted and not reported to the authorities.

A. As far as unauthorised punishments are concerned, we would have no power to prescribe, because if you institute Martial Law, it is the will of the man on the spot, and he has to deal with cases in any way he can. If you say, he is not to give, say, flogging, because it is not recognised as a punishment in the law of the land, you are tying his hands. You are saying to him "you have a free hand to restore order, but you must not do this and that." I do not think you can give a free hand with certain limitations.

Q. The only person who can order in this case is General Beynon and all subordinate officers should take his instructions?

A. Yes, general instructions.

Q. Is it the case in the Army that these minor punishments are authorised? I remember I have seen in that book that no unauthorised punishments shall be given. Is it not one of the principles laid down?

A. I think that is the preamble of the Army Act. If you catch a man in the act of going against disciplinary orders, sometimes, it is done straight off to save trouble, but it will be properly recorded.

Q. At any rate as a superior Military officer, if a company officer, for example, acting as area officer took it that he was entitled to give what he thought minor punishments, you would not think that he was doing something, which was, at any rate, obviously against instructions?

A. No.

Q. And as long as the particular punishment he inflicts is not unduly injurious, you do not think there is any ground of complaint on that score?

A. No; I do not think so.

By Sir C. H. Setalvad—

Q. The Afghan trouble actually came on the 5th of May?

A. It began about the 2nd or 3rd of May. The whole thing came very suddenly. An impertinent letter came from the Amir and that was followed by the arrival of a few hundred men and the murder of a guard.

Q. Before that you had no indication? It was quite a surprise?

A. Absolutely. We knew that there was a tremendous amount of intrigue afoot. You will be quite familiar with the murder of Amir Habibulla and how at first Nasarullah came to the throne. Actually we were in touch with all that.

Q. It was not expected that this new Amir, when he came to the throne, would suddenly go to war with India?

A. No. At that time we did not know who were his governors.

Q. Then you spoke of the state of the tribes on the frontier?

A. Yes.

Q. I understood you to say, General, that really the normal state of these tribes is one of uncertainty?

A. Absolutely.

Q. That was a factor which has existed all these years in India?

A. Yes. Of course one may be asked why they did not rise during the war? They did, more than once.

Q. That was the normal state existing in India for many years?

A. Yes; you will realize that the frontier is very nearly a thousand miles in length and that throughout this length it is served by various lines of communication. Slight trouble on the Quetta side might have far-reaching consequences on the line of communications.

Q. I do not know whether I have understood you correctly, that the destruction of railway plant and telegraph communications

that took place in the early days of April by itself would not have made you extend Martial Law to those areas?

A. What I meant to convey was that supposing under ordinary circumstances we had an expedition on the frontier, we should not have introduced Martial Law into railway lands, it was done simply because there were disturbances in the Punjab and we feared a recrudescence.

Q. Then what was there on the 15th April? What, for instance, was there which induced the authorities at headquarters to think that Martial Law was necessary?

A. Martial Law was considered to be necessary because people who were in touch with the situation said it was.

Q. It was really thought to be necessary in view of the internal state of the places themselves as represented by the people on the spot?

A. Absolutely. If you look at these maps, you will see that we were taking India as a whole and we were not at all satisfied with the general state of things.

Q. I want to be quite clear about this: the state of the tribes is one of uncertainty more or less?

A. Yes.

Q. And the destruction of the railway plant that occurred at these stations by itself would not have induced the authorities at headquarters to ask for Martial Law, but it became necessary because of what was said to be the actual state of the civil population in various places. They had really nothing to do with each other?

A. The situation was that we were always anxious about the frontier. These disturbances suddenly started in Delhi, Ahmedabad, Calcutta and so on and in an acute state in the Punjab. The Punjab Government asked for Martial Law. We had the situation as described in the map, and we agreed with them.

Q. What I want to understand is this:

Does it not come to this, that Martial Law was deemed to be necessary because of the actual state of the places affected ?

A. Yes.

Q. Not so much on account of the position of the tribes ?

A. They had nothing to do with each other. The tribes and the Afghan disturbances were certain factors when we opposed the taking away of Martial Law.

Q. They came in as factors for consideration on the question whether Martial Law should be stopped or continued. That is all ?

A. Yes.

Q. But the initial introduction of Martial Law had to be decided and really was decided by the actual state of the places affected as reported by the civil authorities ?

A. Quite so. You must always remember that we have got this idea of trouble with the tribes always in mind.

Q. With regard to the actual places affected, Lahore, Amritsar, Ahmedabad and other places, those disturbances were very regrettable in themselves and what actually happened was very reprehensible. But, after all, were they not attempts of a character which could not last for a time ? They collapsed very soon, in fact as soon as the Military came on the spot ?

A. For quite a long time we had columns moving about in the Punjab.

Q. Take the actual place, Amritsar, where the worst things happened in the Punjab. They happened on the 10th. And practically after the 10th, we have had no repetition of things of that character in Amritsar. As soon as the Military arrived, the thing collapsed ?

A. I do not think it is quite an accurate statement as regards Amritsar.

Q. That is what we have been told. After the 10th, the Military took over charge and nothing serious happened at Amritsar afterwards ?

A. There was defiance of General Dyer's order,

Q. True, about attendance at meetings. There was no repetition at Amritsar of the things that happened on the 10th ?

A. I think you are quite right, but there was not a state of peace and quiet.

Q. I do not suggest that, General. I am only suggesting that whatever it was, these disturbances were of such a character that they could not possibly last any time as soon as you had the organised Military force coming in ?

A. That was not the view we held. We had to look at India as a whole. That is the view I tried to explain on this map. We could not allow disturbances to get out of hand anywhere in India at that time.

Q. You are entitled to take the view you took as to the nature of these disturbances. In the disorders at various places the people who took part were not armed ; except *lathis* they had no firearms ?

A. I was not on the spot, so I cannot tell you.

Q. The reports that we have show that they carried no firearms. No attempts were made at any place to seize fire arms from places where they would be available. However bad may be the attempt, was it not bound to collapse in a very short time ?

A. It was bound to collapse or bound to spread into something very big, and perhaps affect the Army ; we had to look out for that.

Q. So far as the mobs were concerned ?

A. As far as the mob goes, any mob can be cowed by a certain number of troops.

Q. What I mean to suggest is that the mobs that committed excesses had not prepared or organised themselves in a manner so as to have a determined rising against Government and did not attempt to arm themselves or do any such things. Their attempt was of a very unsubstantial character.

A. Our information was not that. We thought they had means of arming themselves ; I think they could have done that.

Q. We have had no such information

placed before us, on the contrary the evidence shows that in Lahore and other places, no attempt was made by the mob or any persons organizing themselves to seize arms, for instance, from the licensed arm holders or people who sell arms or anything of that sort.

A. I do not quite see, Sir Chimanlal, what you want me to say. If you want my opinion as to whether Martial Law was justified or not at that time, I would certainly say it was.

Q. That was the view you took and you introduced Martial Law, but I am trying to test the circumstances, because you told me that the desirability or otherwise of introducing Martial Law was determined upon the nature of the disturbances that took place and the reports that you had from the civil authorities as regards the situation in those places. Taking that as the proposition, I want to put before you the fact that the nature of those disturbances was of such a character that they could not last for any substantial time at all. They did very foolish things.

A. You are in possession of all the facts now, which we were not in possession of then. We did not know to what extent they had prepared and whether it was organized rebellion or conspiracy. All we could see was that railways were cut in a very organized manner all over the place. We did not know what was at the bottom.

Q. Then you refer, General, to the state of the British Garrison at the time, and the various difficulties about Territorials and the inefficient character of the whole garrison and so on. Now, by the end of 1914, after the war broke out or at the beginning of 1915, the British Garrison in India was much more reduced than it was in 1919?

A. If you take the actual number, it was, but if you take the Military value, it was not.

Q. I do not know the facts, but at the end of 1914, was not India really depleted of all British soldiers?

A. No, because as we sent units to France they sent Territorials out here. My papers will show you the number we got out. For instance the total number of Territorial battalions at one time or another is 42. We sent 17 of those overseas. As soon as we started sending troops to France, you will find they were sending Territorial battalions here. It is only when we come to the last stage, that the Government of India agreed to accept these garrison battalions. Then to fortify their position and on account of the ratio of British to Indian troops, they decided to have compulsory military training for Europeans in India, which resulted in the Indian Defence Force.

Q. At that time the number of British soldiers was so much reduced?

A. I do not think so, because we sent a large number of Indian troops away. At the beginning of the war, the number of Indian battalions was 138. At one period of the war we raised up as high as 294½. We raised 160 battalions, but we sent those away to different parts, and at the time I am speaking of, *viz.*, in May, we dropped down to 145, which is very much the same as before the war.

Q. At the end of 1914 and 1915, a large number of Indian troops were also sent out of the country?

A. A larger proportion of Indian troops left the country than British.

Q. Was not the position at the end of 1914 and the beginning of 1915 this, that the effective Military strength available in India itself was much less than was available in 1919?

A. I would not say that; I was not here at the time; I was out of India myself.

Q. Look at the fact that both British and Indian troops were sent away?

A. You should remember the difference between the pre-war battalions and the battalions recently raised.

Q. Will figures be available somewhere?

A. Figures can show you anything. Figures

do not give you any criterion of their potential military value.

Q. You are aware, General, of the *Ghadr* movement that was started in the Punjab in the end of 1914 and the beginning of 1915 ?

A. I have seen some correspondence.

Q. That was started by certain emigrants who came from America and San Francisco ?

A. That is right.

Q. They were stirring up the Sikh population in the Punjab and elsewhere ?

A. Yes.

Q. That was a propaganda of open revolution and was started when the war was on. Government were aware that it was done at a very dangerous time. At that time it was not considered necessary to introduce Martial Law in the Punjab ?

A. I understand it was not.

Q. And the same thing happened when later on in 1915 you had considerable disturbances and unrest in the South-West Punjab, numerous dacoities were committed and people openly said that the German Emperor was now the ruler and they were doing excesses in his name ?

A. Yes.

Q. At that time the situation was very serious in that sense ?

A. I expect it was.

Q. Even at that time it was never thought necessary to introduce Martial Law ?

A. No ; Martial Law is a thing you really do not want to introduce, unless you cannot possibly help it. You have got to remember that you are placing a very unfair burden on the soldier. I do not think anyone will like to do it. It is the very last resort.

Q. What I want to understand is this : was the situation in 1919 considered so much more grave than those two situations that I have mentioned as to make it necessary to introduce Martial Law, or was not possibly rather an exaggerated view taken of the realities

of the situation ? Don't you think you were a little panic-stricken ?

A. Honestly I do not. You see we went on having these reports from local people. The Chief of the General Staff was an officer who had been in India during these disturbances you are speaking of. I can assure you that I do not think there was any panic. As regards the introduction of Martial Law, I was privileged to be at one of the meetings when the Viceroy decided on it, and certainly there was no panic.

Q. They may not have panic at Simla, but the civil authorities on the spot who wrote the reports might have had ?

A. Knowing them as I do, I should say that all of them are cool-headed people.

Q. Then I understood you to say, General, that as Adjutant-General, you are in charge of what you call discipline ?

A. Yes.

Q. That includes, I understood you to say, the Military going to the aid of the civil power ?

A. That is right.

Q. Also the administration of Martial Law ?

A. Not the administration of it. Perhaps I have misled you—questions regarding Martial Law.

Q. That is the introduction and taking it away and things of that character ?

A. I do not touch those things. I only advise if I am asked to.

Q. What actually comes within your purview with regard to Martial Law while it is on ?

A. The only question which would come before me is if anybody said 'Can I do such and such a thing under Martial Law ?

Q. Is the matter referred to for your information or advice ?

A. Sometimes : it is not very often and the only answer is that it is on his own responsibility ; it is a stereotyped expression of mine.

Q. When Martial Law is actually on, is the man on the spot, the General who is in charge of a particular division who is administering Martial Law, under the supervision and orders of the Simla authorities ?

A. Certainly not; the Commander-in-Chief has on more than one occasion tendered him advice. He would never give him an order, for the reason that it is not fair to give a man a free hand and then restrict his powers ; but he has on more than one occasion given him advice or suggestion.

Q. Simla headquarters keep a watch on what is going on?

A. We know what is going on to a certain extent; we only know what we are told.

Q. And if it comes to your notice that he is not acting in a manner which you consider desirable, then you possibly tender him advice?

A. Yes.

Q. Before the actual introduction of Martial Law, they were under your supervision and control?

A. We really did not know what was happening. As I explained just now there were occasions in which the news we got was by wireless. We had to be very careful with wireless, because we know that our wireless can be tapped from very long distances. Till the actual declaration of Martial Law you would have the power to control a person who is carrying on the duties in aid of the Civil power and is governed entirely by the Code of Criminal Procedure. That is the normal course; but if the Civil authorities say 'we can no longer maintain order' the Criminal Procedure Code goes *ipso facto* and he has got to administer in some other way. We did not hear about Amritsar news till after it occurred. The Civil officer did not say 'I am going to hand over charge to the Military.'

Q. He did it on the spur of the moment?

A. We only heard of it after it happened.

Q. During the period from the 11th till the actual declaration of Martial Law on the 15th,

General Dyer was technically under your orders. Was he?

A. He was under our orders, inasmuch as every single soldier in the army is. He had his own responsibility. He has got a definite command and he exercises his command within the districts allotted to him and over the troops.

Q. I understood there was some distinction as to the extent of control after the actual declaration of Martial Law and before that. I understood you to say that once Martial Law is declared, the man on the spot has authority and you cannot limit his discretion by orders from headquarters, but you may tender him advice, but before that he would be technically under your orders; you may not interfere with him?

A. He is under our orders in his military capacity only.

Q. But in what he does in his military capacity, he would be subject to your control and revision?

A. I maintain that if the Civil authorities hand over the administration to him, he is acting a *quasi*-civil position. You can argue as much as you like, but I do not think you will come to a conclusion.

Q. When did you learn, General, about the incidents of Jalianwalla Bagh?

A. I think you will find it in the usual diaries. We got a telegram, I think, stating that the casualties were about 200. We did not then know whether it was killed or wounded. It was sometime before we got the main facts.

Q. Did Headquarters consider the incident on its merits and come to any conclusion about it, or they did not concern themselves about it?

A. They concerned themselves about it very much. We got a report as quickly as we could.

Q. Is that the report that General Dyer placed before us?

A. No. You will find the report in some of the earlier diaries. But we did not institute any inquiry into it, because it was done by an officer acting under Martial Law.

Q. You merely informed yourselves of the circumstances attendant on that incident?

A. Yes.

Q. You did not take any further action about it in the way of considering its property?

A. No; incidentally we considered the question very deeply, but we took no overt act or any private action.

Q. Did you come to any conclusion as to merits, whether the action taken was a reasonable or a just one, or you did not come to any decision?

A. I do not think it is possible to come to a decision in a matter like that. My own view is, if a man has to act in his military capacity, that man is judged by the results, not by what he thinks is going to happen to himself.

Q. Taking action in such an emergency has ultimately to be judged in some way, whether the circumstances then existing justified him in taking that action, or whether the action that he took was not in excess of what the circumstances required?

A. I hold myself that you cannot judge unless you are in full possession of the facts of the case. You have got to take the man's mentality and what the situation appeared to him to be at the time. It is very very difficult.

Q. He has stated all that. Surely it can be judged whether the action that he took was a reasonable action to take or whether it was in excess of his authority or what the circumstances required.

A. I daresay you would find people to adjudicate upon it. It is quite possible to give a judgment, but it is very difficult to picture to yourself the actual circumstances of the case on evidence.

Q. We take it that the circumstances were as he described them himself?

A. Yes.

Q. On that surely one can judge whether that action was a reasonable one?

A. I am very glad you are to judge and not I.

Q. With regard to the attempts to tamper with the Indian troops, I understood you to say that there was no organised or serious attempt in that way at all?

A. I do not think so.

Q. I mean that such cases as you had were always happening, all these years?

A. I should certainly say it was above the normal, but on the other hand when you are looking out for stray cases, you will always find them, and we were on the look out them.

By Major-General Sir George Barrow—

Q. Dealing with the responsibility of officers, you said, General Hudson, that the action taken in the Jalianwalla case should be judged very much by the results rather than by the circumstances, because we cannot tell the circumstances.

A. Yes.

Q. Judging by the results, you say, in that case that General Dyer was justified.

A. The result was that we had no more disturbances anywhere. The news of that was a very very great factor in stopping disturbances all over India. That is my own private view, and I have nothing to back me up. The news of that had a tremendous effect all over India. It showed when Government take a measure, they mean to do their duty by it.

Q. You were here yesterday when I put the question to Mr. Thompson about the question of flogging. There is some objection, naturally, to that form of punishment. Can you think of any substitute to meet the case?

A. Flogging was done away with in the British army about a month before I joined it. You remember that we substituted in its place forms of Field Punishment called No. 1 and No. 2. That is, you can tie a man up for a certain number of hours. It might well be that such a punishment if carried out in the hot weather in India would be more barbarous than flogging. I do not think that such punishment should be carried out in India. That

is the only substitute we have succeeded in making. I agree with General Beynon's opinion that flogging is very inexpedient, so much so that on soldier in the Indian army is flogged without the case being sent up to the Commander-in-Chief. It comes up through me. Flogging is only inflicted for what we call disgraceful offences, such as for stealing things from a comrade.

Q. Therefore the only substitute that you can suggest is really a worse one?

A. I think so.

Q. I take it that when Martial Law is imposed in your own country or in an enemy country, it would not be possible or advisable in any way to limit the powers of the officer administering Martial Law?

A. I would not limit, but I would like to give him a sort of a letter of advice, which should vary with different persons; for instance, if you have a tribunal consisting of military men, it is no use prescribing that that tribunal is to try people under the civil law, because they do not know what it means. Equally, it is impossible to tell a tribunal consisting of three civilians to administer military law. You can give him some advice, such as, "limit yourself to the following punishments. Do not inflict such punishments as would degrade the man; do not do this and the other." Something like that is very useful.

Q. The only other question I have to ask is that put to Mr. Thompson by Sardar Sultan Ahmad Khan about the giving of commissions in the army. I daresay your opinion will carry even greater weight than Mr. Thompson's. I understand it was not in any way the result of agitation.

A. This question of Commissions in the Army for Indians first came to my notice when I joined Army Headquarters as a junior attached officer many years ago. It has been considered at Army Headquarters for the last 25 years or more. Everyone knew that it must come some time or other. Just before I came

out to India early in 1917 Mr. Chamberlain mentioned it to me and on arrival in India it was one of the first subjects that the Commander-in-Chief directed me to take up. We worked out an outline scheme in March 1917. I do not think there is anything in the suggestion that it was the result of agitation. Mr. Chamberlain's view was that we had asked Indians to take a full share in the Great War and that therefore we must give them a fuller share. Everybody agreed with that view. We came to the conclusion that if Indians were to be admitted to the grant of King's Commissions they must be admitted on terms of full equality. It would not do to pick out only well connected men and grant them commissions. Subject to the possession of essential qualifications commissions should be given on terms of absolute equality.

Q. Then in your experience, you do not think that there was any feeling in the Indian Army before this was introduced? It was done on your own initiative at Army Headquarters. Was there not a feeling in the army that because it was not introduced sooner, that it was very great and legitimate grievances?

A. I do not think it occurred to the men in the army. It certainly did occur to a lot of better families, who wanted a channel for their younger sons; they did feel that; I think it was a very legitimate feeling.

By the Hon'ble Pandit Jagat Narayan—

Q. May I know the date when the people at Deolali were asked to volunteer?

A. I can get it for you.

Q. I only want the month, not exactly the date.

A. You may say that it was between the 10th and the end of the month. I can get the actual date.

Q. You have said, Sir, that it rests with the men on the spot. Do you mean that the administration of Martial Law rests with the men

on the spot, the Area Officers or the administrator of Martial Law?

A. It depends on who the commander is.

Q. What I mean is this: the Martial Law administrator may be at Lahore and I may be at a certain village; but it is not the will of the man who is on the spot, but the will of the administrator of Martial Law?

A. You see there must be some elasticity.

Q. When you state that general proposition, do you mean to say that it is the will of every Area Officer or the will of the administrator of Martial Law?

A. Officers act in accordance with the will of the administrator, but there is nothing to stop their acting on their own initiative as well, in cases of emergency.

Q. I want to know the general situation under Martial Law, as to whether you mean it is the will of the administrator of Martial Law or the will of the Area Officer?

A. It is indifferent. In some cases it is the will of the administrator of Martial Law and sometimes it must be the will of the man on the spot.

Q. Then if the area officer is appointed to decide cases and he is given a letter of advice or definite and distinct instructions, can he disobey those orders?

A. On his own responsibility certainly.

Q. But anybody can take action on his own responsibility; it is no law?

A. We say it is wrong on your part to obey order, merely because it is an order, if a set of circumstances arose different to those which occurred when the man gave the order.

Q. So far as the trials of cases is concerned, there may be no such emergency?

A. If it is actually trials of cases, it is all very well, but if it is necessary for a man to depart from the orders he is given by the administrator, we say it is wrong, if he does not do so.

Q. If the administrator is always available to him, is it not always better for him, when

he wants to depart from orders, to take the advice of the administrator if there is any emergency?

A. That is true if you can get to that man yourself.

Q. Supposing the administrator of Martial Law says that the area officer can try cases but should not order imprisonment for more than two years, and supposing that officer sentences an accused to death, can he do so? He takes the risk, but legally is he authorised to do so?

A. He should not do so.

Q. Then I think there are two kinds of courts under the Military Acts?

A. Yes.

Q. One presided over by one judge and the other accompanied by two others, called the General Summary Court-Martial.

A. You have got to be a little careful here, because you have got to remember there are two kinds of Military Law. There is Military Law under the Army Act and there is Military Law under the Indian Army Act, and Court Martials under these two form of law are quite different, you cannot try a man of the British service under Indian Act.

Q. Is the procedure different between the two Acts?

A. Yes.

Q. Then are there not two kinds of courts under the Indian Army Act?

A. There are more than two; there are half a dozen altogether.

Q. Summary courts?

A. Yes, Field General Court-Martial and Summary General Court-Martial.

Q. In the Army Act, I think procedure is laid down as to how to take evidence and how to decide cases? If anyone is appointed Area Officer, he has, under that Military Act, to conform to that procedure?

A. It all depends on the case that is tried. I put it clearly that it is not right for Military people to sit and try people under the civil

law, nor is it right for a Civilian to try men under the military law.

Q. Do you make any difference between a soldier who committed breach of discipline and a civilian who committed breach of Martial Law; do you make any difference between a civilian who committed theft and a soldier committing the same offence? I do not mean to say he will have legal acumen and all that. Supposing a British soldier is brought before an officer for the breach of any regulations or any orders and similarly after Martial Law is introduced, if a civilian is brought before him for breach of those very orders, the procedure would be the same?

A. I do not think so; British soldier would be tried under his own regulations; apart from Martial Law, he has got his own code which is still in force. The abrogation of the Civil Code of Procedure does not affect the Military Code. A soldier would still be tried by his own people.

Q. I do not say that he should be tried under civil law, but is the procedure to be adopted different?

A. It has nothing to do with the Penal Code. Here under the Army Act, a procedure is prescribed for that officer. It is not with reference to the nationality of the accused or the offence which he committed; but you follow the procedure under the Army Act.

Q. Then you will agree with me that in these summary courts which were established under Martial Law, they were bound to follow the procedure prescribed by the Army Act; otherwise they had no other guidance?

A. I expect that it was so.

Q. As you have already informed us, for every punishment, whatever it may be, under the Army Act, it must be done in some way and there must be a record made of it?

A. You see there is nothing laying that down, but I hold it to be the custom.

Q. Custom has the force of law?

A. Not when applied to Martial Law.

Q. Don't you think that summary courts

under the Army Act are ordered to write abstracts of the evidence?

A. No. It is not necessary that it should be done.

Q. When there is a trial by one judge and two assistants; I am taking of a court presided over by only one judge.

A. He is not bound to record evidence.

Q. Are not the ordinary summary courts supposed to jot down heads of evidence; I do not mean any copious notes about the evidence, but I think they should put down the name of the witness and two or three heads of what he stated?

A. Very often it is done; it is done on a schedule.

Q. Then may I know on what date the first territorials arrived in India?

A. I should say probably about the end of 1914. I think I saw them at Malta, in September; it was probably October, November or December 1914 when they arrived in India.

Q. Although the question has been asked by Sir Chimanlal and pursued by General Barrow, I have not been able to satisfy myself as to what is the position you take. You say you judge a man by the results. Supposing I take this particular instance; supposing instead of firing upon this mob and killing about 200 or 300 persons, supposing General Dyer bombarded the city of Amritsar and killed 10,000, would not the same results have followed? Simply because there were no further disturbances, you conclude that the act was justified. I say that there must be some limit somewhere. So far as the superior Military authorities are concerned, they must come to a conclusion whether a certain action was justified or not?

A. You must not ask me to make the definition.

Q. My point is this. Here is the case, very distinct. You yourself have stated, Sir, that he was not doing anything under Martial Law, up to the 13th because Martial Law was not proclaimed up to the 13th.

A. Not proclaimed?

Q. I must say that you made that statement; but in point of fact, Martial Law was there. I quite saw that you made a mistake.

A. I am sorry.

Q. Here is the man, he gives his own version; you do not doubt that version. He gives all the reasons and the circumstances. It is not a case where you have to find out the facts. But the person himself gives a report; there is no dispute about the facts. He says he did that. Then surely as a superior Military Officer, I think it is open to you to come to a conclusion as to whether the action that is ascribed to him was justifiable or not?

A. You want me to give my opinion on it.

Q. You said it was not for you to give an opinion; you do not want to give any opinion. I am satisfied; I cannot press you and I do not want to do so.

A. It would certainly be most wrong on my part to give an opinion.

Q. Not on those grounds, but on the ground of the result. You can judge from the facts?

A. The greatest influence with me would be the results.

Q. Under Military Law, may I understand, the end justifies the means?

A. That is the position, and I am afraid it is the position all the world over.

Q. I will be quite satisfied if you say that the end justified the means?

A. Yes.

Q. I think there also you are putting it very broadly. I think you will not certainly approve of the proposition that in order to produce this result, you will authorise 3,000 or 4,000 persons being shot down; certainly that would have a terrorising effect?

A. That pre-supposes.

Q. I am putting it as a hypothetical case in order to show that the end of will not justify the means in every case. Suppose the General takes hold of about 300 innocent persons and shoots them, certainly that will have a terroris-

ing effect. I do not think you will be prepared in that case to say that the end justified the means?

A. Certainly not.

Q. Now, so far, I think there is no evidence in the possession of either the civil or military authorities that any telegrams or wires were sent from Amritsar either on the 13th, 14th or 15th, detailing the events that happened there. Practically all these things were stopped at once. There is no evidence produced before us that any wires detailing what had happened at Amritsar had been sent to any part of India either on the 14th, 15th, 16th or 17th.

A. You may be right?

Q. Supposing that is so?

A. It is hypothetical.

Q. My difficulty is this. So far there is no evidence (having regard to the circumstances that the military were at the station in charge of the telegraph office, all the wires were intact) that any telegrams were sent. I think I am right in supposing that no private agencies were allowed to send any telegrams to any part of India about the happenings of Amritsar?

A. I do not know. You must find that from the men the spot.

Q. Supposing it is so, assuming that no telegrams of the happenings at Amritsar had been sent by any private agency or by any private individual from Amritsar on the 14th, 15th, 16th or 17th, then if on the 14th, 15th, 16th and 17th nothing happened at Madras, nothing happened at Bombay, nothing happened in Calcutta, how can you say that the result of the action taken at Amritsar was that it stopped other disturbances throughout India.

A. I do not say it was the immediate result, but the general result.

Q. My difficulty is this. If I satisfy you that without knowing what had happened on the evening of 13th at Amritsar, there was nothing on the 14th, 15th, 16th throughout India, leaving aside Punjab, then I think I am

right in saying that was not due to what happened at Amritsar on the 13th.

A. Really I do not quite see that.

The President:—The only point is this. It must be difficult for you to predict affirmatively that the good result that you mentioned followed from General Dyer's action. It is too much a matter of speculation.

Witness:—I do not think so myself.

By the Hon'ble Pandit Jagat Narayan—

Q. Then you say that this news affected the whole of India. Take first of all the Telegraph office. After the 13th, telegrams were stopped and 3rd class passengers were not allowed to travel at all. My point is that unless and until you are satisfied that this news was known to people in the other provinces, you cannot say (and I want you to agree with me) that that was the result of this, because your saying that, in your opinion, this had that good result implies as a matter of fact that the people were aware of this fact?

A. They had become aware of it very soon.

Q. After 3 or 4 days, but I find for 3 or 4 days following the 13th, there were no happenings either in Madras, or in Calcutta, or in Bombay. Then will not you be prepared to modify your opinion?

A. No.

Q. From the first part of your statement during the examination-in-chief, I understood that as a matter of fact, you had no practical experience of the administration of Martial Law. No occasion ever arose before this so far as you were concerned?

A. I am only talking of my limited experience.

Q. So far as you yourself are personally concerned, you had had no practical experience of the administration of Martial Law?

A. Of Martial Law as it is understood here.

Q. And practically up to this time you had never any occasion to advise people on the administration of Martial Law?

A. No; I think you will find there has hardly been a case in the Indian Army.

Q. And further, so far as India is concerned, there is nobody to advise and there is no precedent to follow?

A. I have not had access to all the records, but I do remember there was a case called Kukas rebellion, not very far back, *i.e.*, about 1872. If I remember aright, I think something like 40 men were blown from the guns and it was put down with very great severity. I only remember being told it when I first came out to India as a youngster.

Q. You heard of that rebellion. But as to what procedure was adopted, you have no knowledge?

A. No.

Q. You and the other officers at Army Headquarters formed your opinions from accounts that were sent to you by the civil authorities, as to whether the circumstances were such that Martial Law should be introduced? You formed your opinion on the telegrams and news that were sent to you by the civil authorities?

A. Yes, on the recommendation of these people.

Q. And facts were sent to you?

A. Yes.

Q. You had no separate knowledge of what happened?

A. We got our own reports from Generals.

Q. I am talking of the 13th. Those reports were based upon the information supplied to them by the civil authorities?

A. We looked at them as corroborative.

Q. And practically in every one of these reports, you will find such statements as "the rebels have done this," "the seditionists have done that," they are found even in the most minor thing that is described and about which there has been evidence. If you take it all along, it appears to be something very serious.

A. I do not think you should be too particular about words.

Q. Still, when you got about 10 or 20 telegrams every time, stating that 'the rebels held up the Police, rebels followed the authorities, rebels did this, rebels are in possession of the town, etc.' you acted upon that information. No other details were supplied to you?

A. I do not attach much importance to the words. People are very loose in expression.

Q. That is my point. You never thought that when you were introducing Martial Law, you were in an enemy country?

A. Not enemy country, but country in rebellion.

Q. The information you received is contained in the telegrams and reports that have been supplied to us, and you did not get any further information as to whether Martial Law was necessary or not?

A. No; we got information both from the civil and military authorities.

Q. We have got instances of very small things being shown in the telegrams very much magnified?

A. You have got to remember that you cannot be very particular as to words at that time; you have to take the circumstances into consideration.

Q. About the powers to be exercised, there is one difficulty which I feel. Consider a Civil officer, a Deputy Commissioner or a Magistrate; so long as he is not authorised by the administrator of Martial Law and so long as he is not included in the list of area officers, can he exercise Martial Law powers? In the proclamation that was issued by General Beynon, so far as Lahore and Amritsar areas are concerned, it defines certain offences, it says what punishments are to be given and it also gives who are the officers who can exercise those powers under the different orders. Supposing there is a Civil officer who is not given any authority by General Beynon to exercise any powers, can he exercise powers under Martial Law? Can he constitute himself to be a summary court and

do things which an officer authorized by General Beynon would do?

A. I do not think he can authorize himself. It does not follow because there is Martial Law, civil law is different. The two can go on concurrently.

Q. Have you personal experience of any such thing which happened anywhere?

A. I can only quote you from the very very little that we have in this book about it (Manual of Military Law).

Q. I have read that. It says quite clearly that it does not follow that civil courts cease to operate. I would like to have something more.

There are occasions when in our districts there is no Civil officer except a Tahsildar—I am putting an extreme case just to satisfy myself on the point—supposing there is only a Naib-Tahsildar and a sergeant with three or four soldiers present there. The Tahsildar says "Look here I cannot carry on the administration, I hand over the administration to you," am I to understand, if your contention is right, that that sergeant would be authorised and justified in depriving the Civil authority of their power and beginning to administer Martial Law without being authorised by any superior authority, without reference to anybody?

A. I cannot answer your question; you are I think introducing an impossible situation.

Q. It is not an impossible situation; it is an every-day occurrence. It is not an every-day occurrence in that it is general, but there are districts in which on some days there is only a Naib-Tahsildar there?

A. I will tell you what I would do if I was the sergeant, I would accept it. I won't say whether I would be right or not. You have got to do everything you can to assist the Civil power. It is what every subject has got to do in England, it does not matter whether you are in the Army or not.

Q. But here our civil duties are defined?

A. Yes, they are defined, but when you are called on to help the civil, and the Tahsildar

says to you "I cannot carry on," I say you are incurring a grave responsibility if you don't help.

Q. Therefore you set aside all the Civil laws and you begin to administer Martial Law?

A. I begin to administer any law I can.

Q. That is your opinion and others have also informed us that that is their opinion, but I want to know whether there is any authority for that proposition?

A. There is no authority for anything to do with Martial Law, there is not such a thing in the world. There is no single authority; I cannot trace anything anywhere.

[*The President*:—There is the Duke of Wellington's pronouncement.]

Q. My point is, is there any precedent or law which says, if this thing happens, that sergeant or any other authority will administer?

A. There is no law about Martial Law. You cannot have a law about a thing which does not exist. That is the attitude which the law takes up towards Martial Law.

Q. My point is about the authority for taking responsibility, one man handing over and the other taking responsibility?

A. I will only tell you what I would do; I do not say I am right. I am probably wrong.

Q. I will not discuss that point as to whether or not commissions were granted as the result of agitation, or whether the authorities were prepared to make this concession, because I find during the last five years it was never admitted by any authority that anything was conceded as the result of agitation. Therefore my point is this, was there or was there not an agitation during the last six or seven years about these commissions in the Indian Press?

A. Certainly.

Q. As to whether the concession granted was the result of agitation is another matter?

A. That is only one agitation among others. They are always agitating for something both in England and in India.

Q. And I am right in thinking that but for

this war this concession would not have been granted?

A. No, you are not right. That is my private view.

Q. There is no doubt that before 1914 there was no proof before the military authorities about the loyalty of India under very serious circumstances? You had no occasion to prove the feelings of Indians and how they would behave if there was an Empire crisis?

A. No, nothing but my personal knowledge of the Indians.

Q. So far as their attitude of loyalty is concerned this war has cleared the atmosphere a great deal. Your military arrangements previous to 1914 were based upon the conditions previous to the war, and do those conditions hold even now?

A. Yes.

Q. That is, the military necessity is the same?

A. Absolutely.

Q. You do not think this demonstration of loyalty and the sharing of the burdens of the Empire will in any way ease the situation?

A. Ease what situation?

Q. The necessity for the same number of troops?

A. Certainly not; I should say not.

Q. Why?

A. You must remember, and I think everybody will tell you, that our pre-war preparations were not made for a war against Germany, not as regards India, and the conditions have not altered in the least in the East. You have still got a possible menace from Russia; you have still got a possible menace from Japan. I think the situation in India is the same as before. If anything I think the general trend must be for a larger force in the East than before.

Q. So far as military aid was concerned, I think nobody was asked to come from Deolali to these disturbed areas?

A. You see they were drafted from Deolali to whatever place they were wanted.

Q. So far as I have been able to understand, so far as Amritsar and Gujranwalla and Gujrat were concerned, some forces went from Lahore and some from Sialkot and no other place?

A. I think you may take that as right. They were not formed into battalions at Deolali. We kept them there and then we took them up to other places and formed them into battalions.

Q. But all this help was forwarded from Lahore and Sialkot?

A. Yes, but I think you appreciate the fact that we were several thousands below our strength then.

Q. And is it not a fact that, after the 19th, so far as you were concerned, you received practically no news of any disturbances anywhere throughout India?

A. I will take it as so. I have not got a good head for figures and dates, but if you say that is the case, I am quite ready to accept it.

Q. Except for a few wire-cuttings, everything was finished between the 10th and the 19th April?

A. I see.

Q. And after the 19th April there were no disturbances anywhere?

A. I would not say that straightaway, because you see it would be unwise for any one to say that without looking through the correspondence, you have got it.

Q. We have got all the details and there is only one entry on the 23rd.

A. Therefore your evidence is very much more valuable than anything you can get by questioning me.

Q. Therefore having regard to this fact that everything that happened occurred between the 10th April and the 19th April and that after that there was a clean sheet, are you still of

opinion that the prolongation of Martial Law was necessary for these areas?

A. I am not prepared to give an opinion because, as I told you before, we left that to the men on the spot who knew what the feeling of the place was. I only give an opinion as regards railway lines and my reasons for it.

By Sardar Sahibzada Sultan Ahmed Khan—

Q. You said that when General Dyer took over at Amritsar he exercised quasi-civil authority?

A. Yes.

Q. I do not quite follow that; what do you mean by it?

A. The Commissioner had said to him, "I cannot carry on and therefore I hand it over to you." Therefore he really was in charge of both the civil administration and the military administration.

Q. My difficulty is to understand it. The Commissioner, as far as I understand, could not constitute General Dyer as a Commissioner in his place?

A. No, he could not.

Q. General Dyer took it over, because he was the commander under whom the district of Amritsar lay as a military commander?

A. That is right.

Q. So he could not take over from the civil authorities any civil power, but he took it over as a military commander?

A. He could not exercise it under the Criminal Code.

Q. If he exercised the power under the Criminal Code, he would be a civil authority? What do you mean by quasi-civil authority? That he was acting in a quasi-civil capacity you said?

A. Yes, because he was administering the civil law as well as the military law.

Q. Could he do that?

A. Yes. He could not do it by exercising the civil law, but he did it by a law of his own.

Q. That means no law at all?

A. No, it is Martial Law. It is rather a difficult thing to explain.

Q. Therefore he was half a civilian and half a military man, how can he be?

A. Of course he cannot be, but that is the only way of expressing it. We will drop the word out altogether and call it all military.

Q. You might be able to explain it to me?

A. That is the only explanation I can give, that he was really acting half as a Commissioner, because he was administering the law of the district.

Q. Could he do it legally?

A. No.

Q. That part of his action was illegal?

A. Absolutely, but it was legal to this extent that he was responsible for keeping law and order, and he did it under Martial Law.

Q. I am talking of the civil portion of it?

A. The civil portion he also does under Martial Law.

Q. Is it not a contradiction in terms?

A. Yes.

Q. I can understand his taking it over and using his discretion as the supreme authority to maintain or restore law and order, but I cannot understand how the Commissioner handed over to him his authority and then General Dyer became partly invested with military authority and partly with civil authority?

A. Only partly with civil authority to this extent that he was told to administer the law which he would not do under normal circumstances. He was civil to that extent.

Q. My difficulty is that, so far as I understand it, the Commissioner or Deputy Commissioner or any civil authority has no power to transfer his civil authority to anybody else without superior orders. I understand that in certain conditions a military commander, for the sake of law and order, can assume command and restore law and order. That is a different state of things; that would not be transference from the civil authority to the military com-

mander. It would be that one gets out and the other gets in and uses his authority?

A. What the case was in regard to Amritsar was that the Commissioner said to General Dyer "I can no longer maintain order by civil law; will you kindly maintain it for me?" Therefore I hold that General Dyer was combining in his duties the administering of the law and looking after his own command.

Q. Is such a position possible legally?

A. It is not legal, I admit that. Nothing is legal under Martial Law. Otherwise if it was legal, it would not be necessary to have these acts of indemnification.

Q. If a person is given discretion to maintain law and order it would be legal?

A. But the law of the land will not allow that for a moment. I think I am right; it will not allow the law to be carried out by anybody but the correct people.

Q. But in those conditions the correct people would be the persons administering Martial Law?

A. But the law refuses to recognise Martial Law.

Q. I think under certain conditions it is allowed by the constitution of the country or by the powers vested in the Government of India?

A. You have got on your own Committee the very best legal advice obtainable on that.

Q. How do you connect the absence of disorders after the 13th with the shooting of these people in Amritsar? What ground have you for saying it was due to that, and if it had not taken place, disorders would have taken place?

A. I gave that as my personal opinion; I did not base it on any grounds. I won't say I had not grounds; I had conversations with people. It is the opinion I held at the time and it is the opinion verified by what people have told me since.

Q. Perhaps you will agree with me that this idea that things get about India very

quickly is liable to be over-rated and exaggerated, and a great deal of mischief is liable to be done by that idea that things spread like wildfire. You will agree with me that so far as distant parts of India are concerned, such as Madras and Calcutta, it would take some time for news to get there?

A. Yes.

Q. From parts which are nearer news will reach quicker. What we find is that in Gujranwalla disturbances of a very serious character took place on the 14th whereas in distant parts no disturbances took place at all. If it was correct that the news of the shooting down of people in Amritsar stopped the disturbances why did it not stop the disturbance in Gujranwalla?

A. I do not know.

By Sir C. H. Setalved—

Q. There is one thing, if I may trouble you about it; with regard to flogging in the Indian Army, it has practically been stopped?

A. No, it has not been stopped, but every case in which corporal punishment is ordered is sent up to me. Under the ordinary law corporal punishment may be inflicted at once; it is summary punishment.

Q. Under the standing orders you have it is not inflicted till it is reported to you?

A. No, it is not inflicted till it gets authority from Army Headquarters.

Q. Sanction is needed from Army Headquarters before inflicting flogging?

A. It is not the law, but it is an order which the Commander-in-Chief has given.

Q. For how many years has that practice obtained?

A. I think you may say 18 months to two years.

Q. So it would not be quite correct to say at present that flogging is an ordinary punishment to inflict in the army?

A. Yes, you may say every punishment is an ordinary punishment that is in the list of punishments in the Indian Army Act.

Q. But as flogging is hedged round in the manner you have explained, it is put on a different footing?

A. That is purely by the executive orders of the Commander-in-Chief.

Q. That is true, by executive orders it has been placed on a somewhat different footing to other punishment?

A. That is so.

APPENDIX

Information obtained from Lieutenant-Colonel F. C. Isemonger, Assistant Adjutant-General, at the request of a member of the Committee.

(a) The date on which trouble first began to be anticipated on the North-West Frontier was 1st May 1919.

(b) The declaration of war with Afghanistan was notified in Home Department Notification No. 955, dated 14th May 1919, but the first action with the enemy took place on the 30th May.

(c) The first of the newly reformed regular units arrived in India on the 1st August 1919.

(d) The date on which men awaiting demobilisation at Deolali were asked to volunteer to remain in India for a further period was 14th April 1919.

Written Statement by Lieutenant-General Sir H. HUDSON regarding proclamation and withdrawal of Martial Law in the Punjab.

1. Martial law was proclaimed as follows:—

	April 1919.
Lahore and	
Amritsar	13th
Gujranwalla	15th
Gujrat	19th
Lyallpur	22nd

2. On 28th May 1919, a letter was received from the General Officer Commanding, Lahore Divisional Area, on which he recommended that relaxation of orders and measures under Martial Law should be carried out gradually and that careful watch on the situation was necessary to see how it developed before Martial Law could be abolished entirely.

The General Staff at Army Headquarters agreed in above views, as they considered:—

- (a) It was essential that any danger of interruption to our railway line of communications with the North-West Frontier should be avoided, also any chance of trouble at the Lahore base.
- (b) It was necessary in view of demands for troops for field service on the North-West Frontier that forces to be retained for internal security purposes should be reduced to a minimum. Anything, therefore, that tended to this end by increasing the mobility of available troops was most desirable.
- (c) Power to repress immediately any disorder that would embarrass our operations on the North-West Frontier should not be given up as long as there was a reasonable chance that trouble was likely to recur.

3. Martial Law was withdrawn partially in the Lahore, Amritsar, Gujranwalla, and Gujrat

districts, except on railway land, on 29th May 1919. It was withdrawn totally from these districts and from the Lyallpur district, except on railway land, on 9th June 1919.

4. (a) On 15th July 1919, His Honour the Lieutenant-Governor of the Punjab asked that the desirability of withdrawing Martial Law from railway lands should be considered as soon as military conditions permitted.

The General Staff Branch considered that we still could not risk any interference with our railways and pointed out that it was understood that Martial Law in this area was not causing any inconvenience.

(b) Home Department, however, pressed the question and the General Staff Branch agreed to its withdrawal from railway lands on 30th July 1919.

(c) Correspondence in connection with (a) and (b) crossed one another and there was some delay in consequence—on 19th August 1919, we received from Home Department for concurrence a draft order withdrawing Martial Law from railway lands. This took effect from 25th August 1919.

5. The reasons underlying the views of the General Staff Branch as indicated in paragraphs 2 and 4 above are briefly:—

- (a) Our forces operating on the North-West Frontier from the beginning of May were absolutely dependent on railway communication being maintained intact with Lahore.
- (b) Lahore was our main base for reinforcement and supplies.
- (c) Attacks on communications were frequent during the disorders; they bore evidence of expert handiwork and we had reason to believe that many of the Indian railway and telegraph staffs were disaffected if not implicated.

- (d) Direct incitement to revolt and disorder and to the destruction of communications in India was being propagated from Kabul.
- (e) We knew that Afghan intrigues were largely responsible for much of the trouble that occurred in Peshawar and we suspected that the disaffected elements in the Punjab were also in collusion with the Afghans.
- (f) Bolsheviki in Central Asia and the Committees of Union and Progress in Turkey had been reported as having despatched agents to India to propagate disorder and revolt.

(NOTE.—It is believed by us that the Bolshevik propaganda in India does not take the form of Bolshevik ideas, but is rather opportunist in character and takes advantage of all and any agitation which can be turned into *anti*-British channels.)

- (g) Demobilisation of British troops in India was in progress and consequently the number of British troops in the country was much depleted; many of the men composing the British units in the country were not up to the pre-war standard owing to their low health category; there was no chance of their being replaced from Home for many months; the disorders in Egypt had stopped the return to India of many Indian units; the number of British officers of experience in the country was very low; the whole army was war weary and most of the available units were low in strength and were not up to pre-war standard in training and other ways.
 - (h) The hot weather had started and the daily shade temperature were much above the average of the past twenty years—consequently movement was difficult and the only way of improving this with any certainty was to requisition all motor and other vehicles obtainable locally.
 - (i) Civil British officials of experience were also much depleted in number, owing to duty with the army in various theatres of war.
 - (j) Although negotiations with the Amir had started in June, the Afghan peace delegates did not arrive in India until the end of July and peace was not signed till the 8th August.
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