

T H E
Punjab Legislative Council
Debates.

From 24th October to 8th November 1930.
From 16th January to 17th January 1931

Vol. XVII.

OFFICIAL REPORT.



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PRINCIPAL OFFICERS OF THE PUNJAB LEGISLATIVE
COUNCIL.

President :

The Honourable Chaudhri Sir Shahab-ud-Din, Kt., K. B.

Deputy President :

Sardar Harbakhsh Singh.

Secretary :

Hakim Ahmed Shujaa, B.A.,

Assistant Secretary :

Pandit Tej Kishen Kaul, B.A., LL.B., P.C.S.

PUNJAB LEGISLATIVE COUNCIL.

LIST OF MEMBERS.

EX-OFFICIO MEMBERS AND MINISTERS.

- ✓ The Hon'ble Captain Sirdar Sikander Hyat Khan, M.B.E., K.B., Revenue Member to Government, Punjab.
- ✓ The Hon'ble Sir Henry Craik, Bart., C.S.I., I.C.S., Finance Member to Government, Punjab.
- ✓ The Hon'ble Sardar Sir Jogendra Singh, Kt., Minister for Agriculture, (Sikh) Land-holders.
- ✓ The Hon'ble Malik Firoz Khan, Noon, Minister for Education, Shahpur East (Muhammadan), Rural.
- ✓ The Hon'ble Dr. Gokul Chand, Narang, M.A., Ph. D., Minister for Local Self-Government, (North-West Towns Non-Muhammadan), Urban.

I.—OFFICIALS NOMINATED.

- ✓ Anderson, Sir George, Kt., C.I.E., M.A., Director of Public Instruction, Punjab.
- Ashton, Mr. H. F., Secretary to Government, Punjab, Public Works Department, Irrigation Branch.
- ✓ Boyd, Mr. D. J., C.I.E., O.B.E., I.C.S., Chief Secretary to Government, Punjab.
- ✓ Calvert, Mr. H., C.I.E., I.C.S., Financial Commissioner, Punjab.
- Dorman, Mr. W. S., B.A., C.E., Secretary to Government, Punjab, Public Works Department (Buildings and Roads Branch).
- ✓ Gill, Lt.-Colonel C. A., D.P.H., I.M.S., Director of Public Health, Punjab.
- ✓ Hearn, Mr. J. W., I.C.S., Additional Secretary to Government, Punjab, Revenue Department.
- Mitchell, Mr. Alan, I.C.S., Secretary to Government, Punjab, Transferred Departments.
- ✓ Muzaffar Khan, Khan Bahadur Nawab, Director of Information Bureau, Punjab and Joint-Secretary to Government, Punjab, Transferred Departments.
- ✓ Ogilvie, Mr. C. M. G., C.B.E., I.C.S., Home Secretary to Government, Punjab.
- ✓ Puckle, Mr. F. H., C.I.E., I.C.S., Additional Secretary to Government, Punjab, Finance Department.
- ✓ Sale, Mr. S. L., I.C.S., Legal Remembrancer and Secretary to Government, Punjab, Legislative Department.
- ✓ Townsend, Mr. C. A. H., C.I.E., I.C.S., Financial Commissioner, Punjab.

II.—NON-OFFICIALS NOMINATED.

- ✓ Ghani, Mr. M. A., Representative of Labouring Classes.
- ✓ Janmeja Singh, Captain, Sardar Bahadur Sardar, O.B.I., Representative of the Punjab Officers and Soldiers of His Majesty's Indian Forces.
- ✓ Maya Das, Mr. Ernest, B.A., Representative of Indian Christians.
- ✓ Rahim Bakhsh, Maulvi, Sir, K.C.I.E., Representative of General Interests.
- ✓ Rattan Chand, Rai Bahadur, Lala, O.B.E., Representative of General Interests.
- ✓ Roberts, Mr. Owen, Representative of the European and Anglo-Indian communities.
- ✓ Shave, Dr. (Mrs.) M. C., Representative of the European and Anglo-Indian communities.
- ✓ Sheo Narain Singh, Sardar Bahadur Sardar, C.I.E., Representative of General Interests.

III.—ELECTED.

- ✓ Abdul Ghani, Shaikh, West Punjab Towns (Muhammadan), Urban.
- ✓ Ahmad Yar Khan, Daultana, Mian, (Muhammadan) Land-holders.
- ✓ Akbar Ali, Pir, B.A., LL.B., Ferozepore (Muhammadan), Rural.
- ✓ Allah Dad Khan, Chaudhri, B.A., Ambala Division, North-East (Muhammadan), Rural.
- ✓ Balbir Singh, Rao Bahadur Captain, Rao, O.B.E., Gurgaon (Non-Muhammadan), Rural.
- ✓ Bansi Lal, Chaudhri, Lahore City (Non-Muhammadan), Urban.
- ✓ Bhagat Ram, Lala, Jullundur-cum-Ludhiana (Non-Muhammadan), Rural.
- ✓ Bishen Singh, Sardar, Sialkot-cum-Gurdaspur (Sikh), Rural.
- D.P. ✓ Buta Singh, Sardar, B.A., LL.B., Multan Division and Sheikhpura (Sikh), Rural.
- ✓ Chetan Anand, Lala, B.A., LL.B., West Punjab Towns (Non-Muhammadan), Urban.
- R ✓ Chhotu Ram, Rao Bahadur Chaudhri, B.A., LL.B., South-East, Rohtak (Non-Muhammadan), Rural.
- ✓ Chowdhry, Mr. Sajjan Kumar, Hissar (Non-Muhammadan), Rural.
- ✓ Din Muhammad, Mr., M.A., LL.B., East and West Central Towns (Muhammadan), Urban.
- ✓ Faiz Muhammad, Shaikh, B.A., LL.B., Dera Ghazi Khan (Muhammadan), Rural.
- ✓ Faqir Husain Khan, Chaudhri, Amritsar (Muhammadan), Rural.
- ✓ Fazl Ali, Khan Bahadur Chaudhri, O.B.E., Gujrat East (Muhammadan), Urban.
- ✓ Gopal Das, Lala, Lahore and Ferozepore-cum-Sheikhpura (Non-Muhammadan), Rural.

III.—ELECTED—CONTINUED.

- ✓ Gurbachan Singh, Sardar, Jullundur (Sikh), Rural.
- ✓ Habib Ullah, Khan Bahadur, Sardar, Lahore (Muhammadan), Rural.
- ✓ Haibat Khan Daha, Khan, Multan East (Muhammadan), Rural.
- ✓ Harbakhsh Singh, Sardar, B.A., Hoshiarpur and Kangra (Sikh), Rural.
- ✓ Imam-ud-Din, Maulvi, Hoshiarpur-cum-Ludhiana (Muhammadan), Rural.
- ✓ Jagdev Khan Kharal, Rai, Lyallpur North (Muhammadan), Rural.
- ✓ Jaswant Singh, Guru, Ferozepore (Sikh), Rural.
- ✓ Jawahar Singh, Dhillon, Sardar, B.Sc. (Agri.) (Wales), M.S.P. (London), Lahore (Sikh), Rural.
- ✓ Joti Parshad, Lala, B.A., LL.B., South-East Towns (Non-Muhammadan), Urban.
- ✓ Kesar Singh, Chaudhri, Amritsar-cum-Gurdaspur (Non-Muhammadan), Rural.
- ✓ Labh Singh, Mr., M.A., LL.B. (Cantab.), Rawalpindi Division and Lahore Division North (Non-Muhammadan), Rural.
- ✓ Mamraj Singh, Chohan, Kanwar, B.A., LL.B., Ambala-cum-Simla (Non-Muhammadan), Rural.
- Manohar Lal, Mr., M.A. (Punjab University).
- ✓ Mohan Lal, Rai Bahadur, Lala, B.A., LL.B., North-East Towns (Non-Muhammadan), Rural.
- ✓ Mohan Singh, Sardar, Rawalpindi Division and Gujranwala (Sikh), Rural.
- ✓ Mohindar Singh, Sardar, Ludhiana (Sikh), Rural.
- ✓ Mubarak Ali Shah, Sayad, Jhang (Muhammadan), Rural.
- ✓ Muhammad Abdul Rahman Khan, Chaudhri, Jullundur (Muhammadan), Rural.
- ✓ Muhammad Amin Khan, Khan Bahadur, Malik, O.B.E., Attock (Muhammadan), Rural.
- ✓ Muhammad Din, Malik, Lahore City (Muhammadan), Urban.
- ✓ Muhammad Eusoof, Khawaja, South-East Towns (Muhammadan), Urban.
- ✓ Muhammad Hayat, Qureshi, Khan Bahadur, Mian, C.I.E., Shahpur West (Muhammadan), Rural.
- ✓ Muhammad Hasan, Khan Sahib, Makhdum, Shaikh, Muzaffargarh (Muhammadan), Rural.
- ✓ Muhammad Jamal Khan, Leghari, Khan Bahadur, Nawab, Baluch Tumdars (Land-holders).
- ✓ Muhammad Raza Shah Gilani, Makhdumzada, Sayad, Multan West (Muhammadan), Rural.
- ✓ Muhammad Sadiq, Shaikh, Amritsar City (Muhammadan), Urban.
- ✓ Muhammad Sarfaraz Ali Khan, Raja, Jhelum (Muhammadan), Rural.
- ✓ Muhammad Yasin Khan, Chaudhri, B.A., LL.B., Gurgaon-cum-Hissar (Muhammadan), Rural.

III.—ELECTED—CONCLUDED.

- ✓ Mukand Lal, Puri, Lala, M.A., Punjab Industries.
- ✓ Mukerji, Mr. P., Punjab Chamber of Commerce and Trades Association Commerce.
- ✓ Muzaffar Khan, Honorary Lieutenant, Khan Sahib Malik, Mianwali (Muhammadan), Rural.
- ✓ Narendra Nath, Diwan Bahadur, Raja, M.A., Punjab Land-holders (General).
- ✓ Nathu Singh, Chaudhri, Karnal (Non-Muhammadan), Rural.
- ✓ Nazir Husain, Chaudhri, B.A., LL.B., Gujrat West (Muhammadan), Rural.
- ✓ Nihal Chand, Aggarwal, Lala, East and West Central Towns (Non-Muhammadan), Urban.
- ✓ Noor Ahmad Khan, Mian, Montgomery (Muhammadan), Rural.
- ✓ Nur Khan, Khan Sahib, Risaldar Bahadur, Rawalpindi (Muhammadan), Rural.
- ✓ Nurullah, Mian, B. Com. (London), F.R.E.S., Lyallpur South (Muhammadan), Rural.
- ✓ Panoram Chand, Thakur, Kangra (Non-Muhammadan), Rural.
- ✓ Nanak Chand, Pandit, Mr., M.A., Hoshiarpur (Non-Muhammadan), Rural.
- ✓ Raghbir Singh, Honorary Lieutenant Sardar, O.B.E., Amritsar (Sikh), Rural.
- ✓ Ramji Das, Lala, Amritsar City (Non-Muhammadan), Urban.
- ✓ Ram Sarup, Chaudhri, North-West Rohtak (Non-Muhammadan), Rural.
- ✓ Ram Singh, 2nd-Lieutenant, Sardar, Ambala Division (Sikh), Rural.
- ✓ Riasat Ali, Chaudhri, B.A., LL.B., Gujranwala (Muhammadan), Rural.
- ✓ Sampuran Singh, Sardar, Lyallpur (Sikh), Rural.
- ✓ Sewak Ram, Rai Bahadur, Lala, Multan Division (Non-Muhammadan) Rural.
- ✓ Shah Muhammad, Chaudhri, Sheikhpura (Muhammadan), Rural.
- ✓ Ujjal Singh, Sardar Sahib, Sardar, M.A., Sikh (Urban).
- ✓ Zafrulla Khan, Chaudhri, B.A., LL.B., Sialkot (Muhammadan), Rural.

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PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Friday, the 24th October 1930.

The Council met at the Council Chamber at ten of the clock.

APPOINTMENT OF CHAIRMAN.

The Secretary of the Council read the following order of His Excellency the Governor.

Under paragraph 18 (2) of the Manual of Business and Procedure I appoint Mr. C. A. H. Townsend, a member of the Punjab Legislative Council, to be Chairman of the Punjab Legislative Council until a President has been duly elected, and my approval to the election has been announced to the Council.

GEOFFREY DEMONTMORENCY.

Mr. Townsend took the oath of allegiance to the Crown and then occupied the Chair.

OATH OF OFFICE.

The following members were sworn in :—

- ✓ The Honourable Sardar Sir Jogendra Singh, Kt. (Sikh, Landholders).
- ✓ The Honourable Malik Firoz Khan Noon (Shahpur East (Muhammadan, Rural)).
- ✓ The Honourable Dr. Gokul Chand Narang, M.A., Ph.D. (North-West Towns (Non-Muhammadan), Urban).
- ✓ Calvert, Mr. H., C.I.E., I.C.S. (Official, Nominated).
- ✓ Boyd, Mr. D. J., C.I.E., O.B.E., I.C.S. (Official, Nominated).
- ✓ Mitchell, Mr. Alan, I.C.S. (Official, Nominated).
- ✓ Penny, Mr. J. D., I.C.S. (Official, Nominated).
- ✓ Hearn, Mr. J. W., I.C.S. (Official, Nominated).
- ✓ Puckle, Mr. F. H., C.I.E., I.C.S. (Official, Nominated).
- ✓ Sale, Mr. S. L., I.C.S. (Official, Nominated).
- ✓ Ogilvie, Mr. C. M. G., C.B.E., I.C.S. (Official Nominated).
- ✓ Sanderson, Mr. R. (Official, Nominated).
- ✓ Ashton, Mr. H. F. (Official, Nominated).
- ✓ Dorman, Mr. W. S. (Official, Nominated).
- ✓ Muzaffar Khan, Khan Bahadur Nawab (Official, Nominated).

- ✓ Ahmed Yar Khan, Daultana, Mian (Muhammadan Land-holders).
- ✓ Akbar Ali, Pir, B.A., LL.B. (Ferozepore (Muhammadan), Rural).
- ✓ Allah Dad Khan, Chaudhri, B.A. (Ambala Division, North-East (Muhammadan), Rural).
- ✓ Balbir Singh, Rao Bahadur, Captain Rao, O.B.E. (Gurgaon (Non-Muhammadan), Rural).
- ✓ Bansi Lal, Chaudhri (Lahore City (Non-Muhammadan), Urban).
- ✓ Bhagat Ram, Lala (Jullundur-cum-Ludhiana (Non-Muhammadan), Rural).
- ✓ Bishan Singh, Sardar (Sialkot-cum-Gurdaspur (Sikh), Rural).
- ✓ Buta Singh, Sardar, B.A., LL.B. (Multan Division and Sheikhpura (Sikh), Rural).
- ✓ Chetan Anand, Lala, B.A., LL.B. (West Punjab Towns (Non-Muhammadan), Urban).
- ✓ Chhotu Ram, Rao Bahadur, Chaudhri, B.A., LL.B. (South-East, Rohtak (Non-Muhammadan), Rural).
- ✓ Chowdhry, Mr. Sajjan Kumar (Hissar (Non-Muhammadan), Rural).
- ✓ Din Muhammad, Mr., M.A., LL.B. (East and West Central Towns (Muhammadan), Urban).
- ✓ Faiz Muhammad, Shaikh, B.A., LL.B. (Dera Ghazi Khan (Muhammadan), Rural).
- ✓ Faqir Hussain Khan, Chaudhri (Amritsar (Muhammadan), Rural).
- ✓ Fazl Ali, Khan Bahadur, Chaudhri, O.B.E. (Gujrat East (Muhammadan), Urban).
- ✓ Ghani, Mr. M. A. (Non-official, Nominated).
- ✓ Gopal Das, Lala (Lahore and Ferozepore-cum-Sheikhpura (Non-Muhammadan), Rural).
- ✓ Gurbachan Singh, Sardar (Jullundur (Sikh), Rural).
- ✓ Habib Ullah, Khan Bahadur, Sardar (Lahore (Muhammadan), Rural).
- ✓ Haibat Khan Daha, Khan (Multan East (Muhammadan), Rural).
- ✓ Imam-ud-Din, Maulvi (Hoshiarpur-cum-Ludhiana (Muhammadan), Rural).
- ✓ Jagdev Khan Kharal, Rai (Lyallpur North (Muhammadan), Rural).
- ✓ Janmeja Singh, Captain, Sardar Bahadur, Sardar (Non-official, Nominated).
- ✓ Jaswant Singh, Guru (Ferozepore (Sikh), Rural).
- ✓ Jawahar Singh, Dhillon, Sardar, B.Sc. (Agri.) (Wales), M.S.P., (Lond.), (Lahore (Sikh), Rural).
- ✓ Kesar Singh, Chaudhri (Amritsar-cum-Gurdaspur (Non-Muhammadan), Rural).
- ✓ Labh Singh, Mr., M.A., LL.B. (Cantab), (Rawalpindi Division and Lahore Division North (Non-Muhammadan), Rural).

- ✓ Mamraj Singh Chohan, Kanwar, B.A., LL.B. (Ambala-cum-Simla (Non-Muhammadan), Rural).
- ✓ Manohar Lal, Mr., M.A. (Punjab University).
- ✓ Maya Das, Mr. Earnest, B.A. (Non-official, Nominated).
- ✓ Mohan Lal, Rai Bahadur, Lala, B.A., LL.B. (North-East Towns (Non-Muhammadan), Urban).
- ✓ Mohan Singh, Sardar (Rawalpindi Division and Gujranwala (Sikh), Rural).
- ✓ Mohindar Singh, Sardar (Ludhiana (Sikh), Rural).
- ✓ Mubarak Ali Shah, Sayad (Jhang (Muhammadan), Rural).
- ✓ Muhammad Amin Khan, Khan Bahadur, Malik, O.B.E. (Attock (Muhammadan), Rural).
- ✓ Muhammad Din, Malak (Lahore City (Muhammadan), Urban).
- ✓ Muhammad Eusoof, Khawaja (South-East Towns (Muhammadan), Urban).
- ✓ Muhammad Hayat, Qureshi, Khan Bahadur, Mian, C.I.E. (Shahpur West (Muhammadan), Rural).
- ✓ Muhammad Hassan, Khan Sahib, Makhdum Shaikh (Muzaffargarh (Muhammadan), Rural).
- ✓ Muhammad Baza Shah Gilani, Makhdumzada Sayad (Multan West (Muhammadan), Rural).
- ✓ Muhammad Sadiq, Shaikh (Amritsar City (Muhammadan), Urban).
- ✓ Muhammad Sarfraz Ali Khan, Raja (Jhelum (Muhammadan), Rural).
- ✓ Mukand Lal Puri, Lala, M.A. (Punjab Industries).
- ✓ Mukerjee, Mr. P. (Punjab Chamber of Commerce and Trades Association, Commerce).
- ✓ Muzaffar Khan, Honorary Lieutenant, Khan Sahib, Malik (Mianwali (Muhammadan), Rural).
- ✓ Nanak Chand Pandit, Mr. M.A. (Hoshiarpur Non-Muhammadan), Rural).
- ✓ Nathu Singh, Chaudhri (Karnal (Non-Muhammadan), Rural).
- ✓ Nazir Husain, Chaudhri, B.A., LL.B. (Gujrat West (Muhammadan), Rural).
- ✓ Nihal Chand Aggarwal, Lala (East and West Central Towns (Non-Muhammadan), Urban).
- ✓ Noor Ahmad Khan, Mian (Montgomery (Muhammadan), Rural).
- ✓ Nur Khan, Khan Sahib, Risaldar Bahadur (Rawalpindi (Muhammadan), Rural).
- ✓ Nurullah, Mian, B. Com. (Lond.), F.R.E.S. (Lyallpur South (Muhammadan), Rural).
- ✓ Pancham Chand, Thakur (Kangra (Non-Muhammadan), Rural).
- ✓ Rahim Bakhsh, Maulvi, Sir, K.C.I.E. (Non-official, Nominated).
- ✓ Ramji Das, Lala (Amritsar City (Non-Muhammadan), Urban).

- ✓ Ram Sarup, Chaudhri (North-West-Rohtak (Non-Muhammadan). Rural).
- ✓ Ram Singh, 2nd Lieutenant, Sardar (Ambala Division (Sikh), Rural).
- ✓ Rattan Chand, Rai Bahadur, Lala, O.B.E. (Non-official, Nominated).
- ✓ Riasat Ali, Chaudhri, B.A., LL.B. (Gujranwala (Muhammadan), Rural).
- Roberts, Mr. Owen (Non-official, Nominated).
- ✓ Sewak Ram, Rai Bahadur, Lala (Multan Division (Non-Muhammadan), Rural).
- ✓ Shahab-ud-Din, Chaudhri, Sir, Kt., K.B., (Kangra-cum-Gurdaspur (Muhammadan), Rural).
- Shah Muhammad, Chaudhri (Sheikhupura (Muhammadan), Rural).
- ✓ Shave, Dr. (Mrs.) M. C. (Non-official, Nominated).
- ✓ Sheo Narain Singh, Sardar Bahadur, Sardar, C.I.E. (Non-official, Nominated).
- ✓ Muhammad Yasin Khan, Chaudhri, B.A., LL.B. (Gurgaon-cum-Hissar (Muhammadan), Rural).

ANNOUNCEMENT FROM THE CHAIR.

NOMINATIONS FOR PRESIDENCYSHIP.

Mr. Chairman : In connection with the election of the President which is to be held at 2-30 P.M. to-morrow, the 25th October 1930, I call upon the members of the Council to deliver to the Secretary of the Council any nomination papers they wish at any time before noon to-day. The nomination papers must be signed by the member himself as proposer and by a third member as seconder and stating—

- (a) the name of the member nominated, and
- (b) that the proposer has ascertained that the member proposed is willing to serve as President, if elected.

Printed nomination forms can be had from the office of the Punjab Legislative Council.

The Council then adjourned till 2-30 P.M. on Saturday, the 25th October, 1930.

PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Saturday, the 25th October 1930.

THE Council met at the Council Chamber at 2-30 P.M. of the clock. Mr. Chairman in the chair.

OATH OF OFFICE.

The following members were sworn in :—

- ✓ Abdul Ghani, Shaikh [West Punjab Towns (Muhammadan), Urban].
- ✓ Muhammad Abdul Rahman Khan, Chaudhri [Jullundur (Muhammadan) Rural].
- ✓ Harbakhsh Singh, Sardar [Hoshiarpur and Kangra (Sikh) Rural].

ELECTION OF PRESIDENT.

Mr. Chairman : The Council will now proceed to elect the President. The following nomination papers have been received for Khan Bahadur Chaudhri Sir Shahab-ud-Din :

Proposed by Mr. Owen Roberts and seconded by Khan Bahadur Mian Muhammad Hayat, Qureshi ;

Proposed by Pir Akbar Ali and seconded by Lala Chetan Anand ;

Proposed by Maulvi Sir Rahim Bakhsh and seconded by Khan Bahadur Malik Muhammad Amin Khan ;

Proposed by Khan Bahadur Sardar Habib Ullah and seconded by Mr. M. A. Ghani ;

Proposed by Malik Din Muhammad and seconded by Malik Muhammad Sarfaraz Ali Khan ;

Proposed by Rao Bahadur Chaudhri Chhotu Ram and seconded by Chaudhri Nazir Husain ;

Proposed by Lala Gopal Das and seconded by Lala Mukand Lal Puri ;

Proposed by Sardar Jowahir Singh Dhillon and seconded by Captain Sardar Bahadur Sardar Janmeja Singh ;

Proposed by Mr. Din Muhammad and seconded by Mian Ahmad Yar Khan Daultana ;

Proposed by Sardar Mohindar Singh and seconded by Mian Nur-ullah ;

Proposed by Dr. (Mrs.) M. C. Shave and seconded by Shaikh Faiz Muhammad ;

Proposed by Chaudhri Yasin Khan and seconded by Rai Jagdev Khan Kharal ;

[Mr. Chairman.]

Proposed by Rai Bahadur Lala Rattan Chand and seconded by Mr. Sajan Kumar Chowdhry ;

Proposed by Sardar Bahadur Sardar Sheo Narain Singh and seconded by Sardar Mohan Singh ;

Proposed by Khwaja Muhammad Eusoof and seconded by Khan Sahib Risaldar Bahadur Nur Khan ;

Proposed by Sardar Buta Singh and seconded by Sardar Mohinder Singh ;

Proposed by Shaikh Muhammad Sadiq and seconded by Chaudhri Shah Muhammad ;

Proposed by Mr. Labh Singh and seconded by Mr. Nanak Chand Pandit ;

Proposed by Rai Bahadur Lala Sewak Ram and seconded by Chaudhri Bansi Lal.

As only one candidate has been nominated, under Rule 5-A (3) of the Punjab Legislative Council Rules, I declare him duly elected. (*Cheers*). Under section 72-C of the Government of India Act the name of Khan Bahadur Chaudhri Sir Shahab-ud-Din will be submitted to His Excellency the Governor for his approval.

(*The Chairman at this stage retired for a few minutes and then resumed the chair.*)

Mr. Chairman : I have to announce to the Council that His Excellency the Governor has signified his approval of Khan Bahadur Chaudhri Sir Shahab ud-Din, as President of the Council. I have great pleasure now in requesting the Honourable Khan Bahadur Chaudhri Sir Shahab-ud-Din to take his seat as President. (*Cheers*).

Khan Bahadur Chaudhri Sir Shahab-ud-Din : Before I take the chair I must thank the House for the great honour they have done me in electing me their President unanimously. It is very creditable for them that they have followed this time the wholesome parliamentary convention of electing their representative unopposed. (*Cheers*).

The President then took the Chair.

CONGRATULATIONS TO THE PRESIDENT. ✓

The Honourable Captain Sardar Sikander Hyat Khan (Revenue Member) : Mr. President—Sir, it is my privilege as Leader of this House to perform the pleasant duty of congratulating you on your re-election to the exalted position of Speaker. On the eve of the dissolution of the last Council all parties in this House expressed a desire of seeing you re-elected to the chair. It must be a matter of gratification to you, as it is to us all, to find that that wish has been fulfilled. This House has redeemed the pledge given by the last Council in its closing session. In electing you unanimously as Speaker of the House this Council has followed, as you have just mentioned, the practice of the British Parliament and has thereby made a useful contribution towards the establishment of another healthy tradition. For this the

House deserves to be equally congratulated. You, Sir, on your part have been afforded further opportunity of pursuing the task of reinforcing the existing traditions and creating others of a healthy nature ; a task which was initiated by your distinguished predecessors and continued by you during the past five years. The present Council will probably be the last of the series inaugurated under the Montagu-Chelmsford scheme of Reforms. It is, therefore, all the more necessary that we should, under your guidance try to set up wholesome traditions and practices which will not only be in consonance with the sense of responsibility and the dignity of this House, but will also prove useful in guiding the deliberations of its successors under the new scheme. Those of us who have sat under you during the last five years—and sometimes might have held private views regarding your rulings—can commend you to the new members of this House without any reserve whatever. I need hardly assure you, Sir, that in the discharge of your onerous duties you may always rely upon the fullest support of the official benches, and, if I may say so, of the non-official benches also. On behalf of my official and non-official colleagues as well as on my own behalf I offer you our sincerest congratulations. (*Cheers*).

The Honourable Sardar Sir Jogendra Singh (Minister for Agriculture) : Sir, I wish to associate myself with all that the Leader of the House has said. We are glad to see you occupying the chair which you occupied with such credit during the last two Councils. We hope in the new Council that we are starting to-day the traditions established in this House will be maintained, as also the even-handed control which guides the British Parliament and which we are trying to follow. Once more I congratulate you on your unanimous election and assure you of the support of this House.

Rao Bahadur Chaudhri Chhotu Ram [South-East Rohtak (Non-Muhammadan) Rural] : Sir, when the last Council dispersed three months ago, an assurance was held out to you from every section of this House that if you are able to get yourself elected a member again, the House will elect you unopposed to the chair. Great keenness was shown by many members to establish the healthy and salutary tradition that the Speaker of the House should be elected unopposed. I am very glad to see that to-day the House has been able to fulfil the pledge which was held out by the last Council. I congratulate you most heartily on your election by a unanimous vote of the House. I have no doubt that the traditions of impartiality, even-handed justice, and strict discipline will be maintained by you in the future as they were in the past.

Mr. Nanak Chand Pandit [Hoshiarpur (Non-Muhammadan) Rural] : On behalf of the National Reform Party and on my own behalf I wish to offer you my most hearty congratulations. This is the first time in the history of the Punjab Legislative Council that a unanimous election to the chair has taken place, and I am glad that the part that we had to play some time back to support your illustrious rival, that painful part we have not had to perform on this occasion. It is your impartiality, your courtesy and your determined desire to see justice done between all parties in the House that has won the approval of all the members that have assembled here to-day to do honour to you. And I am proud to feel that this day should augur well for the future of this province. We should all unite

[Mr. Nanak Chand Pandit.]

together just as we have done to-day in doing honour to you to work for the good and welfare of the Punjab. All communities, Hindus, Muslims and Sikhs should learn from you that when you have assumed the grave responsibility of your office you have given the lead to every one of them. I have no doubt that all of us here will follow the example that you have set and the impartial way in which you have conducted the proceedings of this House. Though it was my duty to support your rival candidate sometime ago, you will be pleased to remember that I paid you the compliment which my party desired to pay you, namely, that you had proved to be the ideal President and that very compliment was repeated in the last session of the Council by our leader who now adorns the Government benches. I hope and trust that the same impartiality with which you have conducted the proceedings of the House in the past, will guide you in the future as well.

Sardar Buta Singh [Multan division and Sheikhpura (Sikh) Rural] : Sir, there are three parties to be congratulated this time. First, I must on my behalf as well as on behalf of the Sikh members and of the National Liberal Party, congratulate you from the innermost recesses of my heart. Secondly, I also feel that this House deserves congratulation from me in electing you unanimously to this exalted post. Thirdly, though I feel shy in talking of personal matters here, I feel on personal grounds that I should also be congratulated on this occasion. You being a prominent member of the very clan of which I am one of the members, I feel proud that you have been elected to this place of honour and I assure you that to-day our whole clan has been honoured on your re-election to this post. Lastly, I whole-heartedly associate myself with all the remarks of the members who have spoken before me.

Rai Bahadur Lala Sewak Ram [Multan division (Non-Muhammadan) Rural] (Urdu) : Sir, I heartily congratulate you on your unanimous election to the exalted office of the President of the Council. The predominance of Hindus and Sikhs amongst your proposers and seconders is really gratifying and highly creditable to you. It also shows that the dread which your high knowledge of Parliamentary practice inspired for your forceful rulings is not in the least unwelcome to any member. I am glad to say that your impartiality, and more especially the opportunities which you give to the junior members to have their say in the House have won for you the respect of every section of the House. I am confident that in future also we will receive the same impartial treatment at your hands. With these few remarks I again congratulate you on behalf of the Hindu members of the Council as well as the Hindu community of the province.

Shaikh Abdul Ghani [West Punjab Towns (Muhammadan) Urban] : Sir, I fully associate myself with all that has been said by the different gentlemen who have preceded me with respect to your qualities of head and heart, and I congratulate the House on its excellent selection. But I should submit at the same moment that it would be better if we were to see you as we are seeing you to-day in the Chair without having to look to a sphinx-like picture seated on the throne. I hope I will be excused for this rather bold remark but what I mean is that it is more pleasant to have a look at the President as he is there to-day in his turban than with the wig, the gown, &c. If this innovation were made that would be all the more a matter for

felicitation. With these words I join in the expressions of congratulation from all sides of the House.

Mr. E. Maya Das (Nominated, non-official) : Sir, I associate myself with the remarks of honourable members made before me, with the good things they have said and I offer you my hearty congratulations on this occasion.

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan), Urban] : Sir, on behalf of myself and some other free lances of this House I heartily congratulate you for the honour which has been conferred on you unanimously by this House. This is the first time that a non-official member has been elected unanimously by the House. We all know how impartial you have been in your dealings during the last two Councils and hope that it will be the same in future years. It is needless to say more words of praise because all praise was showered upon you when you vacated the Chair on the last occasion. You have come back with the additional praise that you are selected not by a section but by the unanimous voice of the House as a whole.

Mr. M. A. Ghani (Nominated, non-official) : You might remember, Sir, that when we met last July in the Assembly Chamber at Simla I expressed two wishes, first, that you might be returned unopposed to this Council and secondly, that this Council might return you unopposed to adorn the chair as its President. When I see you now on the exalted chair I feel that both of my wishes have been fulfilled. I, therefore, most whole-heartedly associate myself with the chorus of congratulations that have been showered upon you from all quarters of the House. I, as representing the labouring classes who form 92 per cent. of the population of the Punjab, most heartily on their behalf congratulate you on your unopposed election to the chair.

Sardar Mohindar Singh [Ludhiana (Sikh) Rural], (Urdu) : Sir, I congratulate you on this well deserved success and whole-heartedly endorse the remarks of the previous speakers. In fact, I do feel that all that has been said is not only well deserved but really falls far short of doing justice to your various qualities of head and heart. With these few words I again congratulate you on behalf of the Sikh members of the Council.

Mr. Owen Roberts [Non-official, nominated] : Sir, I desire to associate myself with all the congratulations that you have received this afternoon. The fact that you were supported in your nomination by every section of the House is the best indication that one can have of the esteem in which you are held and I have nothing more to add except to congratulate you on my own behalf.

Rai Bahadur Lala Rattan Chand [Non-official, Nominated], (Urdu) : Sir, I whole heartedly associate myself with my honourable friends who have congratulated you on your unanimous election and paid glowing tributes to your various qualities. I have been a member of this Council for the last four years and during that period you have won the esteem of the whole House by your impartial and sympathetic treatment. The result is that in recognition of those meritorious services the members have unanimously voted you to the chair of this honourable House.

Now, with your permission, I wish to relate to you a true dream of mine although in doing so I shall have to encroach upon a few valuable minutes

[R. B. Lala Rattan Chand.]

of the House. When after the July session of the Council I returned from Simla I thought that it was the last occasion for me to serve my countrymen in the Council and that the Government may now find some other person to replace me in this House. Thinking that I was being relieved, I thanked God for giving me light and strength to perform the duties entrusted to me by the Government to the best of my abilities. But after a few days I dreamt that the elections were over and that I was renominated a member of the Council. I also dreamt that you were unanimously elected the President of this House. Next morning I related the dream to some of the members of my family.

But that is not all. In the course of that dream I also addressed a few words to you which I beg to repeat to-day. Usually we bless the day on which a worthy and august person is born. But I, Sir, blessed the night on which you were born because you seem to have better and greater relations with the night than with the day. First of all the suspicious night has left its mark on your worthy person. (*Laughter*). Secondly, you were named after a star. Then, Sir, in recognition of your valuable and meritorious services the Government also honoured you with the title of (K)night. (*Laughter*). But the analogy of night does not end here. Ordinarily we use lamps and other lights at night but in this Chamber where you preside over the deliberations of this House we use electric light in the daytime also.

Sir, we Hindus believe in the saying *چو بسا کرم و بسا پهل*. The Muslims also have a similar saying in Persian, *viz.* *سر که خدمت کرد از مخدمند*. I am glad to say, Sir, that we find that both the sayings prove true to the letter in your case. You served the House in a way which left nothing to be desired and the House has bestowed upon you the highest honour in its possession. Moreover, we find jewels like Jogendra and Sikandar Rajas and Nawabs adorning your Darbar. (*Hear, hear*). With these remarks, Sir, I once more congratulate you on securing the unanimous vote of the House.

Lala Mukand Lal Pari (Punjab Industries): Sir, I rise to offer you my sincerest congratulations on your re-election as the President of this Council. The manner in which you have discharged the duties of your high office fully justifies the enthusiastic congratulations which have been offered to you from all sides of the House. The office of the President requires absolute impartiality. The President should fear or favour no party. We are glad that you have acted on these principles. We have further full confidence that you will continue to be as forceful a champion of the independence and dignity of the members of this House as in the past.

Mr. P. Mukerjee (Punjab Chamber of Commerce and Trades Association Commerce): Sir, although I have not had the honour of sitting in this House as a member of this Council before, I have heard your reputation as an impartial President of the Council—not only I but the members of my constituency also have done so—and on their behalf I warmly but respectfully congratulate you on your unanimous election to-day.

Mr. Labh Singh [Rawalpindi Division and Lahore Division North (Non-Muhammadan), Rural]: I heartily join the chorus of congratulations, Sir,

which have been tendered to you on the occasion of your unanimous election to the office of President of the Council. This is the third time, Sir, that the House has honoured itself by electing you to the chair. That your election to-day has been unanimous speaks volumes for the confidence that you have succeeded in inspiring in all sections of the House. I, for one, am amply confident, and I am certain that this feeling of confidence is fully shared by the whole House that your tenure of the office of the President of the Council will be characterised by the same independence and impartiality which we have all learned to associate with it during the past five years or so. The tribute of praise which the various sections of the House paid to you on the occasion of our last dispersal at Simla, left absolutely no room for doubt that your return to the Council as well as your election to the chair would be unopposed and unanimous. It would not be possible for me to add very materially to what was said at Simla in appreciation of the way in which you had been able to discharge the duties of your onerous office. I have not the slightest doubt, Sir, that the impression of impartiality, independence and suavity which you have created in our minds would be further deepened and strengthened as time goes on.

I would like, however, to take this opportunity, if you will permit me, Sir, to make a slight departure from the path of convention and make a reference to two points of considerable constitutional importance which come to my mind on this occasion. I believe I would be failing in my duty if I do not refer to them. I may mention, Sir, that I am taking this liberty not with the intention of raising a controversy but with the avowed object of laying all possible controversy at rest. The first point, Sir, is in reference to a rumour that you had at some time been prevailed upon to entertain the idea of the possibility of leaving the chair. Now, Sir, such a possibility under ordinary circumstances could not have been contemplated by the House with equanimity, but we on this side of the House were greatly relieved to learn that it was owing to your anxiety to place the gift of independence, impartiality and broad national outlook, as distinct from the narrow sectarian view point at the service of the people in a more efficacious manner and in a more extended sphere of activity that you were prompted to entertain this idea. We are bound to record our appreciation of your view point and your motives in this matter.

The other point, Sir, is of very much great constitutional importance. As President of this House, Sir, you will soon notice that the composition of the House has undergone a great change owing to the effect of the views and activities prevailing at the present time all over the country, one result of which has been that the House has been deprived of any regularly constituted opposition. Sir, this is not the time nor the occasion to deal with the various aspects of this question. Suffice it to say that the absence of any opposition is bound to throw a great temptation in the way of the Government and your duty, Sir, would become, therefore, all the more onerous. You are the sole protector not only of the privileges of the House, but also of what we have in the nature of a constitution. The majority of our country men are agreed on the view and many of us also in our heart of hearts may agree with them that we are at present not living

[Mr. Labh Singh.]

under any constitution. But whatever we have in the nature of a constitution—and according to some of them it is only the barest apology for one—even this would need protection at your hands.

Khan Bahadur Nawab Muzaffar Khan : Sir, is the honourable member reading from a written speech ?

Shaikh Abdul Ghani : It is not a speech. It is an aspersion.

Mr. Labh Singh : The constitution such as it is can be protected successfully only with your legitimate assistance and it would in a special measure be necessary that your powers as President should be used vigorously and vigilantly to protect even such small liberties as have been left to the people. With these remarks, Sir, I would like again to associate myself with the felicitations that have been offered to you on this occasion.

Chaudhri Bansi Lal [Lahore City (Non-Muhammadan) Urban] (Punjabi) : Sir, I also congratulate you on your being elected as President of the Council. You were our President somewhere else as well and used to be very kind to us and always removed our complaints promptly. From what I know of you before, I am sure that you will even now treat us with the same indulgence.

Many of my honourable colleagues may be under the impression that I am a mere dummy and that I have been sent here as such. If they think so, they are wrong. I may very humbly inform them that man to man I am in no way inferior to them. With these remarks, I again congratulate you.

PAPERS LAID ON THE TABLE.

The Secretary laid on the table the following papers :—

- (1) The Appropriation Accounts of the Punjab Government and the Report of the Accountant-General thereon ;¹
- (2) The Report of the Committee on Public Accounts of the Punjab Legislative Council on the Appropriation Accounts of the year 1928-29 and other matters ;¹
- (3) A statement showing action taken against corrupt officials in the Punjab for the year 1929-30.

STATEMENT SHOWING ACTION TAKEN AGAINST CORRUPT OFFICIALS IN THE PUNJAB FOR THE YEAR 1929-30.

| Head of Department or Office. | Offence. | Number and designation of officers punished. | Nature of punishment awarded. |
|---------------------------------------|--|--|-------------------------------|
| Chief Conservator of Forests, Punjab. | Accepting illegal gratification. | One Forest guard. | Dismissed. |
| | Abetting the receipt of illegal gratification. | Ditto | Fined one month's pay. |
| | Attempting to extort illegal gratification. | Ditto | Dismissed. |

¹Kept in the Library.

| Head of Department or Office. | Offence. | Number and designation of officers punished. | Nature of punishment awarded. |
|---|---|--|--|
| <i>Inspector-General of Police, Punjab--</i> Assistant Inspector-General, Government Railway Police, Punjab. | Accepting illegal gratification. | One Foot Constable. | Dismissed. |
| Senior Superintendent of Police, Lahore. | Accepting a bribe .. | Ditto | Reduced from Rs. 18 to Rs. 17 grade for one year. |
| | Receiving illegal gratification. | Ditto | Dismissed. |
| | Extorting illegal gratification. | Ditto | Ditto. |
| Superintendent of Police, Amritsar. | Ditto | Ditto | Ditto. |
| Superintendent of Police, Lyallpur. | Attempting to extort illegal gratification. | Two Foot Constables. | Ditto. |
| Superintendent of Police, Hissar. | Accepting a bribe .. | One Sub-Inspector. | Sentenced under section 161, Indian Penal Code, to one year's rigorous imprisonment and a fine of Rs. 1,000 or in default 9 months' rigorous imprisonment. |
| Superintendent of Police, Karnal. | Burking a criminal case. | One Head Constable. | Reduced to Foot Constable time-scale of Rs. 19 grade. |
| Superintendent of Police, Ambala. | Attempting to extort illegal gratification. | One Head Constable and one Foot Constable. | Dismissed. |
| Superintendent of Police, Jullundur. | Extorting money and neglect of duty. | Two Foot Constables. | Reduced. |
| Superintendent of Police, Ferozepore. | Accepting illegal gratification. | One Head Constable. | Sentenced to 3 years' rigorous imprisonment and a fine of Rs. 1,000 or in default to undergo 9 months' rigorous imprisonment. |
| Superintendent of Police, Jhang. | Ditto | Two Constables | Dismissed. |
| | Ditto | One Constable | Reduced from Rs. 20 to Rs. 18 grade for three years. |

| Head of Department or Office. | Offence. | Number and designation of officers punished. | Nature of punishment awarded. |
|---|---|--|---|
| <i>Inspector-General of Police, Punjab—concl. Superintendent of Police, Muzaffargarh.</i> | Extorting illegal gratification. | One Constable. | Forfeiture of 4 years' approved service for increment with permanent effect. |
| | Ditto | Ditto | Forfeiture of 3 years' approved service for increment with permanent effect. |
| Superintendent of Police, Rawalpindi. | Ditto | Two Constables | Reduced from Rs. 19 to Rs. 18 grade for one year. |
| | Accepting bribes .. | One Head Constable. | Dismissed. |
| | Extorting illegal gratification. | One Constable | 15 days confinement to quarter guard. |
| <i>Director, Veterinary Services, Punjab.</i> | Accepting bribes .. | One Bir Darogha. | Increment stopped for one year. |
| <i>Director of Public Health, Punjab—Office of Assistant Director of Public Health, Punjab (Technical) Vaccination.</i> | Accepting illegal gratification. | One Vaccinator | Reduced to 3rd grade for one year. |
| <i>Chief Engineer, Irrigation Works, Punjab.</i> | Concealment of Irrigation. | One Patwari .. | Dismissed. |
| | Accepting bribe and damaging outlets. | Ditto .. | Ditto. |
| | Tampering with outlets | Ditto .. | Ditto. |
| <i>Chief Engineer, Public Works Department, Hydro-Electric Branch.</i> | Accepting illegal gratification. | One Overseer .. | Dismissed and proscribed from service in all the three branches of Public Works Department for a period of three years. |
| <i>Inspector-General of Prisons, Punjab—Hissar Jail ..</i> | Accepting illegal gratification. | One Warder .. | Dismissed. |
| Jullundur Jail .. | Introducing prohibited articles in to the Jail. | Ditto .. | Fined Rs. 5. |

| Head of Department or Office. | Offence. | Number and designation of officers punished. | Nature of punishment awarded. |
|--|---|--|--|
| <i>Inspector-General of Prisons, Punjab—contd.</i> | Introducing prohibited articles in to the Jail. | One Warder .. | Warned. |
| | Abetting a convict in introducing prohibited articles into the Jail. | Ditto .. | Fined Rs. 2. |
| | Introducing prohibited articles in to the Jail. | Ditto .. | Suspended for 11 days during which he was given 1/4th of his pay. Fined 10 days' pay and leave stopped for 6 months. |
| Lahore Borstal Jail | Receiving illegal gratification. | Ditto .. | Dismissed. |
| | Communicating with an undertrial prisoner. | Ditto .. | Discharged. |
| Lyalpur Jail .. | Extorting a bribe .. | Ditto .. | Suspended for one month. |
| Lahore Central Jail | Introducing prohibited articles into the Jail. | Two Warders | Increments stopped for one year. |
| | Ditto | One Warder .. | Sentenced to one month's rigorous imprisonment. |
| | Ditto | Ditto .. | Fined Rs. 2. |
| Ferozepore Jail .. | Acquiescing in the introduction of prohibited articles into the Jail. | Ditto .. | Sentenced to pay a fine of Rs. 30. |
| | Receiving illegal gratification. | Ditto .. | Suspended for two months. |
| | Misappropriating Government money and prisoners' property. | Ditto .. | Sentenced under section 409, Indian Penal Code, in two cases to 6 months' rigorous imprisonment in each case. |
| Sheikhupura Jail.. | Introducing prohibited articles into the Jail. | Ditto .. | Fined Rs. 1. |
| | Ditto | Ditto .. | Fined one week's pay. |
| | Accepting illegal gratification. | Ditto .. | Fined Rs. 4. |
| | Introducing prohibited articles into Jail. | Ditto .. | One week's extra drill. |

| Head of Department or Office. | Offence. | Number and designation of officers punished. | Nature of punishment awarded. |
|--|---|--|---|
| <i>Inspector-General of Prisons, Punjab—</i> concl'd.— Multan Central Jail | Accepting a bribe and conniving at the introduction of prohibited articles into the Jail. | One Head Warden. | Reduced to lower grade for 3 months. |
| Gurdaspur Jail .. | Receiving illegal gratification and giving false evidence to conceal the fact. | One Warden .. | Fined $\frac{1}{2}$ month's pay and all leave stopped for one year. |
| | Receiving illegal gratification. | Two Warders | Dismissed. |
| | Accepting an illegal gratification for not reporting the introduction of prohibited articles into the Jail. | One Warden .. | Fined Rs. 1 and all leave stopped for 6 months. |
| | Introducing prohibited articles into Jail. | Ditto .. | Dismissed. |
| | Accepting illegal gratification. | Ditto .. | Ditto. |
| Jhang Jail .. | Ditto | Ditto .. | Fined Rs. 3 and Rs. 1-8-0 found on him credited to Government. |
| <i>Registrar, High Court, Lahore—</i> | | | |
| District and Sessions Judge, Ambala. | Allowing an unauthorised inspection of a civil file. | One Alhmad .. | Dismissed. |
| Judge, Small Cause Court, Simla. | 161, Indian Penal Code | One Orderly .. | Ditto. |
| | Accepting illegal gratification. | One Reader .. | Ditto. |
| Senior Sub-Judge, Muzaffargarh. | Accepting illegal gratification. | One Madad Muharrir. | Dismissed. |
| | Ditto | One Naib Nazir | Remained under suspension from 13th August 1928 to 22nd April 1929, during which period he was not allowed any pay. |

| Head of Department or Office. | Offence. | Number and designation of officers punished. | Nature of punishment awarded. |
|---|--|--|---|
| <i>Financial Commissioners, Punjab—</i> | | | |
| Ambala Division .. | Offering illegal gratification. | One Clerk .. | Dismissed. |
| | Accepting illegal gratification. | One Naib-Tahsildar. | Ditto. |
| Jullundur Division | Ditto | One Tahsildar .. | Ditto. |
| Lahore Division .. | Ditto | One Peon .. | Suspended for 3 months. |
| | Ditto | One Examiner of vernacular copies. | Dismissed. |
| Multan Division .. | Ditto | One Patwari .. | Ditto. |
| | Ditto | One Colony Patwari. | Fined Rs. 5 and degraded ten places on the list of Colony Patwaris. |
| <i>Deputy Commissioner for Criminal Tribes, Punjab.</i> | Embezzlement of mosque and other settlement funds. | One Superintendent, Agricultural Settlements. | Dismissed. |
| | Embezzlement of Settlement funds. | Two Superintendents, Agricultural Settlements. | Ditto. |

PANEL OF CHAIRMEN.

The Secretary announced to the Council that under Rule 8 of the Punjab Legislative Council Rules, the Honourable President has nominated the following gentlemen to serve on the panel of Chairmen for the present session —

- (1) Mr. S. L. Sale ;
- (2) Mr. Manohar Lal ;
- (3) Mr. Labh Singh ;
- (4) Shaikh Faiz Muhammad.

PUBLIC ACCOUNTS AND STANDING COMMITTEES.

The Secretary made the following announcement :—

The Public Accounts Committee and the various Standing Committees, which were previously constituted under Rule 33 and Standing Order 74-A of the Punjab Legislative Council, respectively, ceased to exist with the dissolution of the 3rd Punjab Legislative Council. Fresh Committees have, therefore, to be constituted. As desired by His Excellency the Governor of the Punjab the Committee on Public Accounts is to consist of nine members of whom six have to be elected by the non-official members of the Council according to the principle of proportionate representation by means of the single transferable vote. The number of members of the various Standing Committees to be elected by the non-official members of the Council according to the principle of proportionate representation by means of the single transferable vote are as follows :—

| | | | | | |
|----------------------------|----|----|----|----|---|
| (1) Finance | .. | .. | .. | .. | 9 |
| (2) Canals | .. | .. | .. | .. | 8 |
| (3) Jails .. | .. | .. | .. | .. | 5 |
| (4) Industries | .. | .. | .. | .. | 5 |
| (5) Co-operative Societies | .. | .. | .. | .. | 5 |
| (6) Excise | .. | .. | .. | .. | 5 |
| (7) Local Self-Government | .. | .. | .. | .. | 6 |
| (8) Public Health | .. | .. | .. | .. | 6 |
| (9) Agriculture | .. | .. | .. | .. | 5 |
| (10) Education | .. | .. | .. | .. | 8 |
| (11) Land Revenue | .. | .. | .. | .. | 7 |
| (12) Police .. | .. | .. | .. | .. | 4 |

Elections for the non-official element of these committees will be held in the Council Chamber, Lahore, on the conclusion of Government Business to be brought forward at the meetings of the Council on 27th October, 1930, onwards. The non-official members of the Punjab Legislative Council are hereby called upon to send in nominations of candidates for the Public Accounts Committee and the various Standing Committees not later than 8 P. M. on Monday, the 27th October, 1930. Nominations must be made in writing to the Secretary, Punjab Legislative Council, and be signed by not less than two members, and the member nominated must signify his willingness to serve, if elected. The printed copies of nomination forms can be had from the office of the Punjab Legislative Council on all working days between 10 A. M. and 4 P. M.

Special attention is invited to Standing Order 74-E of the Punjab Legislative Council Standing Orders which lays down that no member elected to serve on the Finance Committee shall be a member of the Public Accounts Committee, and an elected member of the Public Accounts Committee shall not be a member of the Finance Committee.

The Council then adjourned till 2 P.M. on Monday, the 27th October 1930.

PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Monday, the 27th October, 1930.

THE Council met at the Council Chamber at 2 P.M. of the clock. Mr. President in the chair.

OATH OF OFFICE.

The following members were sworn in :

- ✓ Joti Parshad, Lala [South-East Towns (Non-Muhammadan), Urban]:
- ✓ Raghbir Singh, Hony. Lt., Sardar [Amritsar (Sikh) Rural].

ELECTION OF DEPUTY PRESIDENT—POINT OF ORDER.

Mr. Labh Singh [Rawalpindi Division and Lahore Division (North) (Non-Muhammadan) Rural]: Sir, I rise to a point of order. I am doubtful as to the propriety of raising a point of order at the very commencement of the proceedings of the session, but the point appears to me to be so important that I would rather take the risk of committing what would appear to be a piece of impropriety. I would like to invite the attention of the House to the order paper for the day in which the election of the Deputy President figures as the 5th item on the continuous list of business, and if you would kindly refer to Article 14 of the Constitutional Manual at page 7, it reads :—

“At the beginning of each new Council a Deputy President will be elected by the Council from among its members subject to the approval of the Governor.”

This is section 72 (c) (2) of the Government of India Act, and this is followed by Article 15 which sets out Standing Order 5 and reads :—

“The election of the Deputy President shall take place as soon as convenient after the commencement of the first session of each Council.”

I would submit that this arrangement of business is not in conformity with either the Standing Order or the provision of the Government of India Act, and does not appear to be justified on the face of it. I would not go so far as to say that this special arrangement is intended for any particular purpose, but one thing is obvious that this arrangement is being commented upon. I would like to take away all possibility of such a comment being made. A most contentious measure known as the Criminal Law (Punjab Amendment) Bill is coming up for discussion prior to this item and circumstances therefore would lend themselves to the construction that this item of the election of the Deputy President was relegated to a later position even in express violation of the rules, as I have read them out to you, for the purpose of securing the maximum support for that obviously controversial measure. I do not positively allege that this was the design of the Government but had it been the design of the Government, no better method could have been devised. In these circumstances I would

[Mr. Labh Singh.]

ask for your ruling on the point whether this agenda paper is in order, and in conformity with the law.

Mr. President : I do not propose to allow a discussion on this point of order. I intend to dispose it of forthwith. The first point raised by the honourable member is that according to rules the election of the Deputy President is to be held as soon as convenient after the commencement of the first Session of the Council. The question is, by whom the convenience is to be judged, by the Secretary, by the President or by the honourable members of this House? My reading of the rules is that the item relating to the election of the Deputy President should not have found a place in the agenda unless and until the Council had elected their President as it was the President who could have decided, with the consultation of the House, if necessary, when it would have suited the convenience of the honourable members to elect their Deputy President. What I now propose to do is to consult the House at the close of to-day's proceedings as to when the Deputy President should be elected and to hold the election on the day and at the hour the Council may suggest. On this view the question regarding the motives ascribed to Government does not arise.

GOVERNMENT'S DEMANDS FOR SUPPLEMENTARY AND TOKEN GRANTS.

The Honourable Sir Henry Craik (Finance Member) : Sir, I beg to present the Supplementary, Excess and Token Grants shown in the list of business. They are all recommended by His Excellency the Governor.

MISCELLANEOUS (RESERVED).

The Honourable Capt. Sardar Sikandar Hyat Khan (Revenue Member) : Sir, I beg to move—

“ That a Supplementary sum not exceeding Rs. 1,00,000 be granted to the Governor in Council to defray the charges that will come in course of payment for the year ending the 31st of March 1931 in respect of Miscellaneous (Reserved). ”

The motion was carried.

FAMINE (RESERVED).

The Honourable Capt. Sardar Sikandar Hyat Khan (Revenue Member) : Sir, I beg to move—

“ That a supplementary sum not exceeding Rs. 1,00,000 be granted to the Governor in Council to defray the charges that will come in course of payment for the year ending the 31st of March 1931 in respect of Famine (Reserved). ”

The motion was carried.

LOANS AND ADVANCES (RESERVED).

The Honourable Capt. Sardar Sikandar Hyat Khan (Revenue Member) : Sir, I beg to move—

“ That a supplementary sum not exceeding Rs. 7,00,000 be granted to the Governor in Council to defray the charges that will come in course of payment for the year ending the 31st of March 1931 in respect of Loans and Advances (Reserved). ”

The motion was carried.

IRRIGATION.

The Honourable Capt. Sardar Sikandar Hyat Khan (Revenue Member) : Sir, I beg to move—

“ That a token sum of Rs. 10 be granted to the Governor in Council to defray the charges that will come in course of payment for the year ending the 31st of March 1931 in respect of Irrigation.”

The motion was carried.

MEDICAL (TRANSFERRED).

The Honourable Malik Firoz Khan, Noon (Minister for Education) : Sir, I beg to move—

“ That a token sum of Rs. 10 be granted to the Punjab Government (Ministry of Education) to defray the charges that will come in course of payment for the year ending the 31st of March 1931 in respect of Medical (Transferred).”

The motion was carried.

GOVERNMENT'S DEMANDS FOR EXCESS GRANTS, 1928-29.

IRRIGATION (REVENUE).

The Honourable Capt. Sardar Sikandar Hyat Khan (Revenue Member) : Sir, I beg to move the motion that stands in my name.

Mr. President : Order, order. Excess grants can be moved only by the Honourable Finance Member. I may refer the Honourable Member to paragraph 185 of the Business Manual.

The Honourable Sir Henry Craik (Finance Member) : Sir, I beg to move—

“ That a sum not exceeding Rs. 1,45,851 be granted to the Governor in Council to meet the excess expenditure incurred during the year ended the 31st of March 1929 in respect of Irrigation (Revenue).”

Mr. President : The demand moved is—

“ That a sum not exceeding Rs. 1,45,851 be granted to the Governor in Council to meet the excess expenditure incurred during the year ended the 31st of March 1929 in respect of Irrigation (Revenue).”

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan), Urban] : Sir, the question of irrigation has come up to-day. The new budget will be presented in two or three months' time and it is time for us to draw the attention of Government to the question of *abiana* again. Unless Government is ready to balance the budget there will be a great deficit. The prices of cereals have gone down.

Mr. President : Does the honourable member intend to discuss certain matters of policy while this excess grant is under discussion ?

Shaikh Muhammad Sadiq : Yes, Sir.

Mr. President : Debates on Supplementary and Excess grants should be restricted to the application of those grants or their various items. So the honourable member is welcome to criticize the policy of the Irrigation Department as to the application of the grant now under discussion, but he cannot be allowed to discuss or criticise the general policy of the department with regard to any other grant or item.

[Mr. President.]

The question is—

“That a sum not exceeding Rs. 1,45,851 be granted to the Governor in Council to meet the excess expenditure incurred during the year ended the 31st of March 1929 in respect of Irrigation (Revenue).”

The motion was carried.

IRRIGATION (CAPITAL).

The Honourable Sir Henry Craik : Sir, I beg to move—

“That a sum not exceeding Rs. 5,91,189 be granted to the Governor in Council to meet the excess expenditure incurred during the year ended the 31st of March 1929 in respect of Irrigation (Capital).”

The motion was carried.

COMMUTED VALUE OF PENSIONS.

The Honourable Sir Henry Craik : Sir, I beg to move—

“That a sum not exceeding Rs. 75,332 be granted to the Governor in Council to meet the excess expenditure incurred during the year ended the 31st of March 1929 in respect of payments of Commuted Value of Pensions.”

The motion was carried.

REFUNDS (RESERVED).

The Honourable Sir Henry Craik : Sir, I beg to move—

“That a sum not exceeding Rs. 23,392 be granted to the Governor in Council to meet the excess expenditure incurred during the year ended the 31st of March 1929 in respect of Refunds (Reserved).”

The motion was carried.

REFUNDS (TRANSFERRED).

The Honourable Sir Henry Craik : Sir, I beg to move—

“That a sum not exceeding Rs. 56,376 be granted to the Punjab Government (Ministries of Agriculture, Education and Local Self-Government) to meet the excess expenditure incurred during the year ended the 31st of March 1929 in respect of Refunds (Transferred).”

The motion was carried.

THE CRIMINAL LAW (PUNJAB AMENDMENT) BILL.

The Honourable Sir Henry Craik (Finance Member) : Sir, I introduce the Criminal Law (Punjab Amendment) Bill.

The Honourable Sir Henry Craik : Sir, I beg to move—

“That the Criminal Law (Punjab Amendment) Bill be referred to a select committee with orders to report within two days, consisting of the following :—

Mr. Nanak Chand Pandit.
Lala Mukand Lal Puri,
Chaudhri Muhammad Yasin Khan,
Shaikh Faiz Muhammad,
Sardar Harbakhsh Singh,
Mr. Din Muhammad,
Mr. C. M. G. Ogilvie,
Mr. S. L. Sale,
A nominee of the President, and
The Mover.”

In moving this motion I wish to take the opportunity.....

Shaikh Muhammad Sadiq : Sir, I stood up thinking that my motion for the circulation of the Bill would come first, but perhaps I did not draw your attention.

Mr. President : The honourable member does not appear to be right. Probably he is referring to the old agenda in which the motion for leave to introduce the Bill has been entered. The honourable member is probably unaware that after the circulation of that agenda, the Bill was published in the *Government Gazette* under the orders of His Excellency the Governor, and that, therefore, the motion for leave to introduce the Bill has become unnecessary under Rule 18. The motion now moved by the Honourable Finance Member is that the Bill be referred to a Select Committee.

Shaikh Muhammad Sadiq : Will my motion be taken up afterwards?

Mr. President : Of course.

The Honourable Sir Henry Craik : Sir, in moving this motion I wish to take the opportunity of stating, possibly at some little length, to the Council the reasons which have led the Government to introduce this Bill, and of explaining the nature and manifestations of the menace to law and order with which Government is confronted and with which this Bill is intended to deal. During the last year we have had in the Punjab—I am leaving out of account the Delhi province—more than thirty anarchical and terrorist outrages. Beginning with the Ahmedpur train dacoity in October of last year, in which I think half a dozen men were convicted, we come next to an explosion of two bombs in a *dharmshala* in the Rangali quarter of Lahore. There a third live bomb was found as also two wounded men, both of whom were convicted. There is every reason to think that those men had plotted to murder either the magistrate or some of the witnesses in the Lahore Conspiracy Case. Fortunately the plot miscarried and they injured only themselves. Next we come to April of the present year in which the detective staff discovered a very large number of bombs and other weapons most carefully concealed in a house in Lahore City. I am only taking the more important cases. I am not giving smaller ones. On this occasion no less than 14 Mills bombs and a Russian stick bomb, together with a revolver and a large quantity of ammunition, were discovered in a cleverly devised hiding place. The persons concerned in that case are under trial on charges connected with the Dusserah outrages of 1926 and 1928. In May of the present year, a bomb was thrown from the roof or window of a house in Multan city on a party of police, seriously injuring Mr. Hill, the Superintendent of Police, and three constables. Next we come to a bomb explosion at a Hindu fair in Amritsar city in the same month, that is, in May of this year, in which no less than 20 persons were injured, fortunately none fatally. After that, at the end of May there was an explosion of a bomb in a house in yet another district, Sialkot, fatally injuring a man who was suspected of having made this bomb and who was known to be a member of an unlawful association which favours violence, and who was reported to have been dabbling in revolutionary crime. A few days after that came the accidental explosion of a bomb in a house in Bahawalpur Road. The persons concerned in that case have not yet been brought to justice, but some are at any rate under arrest. About that I had better say nothing more. Four days later a bomb was thrown into the European Club at Lyallpur, obviously

[Sir Henry Craik.]

with murderous intent. Fortunately the thrower made a bad shot and it fell into the canal cut and did not explode. Next, I come to the most deadly, most cruel and most devilish of these terrible series of crimes, the "booby trap" bombs of June last. Honourable members will remember that in no less than six towns in the Punjab, Amritsar, Lahore, Gujranwala, Lyallpur, Rawalpindi and Sheikhpura, there were simultaneous or practically simultaneous explosions, all obviously part of one plot. The police in every case immediately went to the house where the explosion occurred and in every case they found an empty room and in the empty room they found a bomb so arranged that it should explode on being touched. I regret to say that so successful was the ingenuity of this diabolical plot that two police officers lost their lives, three more, I think, were maimed for life and one, an Inspector of particular promise with every prospect of a highly successful career before him, lost his eye and has had to be invalided out of the service. After that there was a pause of one month and for one month only. Then, we had an explosion in the Said Mitha Bazaar of some explosives carried in a suit-case. In that case too, the culprit or the suspected culprit at any rate, is under arrest. Two days after that there was an explosion in a *serai* in Moghulpura. Two men are being tried for that. No doubt honourable members have seen reports in the newspapers of that case. On the 27th September, a bomb of a particularly dangerous type was thrown at a party of fifty police who were engaged in changing the guard outside a certain shop in Rawalpindi. The bomb actually struck one of the policemen and rolled to the ground. But by the mercy of Providence it did not explode. The expert's opinion is that that bomb was of a particularly dangerous and deadly type. Seven days after that came the murderous attempt on one of the most distinguished officers of the Indian Police in the Punjab, Khan Bahadur Abdul Aziz. He was shot at by a party of miscreants armed with revolvers, no less than twelve shots being discharged at him from within a distance of a few feet. It is almost a miracle that he escaped without injury. His orderly was hit and, I regret to say, has since lost his life, thus making the third police officer who fell a victim to these diabolical crimes within the last few months. A week later, again, Inspector Brown of the Lahore Police was fired at as he entered his house. Two shots were fired in that case, but fortunately they both missed. I have mentioned only a few of the more serious of these outrages. Besides the ones I have mentioned, there have been discoveries of bombs and arms at various other places such as Ludhiana, Jullundur, Sheikhpura, Lahore, Amritsar, and there have been minor outrages directed against the police, in most of which cases injuries were caused though fortunately in no case were lives lost; at Amritsar on the 9th March this year, at Simla on the 14th April, at Jhang on the 16th June, at Kamalia on the 25th June, at Hissar on the 28th July, at Amritsar again on the 5th September; and throughout these months to which I am referring, that is to say for the last ten or twelve months, there has been a continuous flow of revolutionary literature inciting to violence and belauding the authors of these and similar treacherous crimes. I will not weary the House with more than one specimen. This one was placed in my hands during the last few days and it is so striking that I think the House should hear at any rate some of the sentences in this pamphlet. This pamphlet or poster was distributed at a meeting of that unlawful association to which I referred just

now, the Naujawan Bharat Sabha, and if any honourable member has ever felt any doubt as to the violent methods and the violent principles of that society, let him listen to what I am going to read. This pamphlet was distributed on the 7th October, three days after the attempt to murder Khan Bahadur Abdul Aziz. It says :—

“The Hindustan Socialist Republican Association (Punjab Branch) decided in one of its meetings that Khan Bahadur Abdul Aziz, Deputy Superintendent of Police of Lahore should be punished with death for his numerous tyrannous activities. Two soldiers and one lieutenant of the Republican Army were deputed for this work. All are well aware of what happened in Lahore on the 4th October. It was merely his evil luck and misfortune that the Khan Bahadur did not die. Evil luck and misfortune, because he must be passing sleepless nights dreaming horrible dreams. He will have to pass his days hiding like dogs. But the arms of the Hindustan Socialist Republican Army are very long. When once it is decided to punish some one with death, no power on earth can save him. If Abdul Aziz has not died to-day he will die to-morrow Failures cannot make the revolutionists unsuccessful.”

Now, Sir, after listening to that catalogue of crimes, I do not think there is any member of this House who will deny that we are confronted in this province with a conspiracy of a most wide-spread and carefully organised type whose sinister object is to terrorise and to intimidate the police. I cannot conceive that any one can seriously believe the criticism I noticed in one newspaper in the Punjab which refused to admit that there was “anything extraordinary in the present state of affairs in the province.” I am glad to think that crimes of this diabolical nature are not part of the ordinary life of this province. Heaven forbid that they should ever become so. But that at the present moment they are distressingly and insupportably frequent, cannot, as I have said, be denied.

Hitherto I have dealt only with crimes which we believe to be part of a conspiracy of anarchism organised by a widespread gang. But the example set by these people has been followed by the ordinary criminal, by the man who has a grudge or who wants to commit a burglary. Within the last few months there have been no less than 15 cases of incidents pointing to the conclusion that unless special steps are taken, the bomb will become one of the ordinary weapons of the professional criminal. I need not weary the House with details of these 15 cases, though I have all of them here, but two or three of them were explosions, while others were mere discoveries of bombs. In one case, at any rate, the number of arms found in a single district is almost incredibly large.

In March 1930 in the Mianwali district the police discovered no less than 26 bombs, 128 pistols, 26 revolvers, 28 guns, 388 spears, 108 daggers and a large quantity of ammunition. Apart from those discoveries of arms there have been three or four cases in which fatal explosions have taken place. One will be within the memory of all members of this House, namely the explosion at the Khalsa College, Amritsar, which the House will notice I have excluded from the category of anarchical crimes. That crime was the outcome of a private grudge of a student against the Principal and the bomb was intended to cause the death of the Principal but actually caused the death of another student. There have been other instances where the person making the bomb has himself been blown up. But the point which I wish to emphasise is that the cult of the bomb has now become so common that it is what I can almost describe as a daily feature in the story of professional crime in this province.

[Sir Henry Craik.]

It is explained in the Statement of Objects and Reasons appended to this Bill that Government are of opinion that special legislation to amend the law is necessary, and the form of legislation which they have adopted is devised so as to dispense with the commitment stage and so to shorten the protracted trial, extending in some of these elaborate and difficult cases over many months, which the existing procedure necessitates. Allusion is made in the Statement of Objects and Reasons to the risks to which witnesses in these cases are exposed owing to the necessity of making frequent appearances in court and the extremely lengthy and slow procedure which is followed in Indian courts. That danger is no imaginary danger. We had a case of a Punjab witness—this happened not in the Punjab but in Bombay—where a witness in an important conspiracy case in the Punjab was sent down to Bombay to give evidence against other members of the conspiracy arrested and under trial in that province. He was shot at and actually wounded and the officer commanding the police escort was also shot at and wounded. In the Punjab itself, throughout the course of the protracted and notorious trial which has just finished witnesses were exposed to every species of terrorism and intimidation short of actual violence and in one case at least actual violence was used. In other cases witnesses have been so terrified that they have absolutely refused to come forward to give evidence at all. The general feeling of terror which these conspirators have inspired is so great that men are afraid to say anything which may conceivably bring them within the range of vengeful acts.

There are other reasons which we consider make it desirable to shorten the duration of these trials. In the first place, apart altogether from the question of risks to witnesses, there is the risk and the inconvenience caused by what I may call the immobilisation of the very small, highly qualified staff who alone are competent to work out the threads of these dangerous conspiracies. That staff is limited in numbers and their capacity is limited by the ordinary limitations of human strength and brain power. To expose these men to the strain of these long drawn out cases,—and the House may take it from me that it is a terrible strain—not only brings them almost to breaking-point but in addition it deprives us of the only machinery which is qualified to investigate and elucidate offences that, as I have shown, are of almost weekly, not to say daily, occurrences. That is a very important practical consideration. Then, of course, there will be a certain financial saving by this Bill if it is passed, but I do not wish to lay stress on that. There is, however, one other feature to which I do attach great importance and that is the effect on pliant and impressionable minds of proceedings, protracted proceedings, such as we have lately had in the notorious case that has just ended. I have no hesitation in saying that the incidents that have occurred in that case and notably the disgraceful and disorderly scenes of defiance that occurred daily in the magistrate's court have acted as a direct stimulant to crime and what I might call a recruiting agency for these conspiracies. I think that that case has had the effect of swelling the ranks of those who make a cult of the bomb and the revolver and who shrink at no methods to secure their ends.

It has been objected to this Bill that it deprives the accused person of what I have seen described as the sacred right of hearing twice over all the

evidence produced for the prosecution. The object of commitment proceedings is not, I venture to say, to give the accused the opportunity of hearing twice over all the evidence against him. The object is very different. It is to prevent the higher courts having to waste their time over cases which have little prospect of ending in conviction. In this country commitment proceedings are, in practice, much longer drawn out than was contemplated in the statute law on the subject. Under the Code I understand the magistrate can commit the accused person to the courts as soon as he is satisfied that a *prima facie* case has been established against him. It is no duty of the committing magistrate to weigh or appraise the evidence. It is merely his duty if he considers that a *prima facie* case has been made out against the accused to commit him for trial. If there was any force in this objection, that by the omission of the commitment stage the accused is seriously prejudiced, it could with equal force be urged that every trial conducted by a magistrate under the procedure laid down for warrant cases is unfair to the accused. I take it, I have not got statistics but I take it, that for every one case that is tried by a sessions court there must be at least five or six cases that are tried under the warrant case procedure. Is it seriously asserted that in every one of those cases the procedure involved is unfair to the accused and does not give the innocent man a perfectly good opportunity of proving his innocence? I cannot accept that contention. Another objection that might be taken is that the accused person may be called upon to enter upon his defence before he is aware of the whole of the evidence against him. It is perfectly true that under the warrant case procedure a magistrate may frame a charge before the evidence for the prosecution has been recorded. But there is another provision in the Code, section 257, which entitles the accused person at any time to apply to the magistrate to recall any witness for the purpose either of examination or cross-examination, that is to say, he can apply for either a witness who has given evidence against him being recalled or a witness who has given evidence in his favour. The magistrate can only refuse to recall that witness if for reasons to be recorded in writing he considers the application is intended to cause delay or defeat the ends of justice or something like that. I claim that the procedure laid down in this Bill, which provides for a trial by a commission of three persons, two of whom shall be sessions judges or persons qualified to be appointed to the High Court bench, provides the accused with a more favourable field than the ordinary trial by a magistrate. Two out of the three judges — and it is fair to assume that all three of them will be persons of more lengthy and wider experience than the ordinary magistrate — must be convinced of the guilt of the accused if a conviction is to be obtained.

There are two more points about the Bill to which I would like to refer though they are stated in the Statement of Objects and Reasons. The first is that in regard to appeal. Honourable members will have noticed that nothing is said in this Bill about an appeal to the High Court. That is only because a provincial legislature has no power to either restrict or extend the jurisdiction of a high court. If we had inserted in this Bill a clause giving the accused a right of appeal to the High Court, that clause would have been *ultra vires* and of no effect. We had, therefore, as the only way round this difficulty, to ask the Government of India to give us a promise that at the earliest possible moment they would introduce in the central legislature a Bill

[Sir Henry Craik.]

conferring on persons convicted under our Bill the right of appeal to the High Court and making it necessary that sentences of death passed by the special commissioners should require the confirmation of the High Court. Such a Bill I expect will be introduced in the Legislative Assembly in January next. At any rate, I give an undertaking that the legislative measure to the effect I have stated will become part of the law of the land before any persons could be convicted under the procedure laid down under this Bill, or at any rate, before their period of limitation for appeal expires.

I would also refer, Sir, to the fact that the Bill I have now introduced resembles exactly the Act or part of the Act which has been in force in another province, Bengal, for the last 5 years. That Bill was introduced in 1925 and became law for a period of 5 years, but it included a second part, which we have not included in our Bill, dealing with the detention of suspected persons. I need not go further into that. The Bengal Act expired in April, I think, of this year and was then re-enacted by the Bengal Legislative Council for another term of 5 years. There is only one difference in our Bill and that will be found in clause 7. It provides for the contingency of one of the special commissioners falling sick or being unable to discharge his duties or for going on leave. This was a contingency which was not provided for at all in the Bengal Act. We proposed in the second part of clause 7 that should such a contingency arise it shall not be incumbent on the remaining commissioners to recall or rehear any witness who has already given evidence. I think the House will admit that this is a perfectly sensible provision and that to enact that the absence of one commissioner out of three should necessitate rehearing of all the evidence would have been unnecessary and would have led to quite needless delay and expense.

Sir, I hope I am right in supposing, in fact I am confident, that every member of this Council condemns as heartily as I do the atrocious acts of which I have given the House a catalogue to-day and sympathises as sincerely as I do with the victims of these crimes. Let me express the hope that the House will by its attitude towards this Bill give practical proof of that condemnation and that sympathy and will arm the Government with the special weapons which we in no spirit of panic, in no spirit of vindictiveness but on mature deliberation and after great consideration have decided are necessary to deal with this menace to the peace and prosperity of the Punjab. (*Hear, hear.*)

Mr. President : The motion is—

“ That the Criminal Law (Punjab Amendment) Bill be referred to a Select Committee with orders to report within two days, consisting of the following members :—

Mr. Nanak Chand Pandit,
Lala Mukand Lal Puri,
Chaudhri Muhammad Yasin, Khan,
Shaikh Faiz Muhammad,
Sardar Harbakhsh Singh,
Mr. Din Muhammad,
Mr. C. M. G. Ogilvie,
Mr. S. L. Sale,
A nominee of the President, and
The mover.

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan) Urban]:
Sir, the following amendment stands in my name:

"That the Criminal Law (Punjab Amendment) Bill be circulated for eliciting public opinion thereon."

But in a hurry a few words have been left out of the amendment. There is firstly the matter that public opinion should be obtained by such and such a date. It has been the custom of the House, with the kindness of the President, that such a change is always allowed to be made. If, therefore, you are good enough to allow me to add these words I shall proceed with my speech.

Mr. President: No notice is required for the honourable member's amendment. Therefore, he is welcome to move the amendment now.

Shaikh Muhammad Sadiq: Sir, I am moving this amendment not for the sake of obstruction nor for the reason that I have no sympathy with Government officials who have been bombed or people who have been murdered. I say outright that I have no sympathy in such matters with those who are guilty of such deeds. None of the members of this House have such sympathy (*hear, hear*). Our object is to get *swaraj* and we want to obtain it with clean hands. No intelligent person will ever support the murderous attacks which are made by some people in a most cowardly manner. If I propose this amendment I assure you that it is not for the reason that I have no sympathy for the gallant officers whether of police or of judiciary who have been bombed or murdered. But I do not agree with my honourable friend, the Finance Member, when he says that by voting for this motion we will show whether we have any sympathy or not with those people. This is wrong. To vote for a Bill which contains such a large number of contentious points is different from having sympathy. None of us lags behind the Honourable Member or any of the honourable members sitting on those benches in our sympathy with these people. We will strongly and surely condemn any action which changes the law of the country without giving opportunities of discussion. Criminal law of the country ought not to be tampered with easily. We have to see that by passing a measure in this House we are not perpetuating for 5 years a law which in cooler moments we would not like to support. When I first read the Bill my first thoughts, I can assure you, were that it has got some good points in it, but the more I read it the more I disliked it. I am convinced that whereas it contains certain points which are good, a majority of the points which this Bill contains are such that this House should not allow the Government to enact it into a law. The criminal procedure in all the civilized countries is always respected. It can only be disturbed in an emergency like a civil war or under martial law. If the Government can come before us and prove that the conditions in the country are as those obtaining before the application of martial law then they would have my sympathy. But the speech of the Honourable Finance Member has no bearing on the objects of the Bill. You will find that Government have put their case in a nutshell by stating that the object of the Bill is to stop protracted proceedings. If you read page 5 you will find that they have given all their reasons, but none as mentioned in his speech. No doubt there have been some murders and no doubt there have been bombing incidents; this nefarious work has been carried on

[Sh. Muhammad Sadiq.]

for months. I, as a nationalist and a lover of my country and as a lover of *swaraj* say that I have no sympathy with these murders. A vast majority of this country have decided once for all that the fight for *swaraj* will be a non-violent fight and with clean hands and if anybody professing such sentiments shows sympathy with these murders he is either a hypocrite or a liar. There may be some people who like the ideals of Bhagat Singh, but very few like his methods.

Coring to the Bill, if we see the Bill it would appear that it is a simple Bill brought forward with the object of expediting the trials: but let us proceed with the provisions of the Bill as put forward by the Finance Member. It would appear to be a simple Bill the object of which is to avoid delay. So far as the stated object is concerned the Bill has my fullest sympathy. I do not like that the accused person should remain in jail for six months or one year before his case is actually ready for trial. I would like that the case should not be prolonged, but at the same time it should not be heard in indecent haste. Posterity will never forgive us unless this Bill is produced in such a way that it does not differ from the ordinary law of the civilized countries. Posterity will condemn us for rushing through this Bill in seven days. It was only seven days ago that we received this Bill which cuts at the root of the Criminal Procedure Code which has been in use in this country for the last 80 years. The statute book should be respected and should not be altered without due thought. Are not the people of the country on whom we are going to apply this measure to be consulted? There are the High Court Judges. Are not they going to be asked what effect it will have on the present procedure? Government seems to be rushing the Bill through the Council like a martial law measure. I ask Government not to mind my criticism which is not based on dishonest motives, and I do hope that nothing will proceed from this House which would reflect upon the dignity of the House. This House is the father or mother of the Councils to come and when murders and bombs have ceased they should not look upon this Council with disrespect and call us toadies. Let them not say that the Bill was allowed to be rushed through by a Council which never cared for the rights of the people.

My honourable friend, the Finance Member, says that he undertakes to ask the Government of India to introduce a Bill in the Legislative Assembly. Do you think the Assembly will be coerced or forced to pass the Bill because of that undertaking? How do you know that the Legislative Assembly will not throw out the Bill? What guarantee is there that the Bill will be passed in the Assembly? As far as my knowledge of the constitutional law goes.....

The Honourable Captain Sardar Sikandar Hyat Khan: Sir, I do not quite follow the honourable member's point. Sir Henry Craik was talking about the supplementary Bill to give the accused right of appeal to the High Court.

The Honourable Sir Henry Craik: We have a definite promise from the Government of India.

Shaikh Muhammad Sadiq: They have in writing a promise, which cannot be seen by me or by any member of this House, that the Bill will be introduced in the Legislative Assembly and that that Bill will be passed by

the Assembly. What right have they to say on behalf of the Assembly that the Bill will be passed? The Punjab Government seem to be so powerful that even the Assembly will bow down to their wishes. Let it be taken for granted that the Bill will be introduced in the Assembly, but the introduction of a Bill surely does not mean the passing of the Bill. The promise is therefore nothing but a scrap of paper.

The Honourable Sir Henry Craik : There is another device if the Bill is not passed.

Shaikh Muhammad Sadiq : The Viceroy may permit the Home Member to move the Bill in the Assembly. The Bill may be rejected. If it goes to a select committee, it may be changed out of shape.

The Honourable Sir Henry Craik : It may be certified.

Shaikh Muhammad Sadiq : I do not know. The Money-lenders Act was passed in this Council, by the help of Government and every one knows what its fate was. If the Viceroy certifies it, we do not know whether the Secretary of State will allow it or not. I wanted to speak but my friends have started interrupting. Interruptions will not have any effect on me, they might increase the length of my speech. That is the only effect they can have on me. If they listen to me calmly I will be able to meet their arguments. I was saying that the Honourable Finance Member told us at the very start that a Bill will be introduced in the Assembly. There is nothing to promise that the Bill will become law. If it does, what if the Viceroy does not give his assent to it in the form in which it is passed? There may be a change in the Viceroyalty in the meantime. What guarantee is there that the next Viceroy will approve the Bill? Government will have a trial of two dozen people. Some will be acquitted, some will be ordered to be hanged, some will be transported and then the Government will say to the Government of India: We have already had a six months' long trial, please pass your Bill. They will try to use the same argument before the Assembly, and say that there will be no end of trouble, witnesses will be murdered, please pass this Bill, otherwise we will be in a very difficult position. They are trying to use this fact simply as an argument later on when they ask the Assembly to pass their Bill. When the Press Act was passed, Sir S. P. Sinha promised that it would not be used in certain cases. It was passed, as the members of the Legislative Council were of the imperialistic type and as they thought that the word of the Honourable Member was sufficient. The Act was passed, but when the question of its application arose and the promise of Sir S. P. Sinha was brought before the High Court, Sir Jenkyns called Lord Sinha's promise a mere scrap of paper. Let Government member say that this Act will not become law until the necessary Act is passed by the Assembly giving the right of appeal to the High Court. But he does not say that. I do not say that he has dishonest motives. I am not here imputing motives, but I am only saying that it is quite easy for him to say that this Act will not come into force until the Assembly has passed their Bill which has been given assent to by the Governor-General in Council. Now they want to protect the accused for six months. What happens if the Assembly does not pass its Bill? Are you going to have a re-trial after six months?

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I will now take the Bill clause by clause. Section 7 (2) reads :

“ Notwithstanding any change among the Commissioners, it shall not be incumbent on the Commissioners to recall or rehear any witness who has already given evidence, and the Commissioners may act on any evidence already recorded by, or produced before them.”

Mr. President : The honourable member is not in order in discussing the details of the Bill. I invite his attention to paragraph 83 of the Business Manual. He is welcome to discuss the principle of the Bill and also its general provisions, but he should not discuss its details further than may be necessary to explain its principle.

Shaikh Muhammad Sadiq : I am only discussing the principles of the Bill. I am only trying to show that this is a departure from the existing practice. Government is with one stroke of the pen going to take murder cases out of the jurisdiction of the High Court. Ordinarily the sessions judges are appointed by the consent of the High Court. In 1930 there are 6,000 lawyers in the Punjab, 5,000 of whom are such as could be judges of these courts—very needy lawyers in these days of starvation or depression. You will find a rush of applications for appointment as judges. No sooner do they show independence, Government will have the right to remove those judges. The impression on the public will be that no sooner does a judge refuse to be subservient, there comes a slip from the Deputy Commissioner or the Commissioner or the Finance Member removing him from his judgeship. Is this the form of justice that you want? If an honourable judge dies, we cannot help it; if an honourable judge falls ill and goes to his country we cannot help putting in another judge in his place, but under this Act if a judge tries to be independent he will find the sword of Democles always hanging on his head. What happened in the Lahore Conspiracy Case is well known to the honourable members. Knowing that a *de novo* trial would not be necessary, Government could tell a judge who does not obey the orders and dictates of Government that it did not want him. Can any justice be done in any country if that sort of thing is allowed? Is this procedure followed in any civilised country and is there any civilised country where the judge has no surety of tenure of office? I do not want to attack Government. I do not say that it will be done, but if it is it would be nothing short of prostitution of justice. Any procedure which allows the executive to appoint and dismiss judges in relation to any particular case should be unreservedly condemned. Any procedure which allows the dismissal of a judge without any good reason shows how very short we are of the true standard of justice. Are you going to create another China? Are you going to create another Russia?

My criticism may be destructive, but it is not destructive for destruction sake, but for the sake of construction. Take this clause 10 relating to evidence. It is said :

“ Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any magistrate, such statement may be admitted in evidence in any trial before Commissioners appointed under this Act, if such person is dead or cannot be found or is incapable of giving evidence, and the Commissioners are of opinion that such death, disappearance or incapacity has been caused in the interests of the accused.”

I think the Honourable Finance Member must have spent sleepless days and nights in drafting this clause. A man disappears or dies; the clause

says that the death or disappearance is proved to have been caused in the interest of the accused. Do you not think it will be very easy for the police to ask a man to make a statement and then make him disappear by paying a large sum of money and asking him to go to Kashmir or even to England which is not nowadays very far from India? Is this procedure fair on the part of the Government? Is it fair for the accused? After all, what is the object of this Bill? In the Statement of Objects and Reasons it is said that the object of this Bill is to avoid delay. But is there any question of delay in this section? There is none. If a man runs away it means that he has not the courage to face the accused in court and he is a liar and probably he is afraid that he will be exposed. Why should the statement of such a man be taken as evidence against the accused without his being subjected to proper examination? So this Bill is not meant merely to avoid delay in dealing with such cases but only meant to arm the executive with more power and thus smash the foundation of justice. Is that the stated object of the Government? If the Government had cared to consult any of us before bringing this measure before the Council much of the time of the Council will not have been wasted. The Government, however, is rushing this Bill through probably because it has read in the papers that this Council is reactionary. The *Tribune* and the *Hindu Herald* have said in their papers that this Council is very reactionary. That is absolutely wrong. This House will never be reactionary. I warn the Government not to be misled by what is stated in the papers.

Now, I come to the question of procedure. When I look at the Bill I find that it gives the executive more powers than what the Czar of Russia possessed. The clause reads:

"The Local Government may.....make rules..... for.....the conduct of, and the procedure at, trials, the manner in which prosecutions before such Commissioners shall be conducted, and the appointment and powers of persons conducting such prosecutions."

Does it mean that the Government, by one stroke of the pen can direct that the trial shall be *in camera*? Does the Government want us to be party to a measure which will give such a power to Government? Can the Government, if it so desires, avoid publicity? Publicity is the essence of justice. After all, what will happen if there is publicity? Does it mean that justice will not be done? It is stated that publicity of such trials will affect the youthful minds. Is this Bill, then, going to be the custodian of the minds of the juveniles? I say that this provision will only affect the fairness of the trial.

Coming to the next point, my learned friend said that under section 257 the accused can summon witnesses for cross-examination. I have been a lawyer for the past 17 years and my honourable friend the Finance Member knows it. I have yet to see a magistrate allowing the accused to summon witnesses under this section.

Again the object of having the commitment procedure is to provide the accused an opportunity to study the prosecution evidence with a view to meet it if possible. For instance in the last conspiracy case, one gentleman came from England and said he was an expert in gunnery. The defence has to collect materials about him with a view to refute his evidence. That is the object of having double trial, that is, to give time for the accused

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to prepare his case. The Honourable Finance Member has enumerated a good number of cases of murder. I have condemned murder in no uncertain terms. But in order to prevent murder, are we to have martial law? The Honourable Member has appealed to us. It was quite unnecessary for him. I can assure him that our sympathies are with him as against murderers. No doubt some of the methods adopted by the police are disgraceful, yet I know that some of the police officers are doing good work and they have risen to the occasion even in most trying circumstances and they ought to be protected. But that is no reason why trials should be speeded up and the procedure changed in the way in which it is proposed to be done under this Bill. If the Government had said "the police has to report, the judge to record the report and the soldier to shoot down the accused," then I could understand his position. Then there would be no humbugging about the trial.

The Government attempts to solve their difficulty in the wrong way. In attempting to solve its problem it does not even touch the fringe of it. If it wanted to stop all anarchical crimes, the best way for it will be to give self-government. If the Government had given *swaraj* ten years ago, all these crimes would not have occurred. That is the root cause of all this trouble and if that were removed to-day to-morrow there will be no murder.

Then again, the Honourable Finance Member spoke of the dangers and risks undergone by the police. I agree we ought to give protection to the police in these trying days. But this Bill does not give any protection to the poor policeman. There is not a single section in the Bill which gives such a protection. You do not give any protection to the police under this Act. If the object of the Government was to improve the procedure, let them show any provision in the Bill to that effect. Somehow the executive all over the world seem to treat the intricacies of procedure as a hindrance. I know of many cases which have gone before a magistrate where the magistrate has said that the rules of the High Court are rubbish and that they are meant more for the High Court than for the magistracy. I have heard a district magistrate uttering those words. Therefore it is the duty of this House to see that every bit of procedure which gives some right or other to the public should be safeguarded. If we allow the executive once to contravene by such legislation, there will be no end, and there will be many lawless laws. We will be held guilty of murdering constitutional rights just as much as persons guilty of committing murder under the laws of the executive. That is my honest and sincere opinion.

The Honourable the Finance Member said that witnesses in these proceedings were exposed to grave risks. By passing this measure, I ask, are the Government going to put the witnesses in bomb proof houses, are they going to put them in some kind of cement houses or gun-metal protected houses? Whether the trial goes on for two months or drags on for a longer period, the poor witness who has the misfortune either to tell a lie or to tell the truth would be at the mercy of the murderers all the same.

Every one of the arguments advanced by the Honourable the Finance Member seems to be fallacious. He has tried to win our sympathies for

the measure. But I assure him that our sympathies are already with the Government, so far as the object is to stop double trial provided ample time is given for the accused to cross-examine the witnesses. It is a fallacious argument to say that the procedure under the Bill will remedy the risky situation in which witnesses find themselves in protracted trials. How can it stop the rascally minded murderer from wreaking his vengeance upon any witness against him? Again, by section 11 of the Bill the local Government is empowered by notification in the Gazette to make rules consistent with this Act to provide for the times and places at which the Commissioners appointed under this Act may sit and so on. Looking at the various provisions of the Bill one is struck by the fact that one section sweeps off another. By sub-section (ii) of section 11 even the Criminal Procedure Code is sought to be swept away by the wide powers given under it. In the disgracefully conducted case to which reference has been made by the Government, the magistrate directed the accused to the Deputy Commissioner, when he wanted a chair, when he wanted to go in a lorry, when he wanted water, or for the matter of that a change of shoe, change of turban or the use of hair oil and I am reminded, for being allowed chutney. That was a standing joke of the whole country. The way in which the magistrate directed the accused even for such trivial things to the Deputy Commissioner or police was really most objectionable. If there is delay, real delay, I will be the first to support the Government to remove the causes, but the way in which the Bill is sought to be rushed through leaves no sympathy in its favour. Let the Government show if they can that the rights of the accused will be protected. I am reminded here of a sub-inspector of police, who once told me that lawyers were a useless set of people. I replied: We are, so far as you are concerned. Luckily or unluckily when he was accused of bribery, he took many lawyers with him and a few of us who went for fun told him: We are useless people: why do you take us there? Similarly whenever even a judge gets into difficulties, he knows the usefulness of a lawyer.

It is natural that where the life of an accused is concerned he should have the right of engaging the best lawyer. No, that he may not be allowed under the wide powers which this Bill confers on the local Government. I appeal therefore to the honourable member not to rush this Bill through. It is not for the sake of obstruction, for, we want the murderous outrages to stop. We want to see murders stopped, to see bombs stopped. But we wish to use just methods, lawful methods to effect this object, we would like to be fair and just. It is open to the Government in reply to the amendment to show me and convince me that the principle of the Bill does not go contrary to the established principles of justice. If their reply is satisfactory, I assure them that I shall withdraw my amendment. I only wish that the lawful procedure be followed in all these serious cases. In the new clauses which I have given notice of I wish that no charge shall be framed till all the evidence to be tendered by the prosecution has been examined and that the accused shall not be called upon to re-cross-examine the witnesses till ten clear days after the framing of charges. The object of the amendment is clear. The Government—I do not know what has happened to them, they are such intelligent and sensible people—have for the time being completely ignored the law of procedure in their attempt to rush through this Bill. It is strange to see that the Honourable the Finance Member should have

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forgotten to say that he wanted it to be sent to a select committee. That shows the mentality at the back of the measure. The Government want to rush it through this House, not caring for what happens. They say that somebody will draw the chestnut out of the fire for them. We should not expose ourselves to posterity's blame in assisting this hurried procedure of such an important Bill as this. I challenge the Government to point out any weak points, there may be one probably, in my arguments on this occasion. (*The Honourable Sir Henry Craik*: Oh! many). I wish the honourable member says it from his heart. In making this remark I am sure his lips and his heart do not agree. Why were not the High Court Judges consulted as to the effect of this measure? If the Government feign ignorance—I know it will be convenient for them to do so—I may remind them that the High Court still exists on the Mall and a few minutes drive from here, even the telephone would have sufficed for referring the Bill for their opinion. From top to bottom this Bill gives a *certe blanche* to the executive. I do not say for one moment that consciously either the Honourable the Finance Member or his able adviser, the Legal Remembrancer will try to use the powers to the detriment of the accused. But what I object is to the usefulness of the procedure as a remedy to the present situation. When you hear some disturbing news, say of some ten persons being killed, you say let us apply the brake. You should get the situation well in hand by degrees. But what do the Government do in this Bill? They say, bombs are multiplying, murders are increasing and so, let us make the procedure more stringent. I strongly oppose that attitude.

I ask honourable members, therefore, to remember the responsibility they owe to the public, to forget that the Honourable the Finance Member is in charge of the finances, in charge of the magistracy and the police, in charge of zaildars—for many members here are zaildars and lambardars. Remember that we have sworn allegiance to the King also to discharge our duties honestly and sincerely and let nothing stand in the way of justice being done to all. I feel so strongly in the matter that even if I find a brother of mine sitting on the official benches and sponsoring this Bill in any way I would refuse to support the measure. I would not allow him to proceed with a Bill of this kind which not only obstructs the maintenance of law and order and the course of justice but in several of its clauses leaves the conduct and procedure entirely to the police and the executive. We know that executive officers in the past sometimes have used their powers ruthlessly, unconsciously though. This is not the first instance in the history of the world when the executive has tried this method to put down disturbances. What has happened in Russia? Look at China. I will give the House just one instance relating to China. I read only the other day in the 'Spectator' that an Englishman went to China and met a Chinese gentleman. He told him he was using new methods of justice. When asked what they were, the Chinese gentleman remarked: Here is the photograph of a murderer. We have sent it to 20 districts. And here is the reply from all the 20 saying they had hung the prisoner whose photo was sent to them. That is the case whether it be Russia, China or India. With these rather lengthy remarks, I move—

"That the Criminal Law (Punjab Amendment) Bill be circulated for the purpose of eliciting opinion thereon by the 15th January 1931."

Mr. President : Motion under consideration, amendment moved—

“That the Criminal Law (Punjab Amendment) Bill be circulated for the purpose of eliciting opinion thereon by the 15th January 1931.”

Chaudhri Bansi Lal [Lahore City (Non-Muhammdan), Urban], (Punjabi) : Sir, both Indians and Englishmen appear to be very anxious about this Bill. I am only an illiterate person. I wish the Government had opened schools for us and afforded opportunities for us to educate ourselves. The other honourable members of the House are well read and they are in a position to judge how far this Bill is harmful or beneficial. But all the same it seems to me that this Council is constituted more or less with a view to securing the votes of the so-called representatives of the people in favour of the Government. I may, in passing, say that some of the honourable members have professed, and I think it is only lip profession, that they are prepared to embrace me. But may I ask them whether they are prepared to embrace the other so-called untouchables numbering about three crores ?

Mr. Din Muhammad [East and West Central Towns (Muhammadan), Urban] : Sir, in the olden days of the Punjab, when it was not
 4 P.M. so enlightened as now so the story goes, a priest was annoyed with some of his disciples. He warned them that before the day dawned, some dire calamity would visit them and devour them all. They all passed the night in consternation and at the early morn, went out of the village to see what it could be and found a camel passing by. They thought that this was the dire calamity, the wrath of gods with which they had been threatened and they all took up their cudgels and belaboured the poor camel so ruthlessly that they turned it into pulp. In my humble judgment, the reception that has been accorded to this Bill, is just like the reception, that was accorded to that camel of the fable (*hear, hear*). Without caring to know, what the direct effects of the provisions of this Bill would be, without ascertaining what privileges it withdraws and what hardships it imposes, vehement criticisms have been levelled against this Bill from all quarters : from the press, and from the platform. The honourable member from Amritsar has urged before the House, that it is a sort of a tyrannous measure. It is, therefore, incumbent upon us to analyse the provisions of the Bill and in order to discharge our responsibilities in a responsible manner we should first decide as to which of the provisions of this Bill would actually impose hardships quite unheard of ; which are the privileges which if withdrawn, would be detrimental to the interests of the accused and what amendment should be made in the proposed legislation, so that it might be in consonance with justice, equity and good conscience, as the honourable member from Amritsar has desired.

Shaikh Muhammad Sadiq : I thought you did not allow me to discuss the different clauses of the Bill and that only principles of the Bill were to be discussed. That is why I did not discuss them.

Mr. President : The proper time for making a personal explanation is at the conclusion of the speech which calls for it, but if the honourable member desiring to explain rises immediately and the member in possession of the House gives way and resumes his seat, the explanation may be made

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at once. However, if the member who is in possession of the House declines to give way and does not resume his seat, the explanation may be offered at the close of his speech.

Mr. Din Muhammad : I have studied the schedule which is attached to this Bill and which enumerates those offences which would be covered by the present legislation and I find, that out of 34 offences which are to be tried under this Act, 32 offences are such as are already tried by a warrant case procedure ; they are offences which are ordinarily triable by a magistrate and there are only two offences out of these 34, i.e., section 302 and section 396, offences dealing with murder and dacoity attended with murder, that are exclusively triable by a sessions court. This aspect of the Bill has been entirely ignored. It has been urged before you, that if this Bill becomes law, it would be a lawless law. Personally speaking, I consider that in the case of these 32 offences, it would actually confer a boon on those accused persons, who are tried under it (*hear, hear*), and the reason is obvious. Instead of having to appear before one subordinate magistrate, they will have to go before a competent court, constituted of 3 sessions judges. It was pointed out by the honourable member from Amritsar that only lately we had the sad experience, that a certain magistrate who had to conduct the commitment proceedings in the Lahore Conspiracy Case had to refer even the minutest matters to the district magistrate, matters relating to the conferment of ordinary favours. He should have been satisfied to know that this Bill would obviate the necessity of having a magistrate who is executive-ridden conducting commitment proceedings and would substitute three responsible persons to carry out the same work which that one magistrate would have done. I put it to the honourable members of the House to see whether it is not a change for the better. If in these magisterial offences, and there are 32 of them, an accused is given a court, consisting of three sessions judges, with the same procedure, the same facilities and the same right of appeal, who is there then to say that the Government is tyrannising over the accused persons, by proposing this legislation which is known as the Criminal Law (Punjab Amendment) Bill ?

There is, Sir, another advantage secured to the accused and that can be apparent only to a lawyer and not to a non-lawyer. In all cases which are triable by a magistrate, it very seldom happens that such sentences are passed, from which an appeal lies direct to the High Court. In all cases which are triable by first class magistrates and in all cases which are triable by section 30 magistrates and in which a sentence of less than four years is given, an appeal lies to the sessions judge and by the time these cases reach the High Court, a wall of technical difficulties is raised in their way, as one cannot move the High Court unless one moves it on a point of law. But under the Bill every accused, whether he is charged under section 148 and convicted thereunder or whether he is guilty under section 392, will have a right of appeal direct to the superior tribunal (*Hear, hear*), the impartiality and the justice of which has never been doubted. Is this then not an obvious advantage, an improvement on the ordinary criminal procedure ?

There is a matter, however, which requires consideration and that is the only point which can be urged as open to objection in some respects.

The honourable member from Amritsar as well as some other gentlemen who have given consideration to this Bill have pointed out that Government has dispensed with commitment proceedings and that that would tend to cause some injustice to the accused. The honourable member from Amritsar says that these proceedings should not have been dispensed with.

Shaikh Muhammad Sadiq : I never said that.

Mr. Din Muhammad : Now we have to see whether this doing away with the commitment proceedings is a bombshell from the executive, and whether it has been recommended with a sinister motive. Is it not a fact that even 7 or 8 years ago this step was seriously contemplated, when in 1923 the Criminal Procedure Code was being amended? The only reason why this was not carried out then, this doing away with the commitment proceedings, was, that the sessions procedure was not amended which does not admit of any cross-examination after the charge. If we look at the main points involved therein we will see that even this doing away with the commitment proceedings is not such a wrong, such an injustice, such a tyranny, that we would call this piece of legislation as lawless law. Lawyers who generally appear in criminal courts know, that so far as a warrant case is concerned, there are three stages at which a prosecution witness can be cross-examined. A prosecution witness can be cross-examined at the time when he appears in the witness box before the charge is framed, which is known as the preliminary stage, then on the second occasion, after the charge is framed, the accused person has a right to re-summon prosecution witnesses for further cross-examination and as the honourable mover has remarked, if there is any deficiency left, if the accused person realises that there are some points which he should have made out and which he has failed to make out, a privilege is given to him to re-summon all or any of the prosecution witnesses for cross-examination, after he has entered on his defence and that privilege is given under section 257 of the Code of Criminal Procedure. The practice generally in such cases is that the whole of the prosecution evidence is recorded in the preliminary stage and then an adjournment is allowed and those witnesses are permitted to be further cross-examined after the charges are framed and again a further adjournment is given to enable the accused to produce his defence witnesses. Now, Sir, if I submit before the House, that here in this case also, the accused person stands to advantage, I would not be saying anything which is against the principles of the Bill. The commitment proceedings are substituted by the proceedings which are taken before the charge. The sessions proceedings are equivalent to the further cross-examination of the witnesses which takes place after the charges are framed and after the accused person has known exactly what the case against him is. The additional advantage that is given to the accused under section 257 remains and for that there is absolutely no parallel in the procedure prescribed for the sessions trials. In this respect also, my humble submission is, there can be no cause of grievance against the executive in bringing forward this measure, which is apprehended to work a lot of hardship on the accused person. (*Hear, hear*).

Another point that was raised by the honourable member for Amritsar and which apparently is a very sensible point, is the one which refers to that provision of the Bill, which makes evidence of persons who are dead or cannot

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be found admissible under certain circumstances. It was remarked by him that in such cases Government would be in a position to cause the disappearance of an approver, slip in his evidence in his absence, and deprive the accused person of the right of cross-examination in court. Here also, I may be allowed to say, from a legal point of view, the position taken by him is altogether untenable. So far as the case of approvers is concerned, the law already provides that their statements under such circumstances would be admissible. Section 82, sub-section (3), of the Evidence Act lays down that in all such cases as are dealt with in this special provision, i.e., in all cases where a person cannot be found, where he is dead or where his attendance cannot be secured without an extravagant delay, such statements made by him as implicate him can be used as good evidence. So, in this respect also, Sir, the Bill does not depart from the ordinary law of the land. It is no doubt true, as sometimes even now happens that in the disposal of political cases, some courts do not realise their responsibility so well as they should but that by itself would not justify us in throwing out the Bill or in condemning it wholesale.

It was also raised as an objection, that the judges that would constitute this tribunal, being removable by the local Government, would not be impartial, and so justice would not be done. That too is a very fallacious argument. Where is the judge who is not removable by the local Government, and where is the magistrate in the service of Government who is not so removable? All judges and all magistrates are appointed by the local Government and are removable by the local Government, but it would be too much to assume that any person who is liable to be removed by Government would not be honest, impartial and fair in the discharge of his duties. The same salutary check that now works in their case would work in their case then and any judge who would be discharging the functions of a Commissioner, would have his God, his conscience and the High Court before him to deter him from committing any illegality. So this point also like the rest loses force and cannot be utilised against the Bill.

The honourable member further spent most of his time in dilating upon the fact, that the promise given by the Honourable Mover as regards the question of appeal was a mere scrap of paper, that it was a promise which could not at all be acted upon and that therefore it was quite evident that injustice would be done and hardship would accrue to those persons who are tried under this special piece of legislation. I would not associate myself with the remarks he made as regards the promises made by the heads of administrations. Governments are run on such promises. We have been clearly assured in the Statement of Objects and Reasons that just as a provision was made in the case of the Bengal Criminal Law Amendment Act, a provision is contemplated in the case of this Bill also and it does not stand to reason that having once committed themselves to this position, Government would withdraw from the promise given and eventually say that the Government of India was not agreeable to give the right of appeal to those accused persons who are tried under this special provision. This point also therefore should be ruled out of consideration. (*Hear, hear*).

The honourable member for Amritsar also remarked that while condemning all the dastardly attacks which have been catalogued by the Honourable Mover, all murders of innocent persons, all bombs thrown, still as a nationalist he considered it his duty to oppose this measure, because it was a part of his creed that *Swaraj* should be attained. To all these soldiers of *Swaraj*, let me offer this consolation that so long as they are true to the creed of Mahatma Gandhi, so long as they live up to their conviction and so long as they remain non-violent, they should not be at all afraid of this Criminal Law Amendment Bill. (*Hear, hear*). This Bill is not meant to punish those who remain non-violent. This Bill is not intended for those who truly follow the behests and commands of Mahatma Gandhi. It is meant only for those who act against his wishes in this respect, and I think it is the bounden duty of every true disciple of Mahatma Gandhi to join hands with Government and punish those offenders who violate alike the law of the land and the law of Mahatma Gandhi. On the one hand, the honourable member condemns these murders, bombs and acts of violence, and on the other he comes forward and says "please do not pass this legislation, as it would prejudicially affect those who use force against their innocent victims." It is absolutely an untenable position and quite inconsistent and on this score also he has no legs to stand upon.

Now referring to the general principles of this legislation, my respectful submission is that it is not a legislation which runs counter to all the established canons of law and justice to such an extent, that it should be thrown out at once and that it would be a rank treachery on our part to our country and to our countrymen to lend our support to this Bill. It is a measure which requires consideration, especially in view of the speech made by the Honourable Mover. If once we place difficulties in the way of smooth administration, we should not then murmur if the administrators find a way out of them. If we by our violent conduct court repression, we should be the last persons then to complain against measures which are intended to check its growth or to stop its progress. And what do we see is going on in the country? Only the other day, it was perhaps day before yesterday, when the Acting President of the Congress, Mr. J. M. Sen Gupta, while addressing a meeting at Amritsar, exulted in the fact that the civil disobedience movement had gathered a great momentum in the present days, he exhorted the audience to intensify their programme of the defiance of law. Everywhere you hear the cult of sedition and of defiance of law being preached from the Congress platform and the Congress pulpit. What do you want the administration to do under these circumstances? To bid good bye to the country? To throw away all their arms? Even the meanest insect would not do that. Self-preservation is a condonable sin, it is a permissible wrong; it is the first law of nature. Talons, claws, paws, teeth and tusks, what are they given for if they are not to be used in cases of emergency to protect the owners thereof? (*A voice*: They are used also for attack). They may be condemned, if they are used for mere attack, but they cannot be condemned, if they are used for self-defence, for self-protection, for self-preservation. You must, therefore, first see whether these things are being used for attack or for defence. That is the point to be determined. Let us not be carried away by sentiments, which have no sense and no substance. We are here as responsible persons and we have

[Mr. Diu Muhammad.]

to discharge a responsible function. We are sitting here as the representatives of the whole province and we should not forget that that vicarious capacity of ours calls upon us to come to a finding once for all, whether we are going to support the civil disobedience movement or whether we are going to condemn it. (*Hear, hear*). If we do not believe that it is efficacious, if we do not believe in the utility or the desirability of this movement, then let us not mince matters. Let us be frank, let us be both manly and courageous, and let us say without any fear that we condemn this movement and that we would support any measure that would stop this movement. Otherwise, you would not be honest to yourself, you would not be honest to your country, you would not be honest to your countrymen. Government has not its own interests alone to consider. Government has to consider the interests of those persons also who have thrown their lot with them. If cases of murder or attempted murders take place, should the Government forsake its friends and its servants, and tell its supporters: "please get away, we are helpless, we cannot protect you?" Will any administration do that, any administration that wishes to function? And if you think, no human administration which wishes to flourish would do that, why should you not lend your honest support to the measure which provides for exactly the same protection that you at present need? These are the few observations, Sir, which I wished to make at his stage and with these few remarks I oppose the amendment which has been moved by the honourable member for Amritsar and support the motion which was made by the Honourable Mover.

It may be necessary for me to make it clear, though in a few words, as to why the Bill should not be circulated for eliciting public opinion, when Government itself is making an offer, that it should go to a select committee. As has been explained already any time that is lost in the passage of this Bill would be detrimental to the vital interests of the country, and it is for this reason that the dilatory tactics are being avoided. The honourable member from Amritsar has in a way exhausted all the adverse criticism. He has indicated all the points, which are being urged by the press and from the platform against the present measure. Since the time the Bill has appeared in the Gazette, every day we have been receiving comments in the press from the enlightened members of the public as to the defects which are noticeable in this Bill. All these things are before us. Why not leave their consideration to the select committee? All those points have been urged here and will be urged with great force before the select committee. These provisions will again be brought before the House and they will be open for criticism by the honourable members of the Council. If therefore the executive comes forward with a proposal that this measure should be passed, as there are cases under investigation in which they consider the existing procedure should not be adopted, as it would tend to cause delay and delay may prove fatal, our only duty is to support it and not to place any obstruction in their way to secure the speedy passage of this Bill.

Sardar Jawahar Singh Dhillon [Lahore (Sikh), Rural] : Sir, the matter for consideration before the House is whether this Bill should be referred to a select committee or whether it should be circulated for eliciting

public opinion by the 15th January. The honourable member who just preceded me discussed the merits of the Bill but totally ignored the demerits. He told us that this Bill, if passed, will benefit the accused. I quite disagree with him. The commitment procedure gives the accused time to prepare the defence and thus they are able to prepare a feasible defence. If this commitment procedure is abolished and if you rush through a case the accused will not get justice. The honourable member who moved the amendment has given us good many reasons in support of it and they are both cogent and sound and so we need not discuss them at any length here. Paragraph 2 of the Statement of Objects and Reasons says: "The ordinary commitment procedure provided in the Criminal Procedure Code involves in practice a double hearing and a protracted trial." My respectful submission is that this double hearing is the only safeguard in the interests of the accused. Otherwise, if you rush through a case, many accused who are really not guilty are likely to be convicted because they have not had ample opportunities to prepare their defence. The honourable member who preceded me told us that only two sections have been proposed to be added. I say that this Bill is meant primarily to add those two sections. Otherwise there was no need for this Bill at all. The method of dealing with criminal offences of a very grave nature is through a double agency, that is the commitment procedure and then trial by a court of sessions. In this way the accused have got a chance of defending themselves and where they are not guilty they are let off. The object of the commitment procedure is really to open the case for the prosecution so that the accused can have time to think of his defence. If this Bill be passed, then the fundamental principle of jurisprudence will be nipped in the bud. Therefore I whole-heartedly oppose the motion for reference to select committee and support the motion for circulation for eliciting public opinion. There is not a single measure passed by this Council to arm the executive with power which has not been circulated for eliciting public opinion. Even the Moneylenders' Bill was circulated for eliciting public opinion. This piece of legislation should not be hurried through this Council in the way it is sought to be done.

The Criminal Procedure Code was last amended in 1923 and since then, during the last 7 or 8 years not a single judgment or decision of the High Court has thrown light on the point that there is some difficulty in the law which requires change. In my opinion, if there had been any difficulty the highest tribunal of the province would have said that such a law was defective or unworkable. We have not had any such remarks from the High Court. The proposed measure is revolutionary in its character and dangerous and ruinous in principle and if it is passed, the shortest cut to justice will bring about short cut to gravest injustice. Therefore this measure should be thrown out lock stock and barrel and should not even be looked at.

Another argument put forward is that the highest tribunal of the province will have discretion to confirm or not capital sentences. My submission is that if anything has to be done by the accused, it is in the lower court. If the accused does not defend himself properly in the lower court for want of sufficient opportunity, the High Court Judges cannot in appeal help the accused in any way. Therefore I strongly oppose the motion for reference to select committee. I request the honourable members either to throw

[S. Jawahar Singh.]

it out, or if they think that that is not proper at the present juncture, at least to support the motion for circulation for eliciting public opinion.

Rai Bahadur Lala Rattan Chand [Nominated, Non-Official] (Urdu) : Sir, much has been said both in favour of and against the Bill by the lawyer members of the House and the points which have been urged by them would be fully considered in the select committee. In this connection I may be permitted to say that the primary function of the Government as well as of this Council is to maintain law and order in the country. And if they cannot fulfil this primary object, what is the use of their existence ? Sir, you cannot ignore facts. Just look at the present state of affairs prevalent in the country. Whatever be the ideals of Mahatma Gandhi, you cannot shut your eyes to the fact that there is a large section of the people in the country who have totally discarded the creed of non-violence and who have adopted the cult of bomb and pistol in lieu thereof. India has suffered enormously at their hands. It is the Indians and not the English who have borne the brunt of the whole trouble. When Indians have been killed, when they have suffered terribly, has any one ever attempted to bring these misguided young men to the right path ? Sir, the Bill under consideration is simply a precautionary measure. Let the dead past bury its dead. But we should suggest ways and means for the maintenance of peace in the country in future. This Bill might prove a sort of check on the nefarious activities of the misguided young men. Sir, all those people who have been severely punished are Indians. If we succeed in maintaining law and order in the country, would not we stand to gain something ? Let us advise the misguided young men to abstain from their objectionable activities and tell them that their methods and propaganda are bound to fail. I have been reading in newspapers the proceedings of the Lahore Conspiracy Case and was very sorry that the activities of a capable man like Sardar Bhagat Singh were misdirected. Had he taken to the right course he would have risen to the rank of a Minister or that of a High Court Judge, and would have been useful for the Government as well as for the country. It is a pity that inexperienced young men come to the forefront and terribly suffer while their promptors get off scott free. In my opinion the only way to cope with the present situation is to make the public aware of the worst consequences that might ensue from the violent actions of the terrorists. With these words I strongly oppose the motion moved by my honourable friend from Amritsar as that will cause unnecessary delay.

Sardar Harbaksh Singh [Hoshiarpur and Kangra (Sikh), Rural] : Sir, I do not propose to make a long speech one way or the other on the merits of the Bill at this stage as I may have to serve in the select committee. What I want, however, to say is that one thing is certain, that the Honourable Finance Member has made a real case that there is a necessity for some immediate measure of the kind as has been introduced. If that is so, we cannot grudge our support to this measure and cannot allow grass to grow under our feet. If a thing has to be done, it must be done speedily so that it may have the desired effect. We have had a long list of crimes already and we do not want another long list of crimes to be added to the list already cited by the Honourable Finance Member, during the next two or three

months. Therefore, I strongly support the motion for reference to the select committee and oppose the amendment for circulation for eliciting public opinion.

Mr. P. Mukerjee : Sir, I rise on a point of information. May I ask what will be the position from now until the other Bill for appealing to the High Court is passed in the central legislature? Will this Bill, if passed, be operative between now and till the amending Bill is passed in the central legislature?

The Honourable Captain Sardar Sikandar Hyat Khan : I think the Honourable Finance Member made it clear in his speech that the amending Bill in the central legislature will be passed before the period for appeal expires. If I remember aright, that is what he said.

Sardar Gurbachan Singh [Jullundur (Sikh), Rural] : Sir, it is not without much thought that on the first occasion in this Council I rise to support this Bill. On the face of it I only see that the Bill simplifies the procedure. Instead of two trials there will be only one with a right of appeal to the High Court. I have heard it said by a competent judge who has been trying one of these cases that the procedure prescribed in this Bill will meet the ends of justice and will give facilities of trial. I, therefore, propose to give this Bill my support.

Chaudhri Allah Dad Khan [Ambala division (North-East Muhammadan), Rural] : I rise to support the motion moved by my honourable friend, Shaikh Muhammad Sadiq. The very principle of the Bill is pernicious. It takes away three valuable rights of the accused. My honourable friend from Gujranwala said, it touches only a few sections of the Indian Penal Code, cases which are triable by the court of sessions exclusively. But it should be submitted that it is only for those sections that the Bill has been intended. For, other sections are cognisable already by the ordinary courts and by magistrates of the first class. In respect of those sections His Excellency the Governor himself can direct that cases under them may be tried by a special bench without recourse to any special enactment for the purpose. In this way the arguments of the honourable member from Gujranwala fall flat because they do not apply to the case. The other point that my honourable friend touched is this that the Act will not touch those who preach and practise the cult of non-violence. I admit this. But what is the guarantee that only men who have committed any crime will be brought before this special tribunal. It is very often the case that innocent people are brought before the court and the provisions of the Bill are such that it is almost impossible in my opinion for even an innocent man to escape punishment. For, in the rush and hurry in which the trial will be conducted, even innocent men are likely to suffer. I have in mind a typical case. It may be within the recollection of some honourable members that a certain case arose in the Multan district, I forget the exact name of the village, I believe my honourable friend, Ahmad Yar Khan, will be able to tell us, in which a man died of cholera but his relations after the man's death gave some *lathi* blows and made out a case of murder and reported the matter to the police. Only last year it was decided by the High Court. The accused were convicted and their appeal to the High Court was rejected. It so happened that the villagers in resentment of this diabolical act excommunicated the men who made out the false case. The Deputy Superintendent of Police went to

[Ch. Allah Dad Khan.]

the village and made enquiries. As a result of those enquiries the men who had concocted the case were again brought up under section 198 before the courts and they were punished. Then the difficulty arose as to the men who had been convicted and whose appeals had been rejected by the High Court. It had to be managed this way. His Excellency the Governor had to exercise the prerogative of mercy and pardon them. This one instance—if I like I could multiply other instances—is enough to show the pressure and undue influence of the police. The power of the police is known to everybody. I do not say that in all cases they concoct evidence, but in many cases they do. If such a witness is brought and in the haste he makes a statement before the special tribunal, there is no chance of detecting the falsehood. The sessions proceedings provide for time during which the witness can cool down and can recover from the undue pressure that has been exercised upon him. And it is very often the case in the sessions courts that the witness makes sometimes a different statement from that made before the committing magistrate. Just imagine what a great difficulty it causes to the accused in the sort of cases which I have cited. Suppose an innocent man is brought before the tribunal. Would he have any chance of acquittal, I submit not. Then the sessions proceedings serve this purpose that they give time to the witness. The witness gets sufficient time after he is put before the committing magistrate and if he happens to forget what the police had taught him, he speaks out the truth. That is one great advantage to the accused. It is the every-day experience of all people who have had anything to do with sessions cases. The methods and ways employed by the police can be further illustrated by other examples. This great drawback, the taking away of the commitment proceedings, is a great loss to the accused.

The other point which my honourable friend from Amritsar urged is that the accused gets an opportunity of knowing the case beforehand, before he is called upon to enter upon his defence in the sessions court. That is an advantage, the benefits of which cannot be exaggerated. It saves an innocent man from such a high penalty as death. When we are enacting a law which may result in such severe punishment as the death of a man we must think many times before enacting it. The hurry and haste with which the Bill is being rushed through the House is not compatible with the important provisions made in it. As for those offences which, as I have said already, the magistrates are competent to try there is no need for a special legislation like this. It is only for covering those cases which are cognisable by the sessions courts that the Bill has to be brought in.

The other disadvantage is the taking away of the help of assessors in cases triable by the court of sessions. The assessor being local men generally know the truth about the case and the very presence of assessors helps in arriving at a correct finding. The assessors know the temper and character of the witness in particular localities. Sometimes it is possible for a most wicked witness to assume a most pious attitude before the court and if the court is unaided it may make the mistake of giving credence to every word that the witness speaks, but the assessors are there to guard against this mistake. Therefore, in practice, the help of assessors has been found to be very valuable. And this institution of a trial with his own compeers is a

custom of very longstanding dating from the time of King John. Such a longstanding institution cannot be done away with by a single stroke of the pen.

If this Act is beneficial, then why not extend it to all sorts of cases? Why should it be applied to those cases which are committed by a man who is a member or is supposed to be a member of an unlawful association whose object is to incite people to commit such offences. If the Act is beneficial and useful as the honourable member from Gujranwala wanted us to believe, I ask, why should it be restricted in this way? By the way, my honourable friend from Gujranwala went one better than the Government. The Government never pretended that the Bill was intended to benefit the accused. All that they have said in the Statement of Objects and Reasons is that they want to expedite the trial of certain offences. They have nowhere pretended that it was meant to be beneficial to the accused, that they were conferring a boon upon him. But it has been left to my honourable friend from Gujranwala to go one step further than the Government and state that the object of this procedure is to benefit the accused, to save him from a lengthy and prolonged suspense. Oh! really to take away his life will surely help him from all the troubles of the world! I believe however that that is not the intention of the Government.

As for the necessity of the Bill, I am not convinced, and I do not think anybody is. Just as the honourable member from Amritsar has said, no case has been made out for introducing such a drastic legislation. The honourable the Finance Member has quoted a number of cases in which he mentioned bombs, pistols and revolvers had been used. I admit that this was so. But this Act is not intended to prevent the commission of those offences. It is only intended to expedite the trial of certain offences. I do not believe that prevention of crime is possible with the expedition of justice in this way. On the other hand, what will happen is this. If a man is rightly convicted there will be no murmur or complaint from the public. But imagine the case in which this hurried process leads to the conviction of an innocent man and his life is taken away. What impression will it create in the mind of the public? We must not do anything which will reflect adversely on the Government. My honourable friend from Amritsar has assured the Government how faithful and loyal we are. We are loyal to the core, and we must not do anything which may adversely affect the Government. And this is the suggestion I make to the official members, that they should not, in a hurry, do anything which may reflect adversely on the fair name and prestige of the Government. One case of injustice, if injustice is done by this Act, will be more detrimental to the Government than any amount of time that they want to save by introducing this sort of legislation, by any amount of expedition in the trial of criminal cases and the Honourable the Finance Member has not convinced me that there are so many criminal cases in the Punjab that the ordinary courts have been unable to cope with them. Not a single case is pending now of this type in which violence has been used, murder was committed, or a pistol was used. I do not think the courts have expressed their inability to meet such cases. If you want to take the life of a man, why do it in a hurry? Is it a marriage which can be performed in haste and regret expressed afterwards? The life of a man is so valuable that you cannot throw it away with a puff of wind.

[Ch. Allah Dad Khan.]

If you want to take a man's life give him all the facilities, all the amenities, all the rights and privileges of defence. On the other hand, the Government hope to instil the faith in the minds of the public that the Government are doing everything in the matter. I admit it is faulty on the part of the people to resort to violence. But the remedy is not to expedite the proceedings and take away lives in a hurry.

I intended to mention at the outset that I have my own doubts whether this House has the power to legislate on this point. The Criminal Procedure Code is an all-India legislation and I think the Assembly is the right place for enacting any amendment in it. This, however, is for you to decide. I just state the point. I confess I have not studied it and I leave it for my lawyer friends here to take up.

The main thing which we have to guard against is the opportunities of abuse which this measure will provide to the police. I will give the House a recent example. I purposely refrain from mentioning names. A few months ago a *baniya* was collecting information about the corruption of a police officer. Fortunately for the latter, there came the Viceroy's ordinance about non-payment of land revenue. And the *baniya* was at once hauled up on the charge that he was going about in the villages inciting people not to pay land revenue. So great was the power of the police official that actually a chalan was prepared and the man was brought before the magistrate. The brave police officer brought 20 men to the magistrate to swear to the guilt of the accused. This is a case which has recently actually happened and I shall give particulars to any one who wishes to have them. When the case came before the magistrate, the magistrate was so busy that he could not take it up on that day and he had to adjourn it for a week or so. The man was released on a bail of Rs. 10,000. He, however, went up to the Superintendent of Police and related his story in such a pathetic way that the Superintendent was induced to institute an enquiry into his guilt. He conducted vigorously the secret enquiry and came to the conclusion that the poor man was after all right and he was kind enough to withdraw the case.

Now imagine this sort of thing if a special tribunal was constituted in a district and the man was brought there, I think he would have been convicted,

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there would have been no hope of his escape, because I do not think he will get time which he can get in the ordinary course of events.....

The Honourable Captain Sardar Sikandar Hyat Khan : Are we discussing the doings of the police or this Bill ?

Mr. President : The honourable member is a new member, so he may be shown some indulgence if he fails to observe the rules of relevancy.

Chaudhri Allah Dad Khan : I was only illustrating my point. The third provision is the taking away of the *de novo* proceedings. I have never heard that this was ever done. *De novo* proceedings are most beneficial to the accused. If a false witness has already deposed and he is called for re-examination after a long time has lapsed, he has generally forgotten what he said on the first occasion. This gives the accused an advantage. Another point is that the judge who would come newly to the court and had not seen the demeanour of the witness ; in cross-examination, would not be in a position

to form an idea as to whether he could rely on the deposition of the witness, and he will have to depend on the opinion of the other Commissioners, in which case there is very great chance of miscarriage of justice.

The last point is about the composition of this court. It has been said that there will be three judges of this court, two of whom will be men who have got three years' experience as sessions judges or additional sessions judges. Now it clearly shows that sometimes it would be possible to put men who would be juniors or who have yet long to wait before becoming permanent sessions judge. Therefore, when they come to this court they will be getting higher pay than permanent judges and they will get allowances too. I do not mean to impute motives but they will be unconsciously biased towards conviction rather than acquittal. One of the three judges is going to be a lawyer or a retired sessions judge who is on the look out for a job. They will find it a very great boon to serve on this special tribunal and as such, cannot be expected to be fair. I mean to say that these persons would be doing it unconsciously. The composition of these courts will not, therefore, be satisfactory. Besides, the judges would be appointed by, and so automatically they would be removable by, the local Government. In this way there would be no independence in the judges and there would be a fear of miscarriage of justice.

I have now finished the general survey of the principles of this Bill. I appeal to this House to consider it carefully, calmly and coolly. It is a question of taking away a man's life and the electorate who returned the elected members expect a good deal from them. They must do their duty by the electorates. I do not mean to say that they should try to lend any encouragement to those who are seditious. Hang them by all means if you can, but it is our duty to save every person who is innocent. The ordinary process is quite good, it has stood the test of time, it has met all sorts of tests and all sorts of emergencies. We, therefore, should not lend our support to such a Bill which takes away the time-honoured privilege of commitment proceedings and of *de novo* proceedings and moreover, which places a good deal of power in the hands of the executive. With these words I support the motion moved by my honourable friend from Amritsar.

Mr. C. A. H. Townsend (Financial Commissioner): Sir, I have only one or two remarks to make. I have listened with much interest to the eloquent speeches made this afternoon, particularly that which fell from the last speaker.

It is a commonplace of all judicial administration that justice to be effective should be reasonably speedy. But is it not a scandal that it took nearly 22 months before the trial of the murderers of Mr. Saunders was completed? The greater part of that delay was due to the fact that the procedure laid down in the Criminal Procedure Code was observed. It has been forcibly urged on us that we should be very careful that no injustice is done. I agree, but the word injustice cuts both ways, and it is just as much injustice to acquit a guilty man as it is to convict any innocent one. I fear that that point of view is in danger of being overlooked in the House this afternoon. Another point that I wish to bring to the notice of the House is this. This Bill is in a large measure intended to safeguard the lives of the servants of Government and particularly of

[Mr. C. A. H. Townsend.]

the police, and I would emphasize the fact that 99 per cent. of these servants of Government and of the police are Indians, and that this House is just as much responsible for their safety as it is for those who may possibly be charged with the offences mentioned in this Act. One last word, Sir. It has been provided that offences should be tried by a commission of three judges, two of whom shall either be sessions judges or gentlemen qualified to be High Court Judges. Many of those who have supported my friend from Amritsar have said that Government will appoint people whom it wants to oblige or who it knows will say 'aye' to its wishes. I thought that this House had a better opinion of its own fellow countrymen, and I consider that the remarks form a grave and unjustifiable slur on many sessions judges, potential High Court judges or members of legal profession. As already said, I have listened with interest to most of the speeches this afternoon but I have heard not a word which leads me to think that this Bill is not in every way desirable, and I do trust that this House, being a responsible body and having earned a reputation of commonsense, will do more to justify that reputation, by agreeing to the motion of the Honourable Finance Member, and by rejecting the motion of my friend from Amritsar (*Hear, hear*).

Rai Bahadur Lala Mohan Lal [North-East Towns (Non-Muhammaddan) Urban]: Sir, I rise to support the honourable mover of the amendment. I have no sympathy with the bomb-throwers. We all know that there is a cry not only in the Punjab but in other parts of India against these crimes and those who commit them deserve our condemnation. Nobody can deny that. But this measure which has been brought before the House is really of an extraordinary nature. By passing this it is intended to eliminate the procedure which has stood on the statute book for such a large number of years. The Honourable Finance Member has not given us any facts and figures to show that such an emergency has really arisen which demands that this measure should be passed. I know that the Honourable Finance Member has questioned my statement. But he has simply made a general statement and the statement is that these crimes are of a dangerous type. We have been reading of these attacks sometimes here and sometimes there. But this has been going on now for a long time, and according to my reading of the situation, the law of the land has been sufficient to cope with the emergency that has arisen. There is nothing extraordinary which I can see which demands that this piece of legislation should be brought on the statute book. The Honourable Finance Member has just informed us that the Punjab Government have got a promise from the Government of India that the Government of India will have an Act passed in the Imperial Assembly to the effect that there would be an appeal allowed to the High Court. We are also informed by the Honourable Finance Member that this will be done about the 15th of January next year when the session of the Legislative Assembly will be held in Delhi. If this is a fact, and if I understood the Honourable Finance Member aright, he also assured us that this Act will not come into force unless the Government of India has passed the Act in the Legislative Assembly.

Shaikh Muhammad Sadiq : He never said so.

Rai Bahadur Lala Mohan Lal : I may have misunderstood him. If this is the case then we do not know whether the Legislative Assembly is

going to pass a Bill in which an appeal would lie to the High Court. If this provision goes out of it then according to my reading, the case of Government falls absolutely on the ground, because we are now being asked by Government to support this measure on a distinct understanding that they will see that the Government of India pass that Bill.

The Honourable Sir Henry Craik : If I may explain Sir, I give an undertaking on my own responsibility and on behalf of Government that every man tried under this Bill will have an appeal to the High Court and any sentence of death passed by this tribunal will require confirmation by the High Court. Does that satisfy the honourable member ?

Rai Bahadur Lala Mohan Lal : The Honourable Member for Finance has gone further and has told us that they will see that the accused gets a right of appeal to the High Court, if this Bill is passed into law. I accept this. But what I was going to say was that the Assembly session would be held about the 15th January. The honourable mover of the motion has also asked us that this Bill may be circulated for eliciting public opinion by the 15th January. Thus, if the other Act is passed, by then the Punjab Government can hold an emergent session and have this Bill passed. All that I say is that the Bill has been introduced and that it has not been opposed by any one, not a word has been said to that effect, and the only thing that the honourable mover wants is that opportunity should be given to the public to express its opinion. It is true, I admit, that the Press in certain instances has taken up this measure and commented upon it, but there are other people also whose opinion is most valuable. One of my honourable friends asked whether the highest tribunal of the land, that is the High Court, has been consulted or not. We do not know whether the High Court has been consulted or not, but in my humble opinion on a measure of this kind where the question of life and death is concerned, Government should see that the High Court is consulted.

Another point to which I wish to draw the attention of Government is this. A similar Bill was brought forward in the Bengal Council. There it was thrown out by the Council, and the Bill was certified by the Governor. Now it is sought to introduce a similar Bill in this province. Why should not the local Governments ask the Government of India to amend the Criminal Procedure Code in such a way that it is applicable to the whole of India. It should be very easy for the local Government to approach the Government of India and say that as an emergency has risen not only in the Punjab and Bengal but in all the provinces, let there be an all India measure and let the Legislative Assembly pass it by making an amendment in the Criminal Procedure Code which is applicable to the whole of India. The responsibility would then be with those who originally framed the Criminal Procedure Code and not with us who will have to account to our constituencies for supporting such a measure.

My submission is first, if the Bill is circulated for eliciting public opinion it would not matter much; secondly, it would perhaps be much better if the Government of India are asked to amend the Criminal Procedure Code in such a way that it may be applicable to the whole of India instead of the law being localised in provinces. With these remarks I support the motion of the honourable member for Amritsar.

Mr. Nanak Chand Pandit [Hoshiarpur (Non-Muhammadian) Rural] : Sir, I have listened with very great attention to the debate that has been going on with regard to the motion which has been placed before the House by my honourable friend from Amritsar. Originally I had absolutely no intention to speak having been asked by Government to serve on the select committee, but if there was some healthy custom that members who are appointed to serve on the select committee should refrain from speaking, that custom was broken by my friend Mr. Din Muhammad. But there is another reason why I wish the members of this House to debate this question very calmly and not to oppose the Bill or support the Bill merely on sentimental grounds, on the one side because Government asks for these fresh powers for the establishment of law and order and on the other side because a certain section of the press or the public is against this measure. I may remind you that outside this House attempts are being made to cloud the issue that is before the House, and not to permit people to express their views fearlessly and frankly in this Chamber. I refer, Sir, to certain spiteful, vindictive and baseless attacks made by two newspapers against me. Without receiving any information from me, without having made the slightest attempt to sound my views on this measure these two spiteful and malicious papers would have me say that the present Bill is an improvement on the existing system of the Criminal Procedure Code.

The Honourable Malik Firoz Khan, Noon : Which papers ?

Mr. Nanak Chand Pandit : One paper called the *Civil and Military Gazette* and the other that wonderful paper, the *Tribune* of Lahore. Now, I am not pained when the *Civil and Military Gazette* rails against me, but I am pained when a paper which claims to be a fair, nationalist and liberal paper, makes a spiteful and baseless attack on the integrity of a member of this honourable House. This paper, Sir, takes shelter behind a quotation from the *Civil and Military Gazette*. The paper is printed near the Bharat Buildings and I live near the Post Office. It was open to the writer of this note to come and ask me frankly what were my views on the subject. He could have sent a telephone message, he could have hired a tonga and come to me and asked me my views with regard to the Bill. There is, on one side, the tyranny of the Government and there is, on the other side, the tyranny of these papers which incite people needlessly against honourable members of this House that they cannot open their lips fearlessly in this Council Chamber. I can tell the *Tribune* and all those people who would like the liberty of speech of the honourable members curtailed that so far as I am concerned neither the frowns nor favours of the bureaucracy, nor again the abuse or applause of the crowd will make me deviate from the path which I have chosen for myself with regard to this Bill. I condemn all such attempts and I hold that if you want to have *Swaraj* and liberty of speech the papers should not throw mud on people without any reason at all. If the *Tribune* or any person wishes to know my views with regard to this Bill, I may say this, that if this Bill is passed in its present form I will regard it as a negation of justice, but if it is passed with certain modifications which I have in view, this measure will be accepted or tolerated by the people. It is on this account that I gave my consent to serve on the committee and I am going to do my utmost to see that the Bill is improved in

its most fundamental points. There are three points of view from which this Bill can be looked at. One point of view is the Government point of view. I have nothing to do with what the Government thinks with regard to this Bill. There is another point of view, namely, what is called the popular, "nationalist" point of view, which wants to bring the whole of the present system of Government and law and order into abuse, the so-called "nationalist" sentiment which wishes to see the liberties of the subject destroyed and which wants to bring chaos into the present order of things. I have nothing to do with that point of view also. The only point of view from which you can ask me or members of my profession to look at the Bill is the point of view of the accused. Will the accused have a fair, honest trial or not? Will he have the right to cross-examine witnesses, to prepare his defence and to know what the case against him is? This is the tradition in which the lawyers of this province have been brought up and no lawyer would be true to his salt if he were to look upon this Bill from any other point of view. So it is not from the Government point of view or the popular point of view but from the point of view of the accused person that we are called upon to criticize the Bill,—for the point of view of a person who is in the dock and who knows that his life hangs in the balance, it is from his point of view that I wish to examine some of the provisions of the Bill. I would request the House, not to be swayed by what the people outside think, not to be influenced by what the Government benches think; but to look upon the Bill from the point of view of the accused. Just imagine that you are in the dock and that you yourself are being tried for one of the most serious offences; and then what is it that you will need for your own safety and protection? This is how I wish to examine some of the provisions of this Bill. Government has told us that it wishes to do away with commitment proceedings. The desire on the part of Government is that there should be no delay in trying the accused. With regard to the commitment proceedings there are two views. I do not mind saying this frankly that I have tried to consult a number of lawyers on this point and the views with regard to commitment proceedings differ. Opinion on commitment proceedings is by no means unanimous. What is the object of commitment proceedings? The object is that the whole evidence should be placed before the accused so that he may know what the evidence against him is and how he is going to meet that evidence in a court of justice when he is being tried by the sessions judge. That is the object for which these commitment proceedings take place. They have no judicial value. The sole object is that the accused should know the whole case and the whole evidence against him. This is one view. It is said that this benefits the accused. But there is another view, namely that commitment proceedings enable the prosecution to know all the defects in the prosecution case and to improve it in the sessions court. I have conducted a number of cases in the High Court and I have found that if in the court of the committing magistrate some defects from the prosecution point of view remain in the case, they are made up in the sessions court. This is a double edged sword. On the one side you have the benefit of the accused in view, and on the other side these commitment proceedings also benefit the prosecution. What would I suggest in its place? A suggestion has already been made by my friend,

[Mr. Nanak Chand Pandit.]

Shaikh Muhammad Sadiq, the honourable member from Amritsar. This is what I maintain with him, that, when a trial takes place and you are doing away with the commitment proceedings, you should see the Bill modified in one respect. There should be a rule of law that the whole of the prosecution evidence (material evidence leaving out the formal witnesses), should be placed before the court before actually the charge is framed, and the accused should have the right to re-summon and re-examine all the prosecution witnesses if he so chooses. Supposing there are a hundred witnesses. A charge can be framed now under the law after taking down the evidence of four witnesses and the remaining 96 witnesses can be called afterwards by the magistrate and their evidence can be recorded after the charge. It is not necessary that the whole prosecution evidence should be taken in the first place. Now I would suggest and I have discussed this with a number of my lawyer friends that it would greatly help the accused if all the prosecution evidence is recorded before the charge is framed. Then give the accused the right to cross-examine a second time all the prosecution witnesses or some of the prosecution witnesses at his choice. This is a very healthy procedure which, if accepted, would greatly improve this Bill. It will not give an opportunity to the prosecution to make up the defects of the prosecution case, and it will give the accused the benefit of having all the evidence before him. This is my view. It may be a wrong view but it is a view held by me, a view which I am not afraid to express anywhere, be it in the press or be it in the public. I do not say that it should be accepted outright, but I am entitled to ask, that it should be given a fair consideration. Secondly, the accused should have ample opportunities to know his case and should have ample time for preparing himself or his counsel for second cross-examination and therefore, an interval must intervene which may be sufficient to meet the requirements of each particular case. It may be ten days in one case, it may be longer in another. This period can be fixed by the statute. The accused should have the right to claim an adjournment and should be given sufficient time for preparation. Now, I ask of the honourable members who have got the good of the accused at heart: 'Is there any defect in this?' Will it not greatly improve the Bill? If there is any defect, let us have the benefit of your opinion on this point, so that members of the select committee may have the benefit of the advice of the honourable members.

Now I come to the third point, and a very important point, I think it is, in that, the present Bill is certainly an improvement on the existing state of affairs. It is an improvement in this particular matter only, namely that instead of having one sessions judge, you have a trial by three sessions judges or rather one sessions judge and two other trained lawyers or persons qualified for sitting as High Court Judges. Views may differ on this point also, but what I believe is this. At present, we have got a system by which the sessions judge deals justice with the aid of three or four assessors. It is considered that a single sessions judge is not sufficient to deal justice in important cases like the one contemplated in the Bill. As we all know, no weight is attached to the opinion of the assessors. We know of cases where the assessors are of opinion that the accused are guilty and yet the sessions judge acquits them and there have been cases where the assessors

hold that the accused are not guilty and yet the sessions judge convicts them. That is an anachronism which should not be allowed to exist. The fact that this system has been prevalent for the last fifty years or hundred years is no justification for continuing this anachronism any longer. I maintain that if time, if the oldness of a measure, is really the measure of its being right or just, then, why now allow the present system of Government to continue, because it has been in existence for the last hundred or two hundred years? I would, therefore, suggest an alteration in the procedure of criminal cases, that is, instead of one sessions judge trying with the aid of assessors there should be three judges with equal powers to try the case. But you must ensure the independence of the judges.

It is perfectly true, and I agree with my friend, Shaikh Muhammad Sadiq, that this power of appointing judges should not rest absolutely in the hands of the executive government. The executive government may choose its own officers, it may choose with one view, a perfectly sound view so far as it is concerned, that is, the maintenance of law and order. But what about the other view, the view of the accused? A compromise may be effected by empowering the executive government to make these appointments only with the approval and sanction of the High Court. With regard to the clause providing for three Commissioners, I consider that it is a better and healthier provision and I should like to see the assessors replaced by these judges. The assessors are perfectly useless, not understanding what is going on in the court. I would rather have three men who have been trained in weighing evidence and in understanding the case against the accused. I would personally prefer being tried by three competent men who are able to judge the evidence to being tried by one sessions judge assisted by three or four assessors whose judgment carries no weight. That is my view at present and it is possible that, at the committee stage, this view of mine may be modified and a better suggestion may be put forward.

There are some other provisions in this Bill with which I have got absolutely no sympathy. I think some of them are reactionary and retrograde, provisions which, we will see, that the select committee does not approve. I need not go into the details of all these questions. But I should like to point out that there is a provision here, namely that the majority will decide whether an accused is guilty or whether he is innocent, that is, that the majority view shall prevail. I would like to see that so far as capital punishment is concerned there should be absolute unanimity and no diversity of opinion among the Commissioners. It may be right or it may be wrong, but that is my view.

These are, in the main, the points which we will consider calmly in the select committee. If the Bill is circulated for eliciting public opinion, we will have the benefit of the views of the public also on these points. The Bill may be sent to the Bar Associations, to the High Court Bar Association especially, and to the people who are competent to give their opinion on such important issues. But my view is this. I am not in favour of referring the Bill to select committee outright. The *Civil and Military Gazette* and the *Tribune* say that so far as the Muhammadans are concerned they are supporting the Bill, it is only from the Hindus that we can expect some sort of opposition. That is absolutely wrong. Two Muhammadan members have opposed the Bill.

[Mr. Nanak Chand Pandit.]

One word more, before I sit down. In these passages in the newspapers I have referred to, I am stated to be the lieutenant of Dr. Gokul Chand, Narang, the leader of the Hindu Party. Sometime ago, a daily paper described me as the lieutenant of Raja Narendra Nath. (*Interruption*). A third paper may describe me as the lieutenant of Chaudhri Chhotu Ram.

Mr. President : The honourable member is wandering away from the motion before the House.

Mr. Nanak Chand Pandit : I discuss this only in order to show that when people discuss the Bill they should not be carried away by what the lieutenants and captains say. They should really concentrate their attention....

Mr. President : May I suggest to the honourable member to reserve such things for the select committee of which he is going to be a member.

Mr. Nanak Chand Pandit : Very well, Sir. I will obey your ruling. I have submitted my views in regard to the Bill in its present form and I submit that I am in favour of the Bill being circulated for eliciting public opinion.

Sayad Mubarik Ali Shah : I move—

“That the question be now put.”

The motion was carried.

Shaikh Muhammad Sadiq : Can I reply, Sir ?

Mr. President : Is the honourable member sure that he has a right of reply ?

Shaikh Muhammad Sadiq : I ask whether I have.

Mr. President : The honourable member moved an amendment and the mover of an amendment has no right of reply except in the two cases specified in the proviso to Article 64 of the Business Manual.

Motion under consideration, amendment moved—

“That the Criminal Law (Punjab Amendment) Bill be circulated for eliciting opinion thereon by the 15th January 1931.”

The question is that that amendment be adopted.

The motion was lost.

Mr. President : The question is—

“That the Criminal Law (Punjab Amendment) Bill be referred to a Select Committee, with orders to report within two days, consisting of the following :—

Mr. Nanak Chand Pandit,
Lala Mukand Lal Puri,
Chandhri Muhammad Yasin Khan,
Shaikh Faiz Muhammad,
Sardar Harbakhsh Singh,
Mr. Din Muhammad,
Mr. C. M. G. Ogilvie,
Mr. S. L. Sale,
A nominee of the President, and
The Mover.”

The motion was carried.

Mr. President : The nominee of the President is Mr. Labh Singh who is one of the panel of Chairmen.

PAPERS LAID ON THE TABLE.

The Secretary laid on the table the following papers :—

- (1) Report,¹ dated the 10th December 1929, by the Islam Weir Enquiry Committee into the failure of the Islam Weir, Sutlej Valley Project, on the 19th September 1929.
- (2) Statement showing the action taken by Government on resolution passed by the Punjab Legislative Council from November 1929 up-to-date; and
- (3) Statement showing the action taken by Government on cuts made by the Punjab Legislative Council in original and supplementary demands presented to the Council from November 1929 to date.

STATEMENT SHOWING THE ACTION TAKEN BY GOVERNMENT ON RESOLUTIONS PASSED BY THE PUNJAB LEGISLATIVE COUNCIL FROM NOVEMBER 1929 UP-TO-DATE.

| Serial No. | Terms of resolutions passed. | Volume number and page of Punjab Legislative Council debates. | Action taken. |
|------------|---|---|---|
| 1 | <p>That this Council recommends to the Government that it may be pleased to convey to His Excellency the Governor-General the respectful congratulations of this House on His Excellency's announcement made on the 1st November 1929, relating to the policy of the British Government with regard to the future Constitutional development of the Government of this country and to respectfully urge upon His Excellency the Governor-General the necessity of securing full and adequate representation for this Province in the Conference to be held in pursuance of His Excellency's announcement.</p> <p>(Moved on 28th November 1929). (Carried on 28th November 1929)</p> | <p>Volume XIV, pages 445—464.</p> | <p>The resolution was communicated to the Government of India.</p> |
| 2 | <p>This Council recommends to the Government to appoint a committee consisting of one official and two non-official members of this Council to enquire into the grievances of the landholders, temporary lease holders and abadkars of the Nili Bar Colony and to suggest ways and means for the removal of these grievances.</p> <p>(Moved on 24th February 1930). (Carried on 24th February 1930).</p> | <p>Volume XV, pages 65—83.</p> | <p>The points raised in the debate on the resolution were discussed by the Standing Committee on Land Revenue in its meeting held at Simla on the 14th June 1930. The committee made a few recommendations on certain points while others were dropped as requiring no action. The recommendations made by that Committee are under the consideration of the Governor in Council.</p> |

¹Kept in the library.

| Serial No. | Terms of resolutions passed. | Volume number and page of Punjab Legislative Council debates. | Action taken. |
|------------|--|---|--|
| 3 | <p>This Council recommends to Government that Memorandum No. 16977-R., dated the 2nd October 1929, issued by the Ministry of Education should be modified as follows :—</p> <p>The proviso to the memorandum should be restricted only to those agriculturists who own or cultivate land assessed to a minimum annual land revenue of Rs. 50 or who are assessed to income-tax.</p> <p>(Moved on 24th February 1930). (Carried on 25th February 1930).</p> | Volume XV, pages 95—101 and 135—140. | Revised orders have been issued,— <i>vide</i> Punjab Government (Ministry of Education) Memorandum No. 12095-R., dated the 12th July 1930. Action has been taken as recommended in the resolution. |

STATEMENT SHOWING THE ACTION TAKEN ON REDUCTIONS OR CUTS MADE BY THE PUNJAB LEGISLATIVE COUNCIL IN ORIGINAL AND SUPPLEMENTARY DEMANDS PRESENTED TO THE COUNCIL FROM NOVEMBER 1929 UP-TO-DATE.

| Serial No. | (i) Major head. (ii) Minor head. (iii) Sub-head. | Reasons for a reduction or cut. | Amount of reduction. | Volume No. and page of the Punjab Legislative Council Debates. | Action taken. |
|------------|--|---|----------------------|--|--|
| 1 | 26—Police — | <p>(1) To condemn the results of recent recruitment.</p> <p>(2) To draw attention to the unsatisfactory representation of Hindu Agriculturists.</p> | Rs. 1 | Volume XV, pages 771—74 and 890—822. | The amount of the grant was reduced by the Legislative Council by Re. 1. No further action was taken by the Administrative Department. |
| 2 | 26—Police .. | To censure police excesses. | 1 | Volume XVI, pages 196—239. | The Government have ordered enquiry to be made in each case of alleged excess by the police which has been brought to their notice. |

MEMBERS' COMFORTS COMMITTEE.

The Secretary announced that following the precedent of the previous years the Honourable President has appointed the following gentlemen to serve on the Members' Comforts Committee :—

Mr. Owen Roberts,

Mr. E. Maya Das,

Mian Nurullah,

Rao Bahadur Chaudhri Chhotu Ram,

Sardar Bishan Singh, and

Shaikh Muhammad Sadiq.

The Deputy President will be the Chairman of the committee. The committee will meet from time to time to consider, discuss, decide and communicate to Government the legitimate needs and requirements of the members of the Council.

The Council then adjourned till 2 p.m. on Thursday, the 30th October 1980.

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PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Thursday, the 30th October 1930.

The Council met at the Council Chamber at 2 P.M. of the clock. Mr. President in the chair.

OATH OF OFFICE.

The following members were sworn in :

- ✓ Anderson, Sir George (Director of Public Instruction).
- ✓ Gill, Lieutenant-Colonel C. A. (Director of Public Health).

THE CRIMINAL PROCEDURE (PUNJAB AMENDMENT) BILL.

The Honourable Sir Henry Craik (Finance Member): Sir, I beg to present the report of the select committee on the Criminal Law (Punjab Amendment) Bill. There are only one or two points in the select committee's report to which I wish to draw the attention of the House. I will not detain the House longer than is necessary by referring to changes which are more or less formal in character. The first important change is in clause 4 sub-clause (3), where the select committee have provided that all three members of the Special Commission, and not only two, must be persons having the qualifications stated in the Bill. I next come to clause 5 where two important changes have been made which I hope will meet some of the criticisms directed against this Bill in the debate on the motion to refer the Bill to the select committee. The first of these is in the new sub-clause (3) which provides that in the trial of offences punishable with death prosecution shall not be entitled to lead further evidence after the charge has been framed. Then there is a proviso which saves the following sub-clause (4) and the provisions of clause 10 of the Bill and sections 256 and 540 of the Code of Criminal Procedure. Practically the effect of the new sub-clause is that the charge will not be framed till the prosecution evidence has been concluded, and thus the accused person will have a chance of cross-examining the witnesses for the prosecution once before the charge is framed when they are present for examination-in-chief, and secondly, he will have an opportunity to recall them for cross-examination after the charge has been framed. Then I come to the new sub-clause (4) which provides that there shall, should the accused so demand, be an interval of at least three days between the accused's stating that he wishes to cross-examine certain witnesses again and the commencement of that cross-examination. That was inserted to meet the criticism that it is only fair to give an accused person a certain interval of time to consider the effect of the evidence of any particular witness and to decide the line of cross-examination. I gave the select committee a promise, which I wish to repeat in the House, that a rule will be

[Sir Henry Craik.]

framed by the local Government under the rule-making power given by the Bill to provide that, if at all possible, and I do not see why it should not be quite possible, copies of the depositions of witnesses should be supplied to the accused day by day as the trial progresses.

Shaikh Abdul Ghani : Free of cost ?

The Honourable Sir Henry Craik : Yes. It might be possible to make special arrangements to have these printed off daily. But anyhow I will endeavour to arrange that if their printing is impossible, at any rate typed copies should be supplied day by day as the trial proceeds.

Then there is no further change of any great substance till we come to clause 10, which originally ran that when the statement of any person has been recorded by any magistrate, such statement may be admitted in evidence in any trial, if such person is dead or cannot be found or is incapable of giving evidence and the Commissioners are of opinion that such death, disappearance or incapacity has been caused in the interests of the accused. Instead of the expression "the Commissioners are of opinion," the select committee has substituted the words "it is proved to the satisfaction of the Commissioners." The Commission thus will have to take evidence and record its finding on the point. In clause 11, which gives the local Government power of making rules, the select committee have made that power much less wide than it was before, by the omission in sub-clause (ii) of the power to make rules regarding the procedure of trials, and by making a similar omission in sub-clause (iii) regarding the power to make rules regulating the conduct of and procedure at trials. Then again in sub-clause (v) of clause 11 we have omitted the power to make rules regulating the release on bail of persons being tried by the Special Commissioners. So the question of bail will now continue to be governed by the ordinary rules in the Code of Criminal Procedure.

That completes the list of the more important modifications made by the select committee of the Bill. There is, however, one other point which I would like to explain to the House. In consequence of what was said in the select committee I have slightly altered one expression in the Statement of Objects and Reasons. The penultimate paragraph of the Statement of Objects and Reasons stated that "it is not intended to deprive the accused in these cases of the right of appeal to the High Court or of the safeguard of requiring confirmation of the High Court of capital sentence," and then went on to explain how the Punjab Legislative Council could not enact a Bill to confer the power of appeal and that the Government of India would enact special legislation in due course. I have amended the paragraph in question so that it reads: "An explicit undertaking is given that no person tried under this Bill shall be deprived of the right of appeal to the High Court or of the safeguard of requiring confirmation by the High Court of capital sentences." This is merely to make it quite clear that the local Government gives an explicit promise that every person tried under this Act shall, if he is convicted, have a right of appeal to the High Court.

That, Sir, is all I have to say and I now move—

"That the Criminal Procedure (Punjab Amendment) Bill as reported by the select-committee, be taken into consideration."

Mr. President : The motion is—

“That the Criminal Procedure (Punjab Amendment) Bill, as reported by the select committee, be taken into consideration.”

Rai Bahadur Lala Mohan Lal (North-East Towns, Non-Muhammadan, Urban) : Sir, I rise to a point of order. In the copy of the Bill that has been supplied to us it is stated that there are three minutes of dissent, that is, by Lala Mukand Lal Puri, Mr. Labh Singh and Mr. Nanak Chand Pandit, but we find that only one of these three is printed, the other two are not there. If I remember rightly it is stated in the Constitutional Manual that members of the select committee have a right of putting in their notes of dissent within three days. I would, therefore, like to know what the position is with regard to these notes of dissent.

The Honourable Sir Henry Craik : The minutes of dissent by the two honourable members of the select committee have this moment reached me. They have not yet been printed. I understand that they are being printed. They will be in the hands of members, I understand, by this evening.

Shaikh Muhammad Sadiq (Amritsar City, Muhammadan, Urban) : Sir, it is clearly stated in paragraph 89 of our Rules of Business that if the motion that the Bill as reported by the select committee be taken into consideration is moved, any member of the Council may object to its being so taken into consideration, if a copy of the report has not been made available for the use of members for seven days and such objection shall prevail, unless the President in exercise of his power to suspend this article allows the report to be taken into consideration. I take it that this is not an ordinary Bill, it is not a thing which is only formal. It goes deep into the root of the whole administration of justice in this province. So I suggest that at least 7 days be given for consideration of the Bill and that you should not suspend this rule for the simple reason that it is not merely a question of a few of us sending amendments. We have to consult our constituents. Many times members of the local bar have to be consulted. We have to see the effect of each sub-clause, each word, and each comma. Even commas are very important in such cases. We have to scrutinize very carefully because once this kind of Act is brought into operation we cannot tell the results, we cannot tell how deeply it will go into the system of law and procedure adopted by the criminal courts. Ample time, therefore, should be given and I hope Government will not grudge this opportunity. Delay will not harm the Bill nor will it be injurious to the interests of Government.

Mr. President : The honourable member's objection is to be decided by the Chair and not by Government Members.

Shaikh Muhammad Sadiq : I appeal to the honourable members of the House.

Mr. President : May I know the pleasure of the House, whether I should allow the objection?

Rai Bahadur Lala Mohan Lal : We would like to have time because we have to send in amendments and then we can discuss this.

Mr. President : When should the Bill be taken into consideration?

Sardar Jawahar Singh Dhillon: I move that it should be taken into consideration next Thursday.

The Honourable Sir Henry Craik: I am entirely in your hands in this matter. I personally have no particular feeling one way or the other. As the honourable member from Amritsar has rightly observed, it does not make really very much difference to Government whether this Bill is passed or taken into consideration now or ten days hence. It does, however, seem to me that it might be for the general convenience of the members of this House if the adjournment is not unnecessarily long, so that they may not have to go back to their homes and then have to return to Lahore. In this connection I would point out that the Bill in its original form has been before the House and the public since the 17th of this month, and the amendments made by the select committee which are of any substance are, as I have explained, few in number and simple in character. I therefore suggest that it might be for the general convenience if the Bill were taken into consideration after a reasonable interval, say of two or three days, which should be long enough for members to frame amendments and to consider the order in which they should be made and so forth. I would suggest that possibly Monday of next week would be suitable. This would allow four clear days from now.

Chaudhri Allah Dad Khan: This period of 7 days allowed in the Constitutional Manual is put in very strong language. It says that such objection "shall" prevail.

Mr. President: The interpretation of the Article may be left to the Chair. What has the honourable member to say as to the date on which the Bill may be taken into consideration?

Chaudhri Allah Dad Khan: I submit that time must be given before we consider this Bill. No one will be able to give notice of amendments and the Bill in the altered form has just now come to the notice of the members and many of them have not had time to compare it with the original Bill by inserting the words that have been changed and such an important measure cannot be considered in such a hurry and I think it was to meet objections of this nature that the rule was made. So at least 7 days must be given in order that members may study the Bill. I may point out that the Bill has already been rushed like anything.

Mr. President: Will the honourable member please confine his remarks to the date on which the motion may be taken into consideration?

Chaudhri Allah Dad Khan: I submit that there should not be such undue haste in the enactment of such an important measure.

Mr. President: What does the honourable member mean by haste? Has any date been fixed, has any decision been given on that point?

Chaudhri Allah Dad Khan: I submit that we cannot give any notice of amendments just now. Time may be given.

Mr. President: The point for decision is how much time may be given, or what date may be fixed?

Shaikh Abdul Ghani : The sense of the House is that we should adjourn in order to discuss amendments. It has been suggested by the Honourable Finance Member that 3 days will do. It is only a question of convenience. Certain members have been here for the last week and some of them might be willing to go back to attend to their business. It will not matter if you give 5 days because they will have to go to their homes and come back again. So my proposal is that 5 days will do, we would be meeting here again on the 4th November.

Thakur Pancham Chand : I would suggest that Monday, the 3rd November, would suit all. Though I come from a district which is far off still I think the 3rd will suit.

Lala Mukand Lal Puri : It should be in the beginning of November. We should adjourn till Monday.

Khwaja Muhammad Eusooif : Sir, I would request that one week should be given.

Sardar Mohindar Singh : I suggest that 5 days be given.

Makhdumzada Sayad Muhammad Raza Shah Gilani : I suggest that the 3rd November should be fixed.

Shaikh Abdul Ghani : Before you decide the matter I might point out that a majority of the members are residing in Lahore and in any question whether 3, 4, 5 or 7 days be given Lahore members are bound to be for 3 days, because they are not concerned with the inconvenience of going out of Lahore. So I would leave the matter entirely in your hands and I request you not to be influenced by the votes. (*Hear, hear*).

Mr. President : I find that sixty members are in favour of the 3rd November ; their convenience should have some consideration.

Shaikh Muhammad Sadiq : Government officers should be left out of consideration.

Mr. President : Even leaving out the Government members who are only 15, there are 45 non-official members who are in favour of three days being given. May I know how many are in favour of one week ?

Shaikh Abdul Ghani : Those residing round about Lahore, in Gujranwala, Amritsar and Sialkot are in a very much similar situation.

Sardar Mohindar Singh : Sir, 3, 5 and 7 days have been suggested. As 5 is just the mean of the two, I suggest that 5 days be given.

Chaudhri Allah Dad Khan : In the case of adjournments, do the rules allow members to leave Lahore ?

Mr. President : Yes. If the break is long, members may go to their homes.

The Honourable Sir Henry Craik : There is one consideration which might possibly influence the decision if I state it ; that is, that I shall not raise objection to any amendment whether I get notice of it or not. I am perfectly willing to consider any amendment even if it is presented at the last possible moment.

Mr. President : I will allow amendments up to the last moment.

Mr. P. Mukerjee : I do not know for what purpose members go back to their homes during the interval. But so far as I am concerned, I have called a meeting of my constituency to consider this Bill and for that purpose alone I am going back to Delhi. This is a very cogent reason why I ask you to allow me to return here on the 4th which will be convenient for me to take part in the discussion of the merits of the Bill here.

Rai Bahadur Lala Mohan Lal : May I suggest, Sir, that the Bill may be taken on the 9th or the 10th? That will give us good time to go through the Bill and the report of the select committee. It will also enable the members to give sufficient notice of amendments which they may have to propose.

Mr. President : That is a new suggestion. How many members are in favour of the Bill being taken into consideration on the 10th of November?

(About a dozen members stood up).

Mr. President : Has the Government any objection to the 3rd, the 5th or the 7th November?

The Honourable Sir Henry Craik : I object to the adjournment of the Council till the 10th. I think that 3rd will suit the convenience of most members.

Mr. President : But the 3rd does not appear to suit all members.

The Honourable Sir Henry Craik : 4th will suit.

Mr. President : If the 4th is acceptable may we meet at 10 A.M. on that date?

Lala Mukand Lal Puri : Is it necessary to change the hours of meeting also? I think it would be better if we meet at our usual time.

Rai Bahadur Lala Sewak Ram : Ten o'clock will not suit some members. There are lawyers here who have to attend court in the forenoon.

Lala Mukand Lal Puri : It is not that we attending courts want any special privileges, but it is a recognised fact that when there is to be any change people should get adequate notice so that they may fix their programme accordingly.

Mr. President : I think we should meet at 10 o'clock, if we wish to finish our business soon.

Lala Mukand Lal Puri : I never doubted your right to fix the hour of meeting. Since you were consulting the convenience of members I thought I might bring it to your notice that as 2 o'clock was the usual hour of meeting it would not now be convenient for members to attend the meeting at 10, and it would be unfair to any member, whether he is a lawyer or a business man, to be told at such short notice that the hour of meeting is to be at 10. Besides you are not giving one week's time from to-day.

Mr. President : It appears that the House does not want 7 days.

Lala Mukand Lal Puri : But you have to give effect to the rule on the subject.

Mr. President : What rule is the honourable member referring to?

Lala Mukand Lal Puri : Paragraph 89 is quite clear. It says:—

“The Member in charge may move that the Bill as reported by the select committee be taken into consideration : Provided that any member of the Council may object to its being so taken into consideration, if a copy of the report has not been made available for the use of members for seven days and such objection shall prevail unless the President in the exercise of his powers to suspend this article allows the report to be taken into consideration.”

Mr. President : The objection of the honourable member for Amritsar has prevailed. If I am not going to allow the Bill to be taken into consideration immediately after the motion before the House is carried, some day has to be fixed for that purpose. Seven days is not the minimum period. I think it may be less.

Lala Mukand Lal Puri : That is the necessary implication of the rule.

Mr. President : I am unable to agree. That is no doubt the ground on which objection can be taken. In this case the objection has been taken and allowed. I have decided not to suspend the Article. But the further question when the Bill may be taken into consideration, has to be decided by the Chair, and I propose to decide it in consultation with the honourable members of the House.

Lala Mukand Lal Puri : Supposing you adjourn till to-morrow and objection is again taken to-morrow that the report has not been made available to members for seven days, will you abrogate the rule or adjourn again for seven days ?

Mr. President : I think it is clear from the Article that the time for taking objection under it is when the motion that the Bill as reported by the select committee be taken into consideration, is made.

Chaudhri Allah Dad Khan : I may point out that under this Article you have either to suspend the rule and allow the motion or, if you do not do so, you must give seven days' time and not a shorter period.

Mr. President : I am unable to accept that view.

Shaikh Muhammad Sadiq : What then is the object of putting seven days in the rule ?

Mr. President : The object appears to be to supply a reason for taking objection to the consideration of the report forthwith. It is not intended that in no case can it be considered before 7 days. The sense of the House appears to be that the 4th of November may be fixed.

Rai Bahadur Lala Mohan Lal : 10 o'clock on the 4th November will suit.

Mr. President : Is that the sense of the whole House ?

Shaikh Muhammad Sadiq : Will Government accept amendments of which notice is given on the 3rd or the 4th ?

Mr. President : It is not for the Government to accept or reject any amendment. So far as I am concerned, I will allow amendments to be moved to the last moment, provided they are not out of order.

Lala Mukand Lal Puri : If the Council meets at 10, when will it adjourn for the day?

Mr. President : The Council may sit right up to the midnight, if necessary, and as the whole House has agreed that we may meet on the 4th November, the Council is adjourned until 10 o'clock on that date.

The Council accordingly adjourned till 10 A.M., on Tuesday, the 4th November, 1930.

PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Tuesday, the 4th November 1930.

THE Council met at the Council Chamber at 10 A.M. of the clock. Mr. President in the Chair.

THE CRIMINAL PROCEDURE (PUNJAB AMENDMENT) BILL—
continued.

Mr. Labh Singh [Rawalpindi Division, and Lahore Division North, (Non-Muhammadan), Rural]: May I move the amendment standing in the name of Mr. Nanak Chand Pandit in his absence?

Mr. President: As the amending motion does not require any notice any honourable member may move it.

Mr. Labh Singh: I beg to move—

“That the Criminal Procedure (Punjab Amendment) Bill as reported by the select committee be circulated for the purpose of obtaining opinion thereon by the 15th December, 1930.”

Mr. President: I do not think the Standing Order, under which the motion is made, allows the fixing of a date by which opinion may be obtained.

Mr. Labh Singh: If you think that the words at the end are not permitted by the Rules and Standing Orders I have no objection to deleting them. The amendment would then read:

“That the Criminal Procedure (Punjab Amendment) Bill as reported by the select committee be circulated for the purpose of obtaining opinion thereon.”

This amendment constitutes a proposition which I submit is almost self-evident and should at once commend itself to the judgment of the House. We are all agreed that this Bill constitutes a very serious departure from the ordinary criminal procedure of the country. Regarding that there is no difference of opinion. The supporters of the Bill are also agreed on this, and those of us who are trying to oppose it are also agreed on this. No useful purpose could possibly be served by trying to rush it through the House. It has been said that no serious attempt was made to oppose the introduction of this measure in the House, but it is overlooked that that was rendered impossible by the procedure that was adopted by those who were in charge of the Bill. The Bill having been in the first instance published in the official Gazette the motion for leave to introduce it was rendered unnecessary and, therefore, any opposition at that stage was ruled out from the very start. Two days were allotted to the select committee to work upon the Bill and to try to improve it. I could not say that those two days were not usefully employed but the nature and tenor of the Bill is such that no serious improvement could possibly be made in it. It is apparent also that the opinion of the public has not been invited as regards the Bill. Even competent judicial officers have not been consulted, nor

[Mr. Labh Singh.]

have the lawyers as a class or any other class of persons competent to pronounce an opinion upon the nature of the Bill been consulted. I would, therefore, respectfully submit that it is urgently necessary that this Bill should be circulated for eliciting opinion thereon. I have emphasised the seriousness of the departure which this Bill makes from the ordinary procedure of the land. It embodies not only a very vicious principle but also is calculated to give the impression that measures of this kind are being conceived in panic, and it is not proper that measures conceived in panic should be rushed through without being adequately considered either by this House or by those who are competent to express an opinion on its nature outside the House. It is a very sad spectacle that is being presented to us in this country just at present. It looks as if we have a Government practically at war with its people. If anything could be done to remove this impression or to mitigate it I think it but reasonable that that course should be adopted, and I would very respectfully submit that one of the ways of doing it with respect to this particular measure would be that this moderate proposition of mine should be accepted by the House. There is no danger of any serious change in the composition of the House coming about during the next two months or a month and-a-half, and no facts have been disclosed to the House or even disclosed elsewhere in the select committee which would enable the House to exercise its judgment with respect to the urgency of a measure of this description. We have been told that there are some cases ready which are crying for being tried in accordance with the special procedure embodied in this Bill. I would submit that the impression would go round that cases have been prepared first and the procedure for their trial is going to be laid down afterwards. That would practically remind people of that uncanny old adage that sometimes Governments hang people first and try them afterwards. It is all important that impressions of this kind should be removed if they are already there and efforts should be made that these impressions are not further deepened. I would submit that the acceptance of this amendment would serve that purpose and it is for that end that I beg to move it.

Mr. President : The motion moved is—

“ That the Criminal Procedure (Punjab Amendment) Bill as reported by the select committee be circulated for the purpose of obtaining opinion thereon.”

The Honourable Sir Henry Craik (Finance Member): Sir, I oppose this motion. The honourable member has really no good reasons that I can accept as in any way convincing for the dilatory action which he proposes. He says that this Bill has not been before the public for long. It has been before the public since the 17th of last month. It has formed the subject of daily articles in almost every newspaper that I read—and I read a large number. It has been discussed for some hours on the floor of this House and for more hours in the select committee, of which the honourable member was himself a member. We are told that we have not given legal opinion an opportunity of expressing its views on this Bill. I need only remind the House that every single member of the select committee was a lawyer with the exception of the official members, practising lawyers. I do not see how any possible step I could have taken would have secured a stronger measure of legal opinion on the select committee. The honourable

member states that the opponents of this measure had no opportunity of voicing their opposition in this House. That again I deny. There was ample opportunity on my first motion that the Bill be committed to a select committee. The motion to circulate the Bill for opinion has one object and one only, and that is to delay as long as possible the introduction of this very necessary and very salutary measure. I admit that we are introducing a special procedure, but we are confronted by a special situation altogether out of the ordinary for which extraordinary measures are demanded.

The honourable member has referred to the fact that certain cases are ready for trial. I do not deny that there is one important case at present which we consider as essentially a case which requires special procedure, and I do not deny that from that point of view I would regard the delay proposed by the honourable member as fatal to the object of this Bill, and as having results which I would greatly deplore. Further, Sir, I submit that by accepting the motion that the Bill should be referred to the select committee and by expressly rejecting the motion, moved as an amendment to my motion, that the Bill should be circulated for public opinion, this House has accepted the principle of this Bill and to circulate the Bill for public opinion now would be a decision wholly at variance and to a great extent stultifying the decision taken by this House on the day when this Bill was introduced. I hope, therefore, that on these grounds the House will reject this amendment.

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhammadan), Rural]: Sir, I rise to support the motion moved by the honourable member from Gujranwala that the Bill be circulated for the purpose of eliciting public opinion. The honourable member has explained that no harm will result by circulating the Bill for public opinion before passing it. Anyhow the Bill has to come into operation or at least it has been promised that it will come into operation after provision has been made for preferring appeals against convictions under this Act when it becomes law and that will happen when the Assembly meets. The Assembly is meeting in the month of January and we are circulating it now, and it can be again taken into consideration much before the Assembly meets. In that way there will be no dilatoriness if the motion is carried. The Bill takes away three most valuable rights of the accused person. He will be put up for being tried hurriedly, and it is fair that the measure should be thought of calmly and quietly and there should be no hurry because the matter involved is a serious one which is the taking away of the life of a man. I wish I could put the sanctity and the value of human life in strong language, but I leave the House to infer the importance and sanctity and the highest value of human life. In fact this is the only thing which can be called invaluable. Every member of the House will remember that famous verse of the great Poet Shaikh Saa'di. He says :

بہر دنی کہ ملک سرا سر زمین۔ فیروز نہ کہ خوئے چکد بر زمین

which means that human life is worth all the countries of the world rather the whole of the countries of the world are not worth it. When such a serious thing is being enacted which can take away the life of a human being we must consider and we must be a little careful.

Khan Bahadur Nawab Muzaffar Khan : As was done at Delhi the other day.

Chaudhri Allah Dad Khan : I do not mean to say that we must not hang those who are guilty of violence, but there is no guarantee that innocent men will not be brought before the court. So we must save those men and try our best to save them. As I said the other day if one act of injustice is done the whole value of the Bill will be marred, at least it will raise such a hue and cry in the land that the Bill will be of no great advantage. I do not mean to say that we must not try to crush violence, revolution or sedition where it exists, but at the same time we must be very discriminating, we must have provisions for discriminating these things. An honourable member from Government benches remarked that there was a shooting case at Delhi. I do not mean to say that we must not make arrangements for preventing such crimes, but the Act is not meant for preventing such acts. It is my firm conviction that the Act instead of mitigating with such cases will aggravate them. It will exasperate these people who resort to such stealthy crimes and violent acts and it will produce any amount of discontentment in the country. The honourable member's memory will be still fresh about what a hue and cry the Rowlatt Act raised a few years ago. We are just on the eve of the Round Table Conference, we must not do anything that may add to the discontentment of the people that is already prevailing. I may take this opportunity of saying that in loyalty and devotion to Government I yield place to none, but we must be wise friends of Government. I must say that with the case of Rowlatt Act before us we must not hurry up measures like this, and when no harm is going to result from the delaying of the Bill it must be done. The only rational and reasonable view is that we must be ready with the Bill, if it is to be of any use, as the honourable members of Government have said, by the time that the Act is to be completed, I mean to say that by the insertion of the provisions relating to appeals and revisions. When this is left to the Assembly, why should we hurry it up? There is no possible reason unless it should be found in the fact that the Bill is being rushed. That idea of the Bill being rushed through is sufficient to produce a suspicion in the minds of the public of the Punjab. I have got an experience of twenty years in the Punjab with a minuteness and intimacy which has fallen to the lot of a very few people, and I can say that most of the people are on the side of Government, but the rushing of such measures really sometimes gives offence to the most loyal of the citizens. They think that Government is going to a high pitch of repression, that it does not even distinguish the innocent from the guilty and that a measure is being enacted in which it is possible for the innocent to be arraigned before the court to be constituted under this Act. Innocent people are likely to be arraigned before this court, and between the hurry and hustle which will be produced by the hurried proceedings it is possible that innocent men may be convicted. When in the ordinary course where there is such an elaborate machinery sometimes innocent people get convicted, there is no guarantee that these courts will not be like martial law courts, for all the important provisions of serious offences like those triable by the courts of sessions judges are being taken away. I said and honourable members know that the three most valuable provisions of the law which have stood the test of a hundred years are being

taken away in one breath, these are the right of having trial by assessors, right of having commitment proceedings and the right of *de novo* trial, and I would not repeat what I said earlier. These rights are most essential to an accused person in the trial of such serious offences. For these reasons I do not think that any harm will result. The other day one of the Government members said that it was as much injustice to acquit a guilty man as to convict an innocent person. I am glad to say that my honourable friend, Mr. Labh Singh, has seriously differed from this position. The principle of law is that even if a guilty man is acquitted that should not matter so much as if an innocent person is convicted, and that is a very sound principle followed in all jurisprudence. According to the honourable member it appeared that it was possible for an innocent man being convicted under the provision of the Bill and that no guilty man would escape. I mean to say that if that provision is being enacted with this end in view this House must defend the accused. A law which can convict an innocent man, though it can punish the guilty, must be unreservedly condemned. This House must rise to the occasion and see that this principle, if it is embodied in the Act, will not go unchallenged.

Mr. C. A. H. Townsend : I rise to a personal explanation. The remarks which the honourable member is referring to fell from me at the last meeting of this House. May I say that the insinuations and implications which the honourable member implies were very far from my mind. I had no such intention at all as the honourable member has now been indicating.

Chaudhri Allah Dad Khan : I do not say that the honourable member meant this. The implication of the words is clearly this, and I can point out to the reports of newspapers that they have taken this view.

Mr. President : Order, order. The honourable member will please accept the honourable Financial Commissioner's explanation and proceed with his speech.

Chaudhri Allah Dad Khan : I accept that, Sir. I was taking up the point that the delay in circulating the Bill will produce no harm. The Punjab is not the most seditious of all the provinces ; on the other hand, the loyalty which the Punjab has shown certainly exceeds that of most of the other provinces in India. Do you think that this Act is a reward for the loyalty of the Punjab ? If this Bill had been introduced in the central legislature and passed there the Punjab would not have complained, but when the Punjab is marked out for this martial law measure, the Punjab will surely be disappointed. Why should the Punjab be the first to be saddled with this Bill ? It may be remarked by the Government that Bengal was the first to be saddled with this Bill. I admit that Bengal had this Bill five years ago ; but conditions in Bengal, as all the newspaper reading public knows, were such as warranted such a sort of measure. But the Punjab, in my opinion, is not entitled to this exclusive attention being paid to it. With these words, I say that the measure is so drastic that it should be circulated for eliciting public opinion.

Mr. Nanak Chand Pandit [Hoshiarpur (Non-Muhammadian) Rural] : Sir, it is rather unfortunate that I was delayed by a few minutes and could not personally move the amendment which stands in my name, with the

[Mr. Nanak Chand Pandit.]

result that Mr. Labh Singh has moved that amendment with your permission. I may at the very outset say that I had consulted nobody when I put this amendment down to be moved before the House and the reasons why I want the Bill to be circulated for eliciting public opinion are slightly different from those which have been advanced by the two speakers who have supported the motion. I consider that in the interests of Government itself and in the interests of the public it is essential that the report of the select committee should be circulated for eliciting public opinion. I am afraid it would be difficult to convince those who have already formed their opinion, but one has to do one's duty without considering the consequences, and when I tabled this motion for placing it before the House there was one very important consideration in my mind, namely, that this Bill which will be law in a short time is being entirely misrepresented to the public outside. I have gone to a number of places where misrepresentations have been made with regard to this measure and everybody who cares to open his lips in support of any clause of the Bill has met with strong denunciations because the people outside do not know what actually the measure is or its clauses are. In the press it has been described as a "kala qanun" which can be translated as a black Act. (*A voice*: The translation is quite right). The result is that the people outside think that there is no difference between the Bill as it is presented to the House and the Rowlatt Act which was enacted some time before the martial law days. I may here refer to another statement made in the public press in regard to this Bill. There it is stated that under the law Government can take hold of anybody and confine him as long as they like without any trial. I submit that if this Bill goes before the Bar Association, if this Bill goes before the people who can form an opinion with regard to this measure, then these various misrepresentations and misapprehensions with regard to the Bill will disappear, because there is nothing in the Bill which empowers the executive Government to take hold of a person and confine him as long as the executive likes. In the interests of Government therefore it is essential that public opinion should be concentrated on this particular measure, and if those people who understand the nature of this Bill give their opinion in favour of the Bill the Government should think that it has scored a point, but if the public opinion goes against it, then Government must withdraw the Bill and must not place it before the House, because I take it that the soundest principle of jurisprudence is this, that unless your administration of justice can inspire confidence in the minds of the public, much harm will result from legislation. The ends of justice are defeated. The aim of all legislation should be that it should carry the people with it. That should be the aim. Now, Sir, I will give you some personal experience and I hope the House will pardon me. I visited Hoshiarpur the other day and I went to the Bar Association. As soon as I entered the Bar room some of the lawyers there pounced upon me and asked me why I had supported the Bill, though I had done nothing of the kind. I assured them that I had not supported the Bill, and that I was ready to listen to argument and criticism in order to place them before the Council. They said, how can any lawyer agree to give Government power to take hold of a man and confine him in jail for as long as they like? I said that that was

not the case. I told them that that was not one of the provisions in the Bill. I had a copy of the Bill with me, and I had also taken a copy of my speech with me because I had anticipated what these members would say. I said to them, here is the Bill and here is my speech, please do point out where is this power given to the executive Government. We had an argument about some provisions of the Bill, and the result was that some of the lawyers were convinced that one of the provisions of the Bill was really better than that which exists at the present time, namely, the trial of the accused by three judges instead of one. In this important matter, the provision of three Judges is a departure for the better from the existing legislation. I made no secret of it when I spoke last in regard to this measure. But there are other points on which I differ from the majority of the select committee, and I have appended a minute of dissent also, with regard to those provisions. I therefore submit that it would be a good thing to allow this Bill to be circulated so as to give the members of the Bar, and all those who can form an opinion with regard to the various clauses of the Bill, an opportunity to concentrate their attention on this point and to let them know the exact provisions of the Bill.

There is another point. Now the House and the Government all agree on one particular matter, namely, that so far as the right of the accused to defend himself is concerned there should be no curtailment of that right. I take it that the Government's standpoint is not different from the standpoint which I am submitting here, that is to say, that the accused should have a full and fair opportunity to defend himself, to prepare himself for the defence, to cross-examine the witnesses that are brought before the court and to have full opportunity to instruct his counsel, and so on. The only object of the Bill is that there should be no delay in the trial of cases. It is unfortunate that certain words fell from the mouth of the Honourable the Financial Commissioner, and my learned friend here who has preceded me has stated that those words have also been incorporated in the Bill. The Financial Commissioner had a right to have his own opinion, and we have a right to entertain our own opinion. The opinion that we entertain is that it is better that a hundred guilty men may escape justice rather than an innocent man may suffer injustice at the hands of law and be unjustly punished. That is the principle which has been accepted by all civilised countries and that is the principle on which the British jurisprudence is based, and that is why every opportunity is given to the accused to defend himself. Now, Sir, the people who speak on this side of the House and people who speak on behalf of Government, all aim that so far as the accused is concerned, his right of defence should in no case be curtailed, and if you accept this principle then I submit that the select committee or the majority of the select committee should have accepted the amendment which I placed before them, namely, that in all cases triable by the Commissioners the whole prosecution evidence should be recorded before the charge is framed. I submit that that is a very healthy principle which had it been accepted by the select committee I would have given my support to this measure, but unfortunately this principle is accepted by the majority of the select committee only in cases in which the accused is liable to be sentenced to death, but with regard to other matters the select committee did not accept the amendment which I placed before it, and I say that it

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would be going against the fundamental principle of jurisprudence if the amendment which I placed before the select committee is not accepted. I submit that the spirit of the Criminal Procedure Code is also this, that before a charge is framed the whole prosecution evidence should be taken. I understand that there are certain circulars issued by the High Court which have compelled the magistrate to adopt a different course. Fifteen years ago when I was practising in the lower courts I found that whenever a case triable by a magistrate came before the court, all the evidence for the prosecution was recorded. The departure has been made only recently. It was never the intention of the framers of the Criminal Procedure Code that any departure should be made, and had the select committee accepted the recommendation made by me, it would have gone a long way in meeting the desire of the public on this point, that a full and fair opportunity should be given to the accused to prepare his case for the defence. I would still submit that if this amendment or suggestion of mine is incorporated in the Bill it will greatly improve it. What happened in the select committee? There were five members on one side and there were five members on the other side with regard to the amendment which I suggested. It was only by the casting vote of the Chairman that my amendment fell through.

The Honourable Sir Henry Craik : I never gave my casting vote as I had not got any.

Mr. Nanak Chand Pandit : Then it was a question of five votes against five, and let me put it this way that the amendment is still undecided. Now I ask, is there any single argument which may be advanced against this fair principle?

Mr. President : May I request the honourable member to reserve his arguments on his amendment until he moves it.

Mr. Nanak Chand Pandit : What I am submitting is this, that if a full and fair opportunity is given to the accused, the Bill will be greatly improved and it will be acceptable to a large section of the public, and it was with the object of strengthening my argument that I was stating that even in the select committee opinion was evenly divided with regard to this matter. Suggestions have been made in the press that this right of the accused should be safeguarded in every possible manner. I submit that it is not against the spirit of the Criminal Procedure Code nor even against the spirit of this Bill that this suggestion of mine should have been accepted, because, as I said and I would reiterate, that the Government's intention is not to take away the opportunity of defence from the accused, but its only object is that there should be no lengthy trial such as the commitment procedure involves, by allowing commitment proceedings to go on even in this case. If this suggestion is accepted that in all cases whether they involve a sentence of death or not, the accused shall have the right to see that the whole prosecution evidence is recorded before a charge is framed, you will be going a long way in meeting the public demand that the right of the accused should not in any way be curtailed. I would still request the honourable members who sit on Government benches to accept this suggestion because I take it that it is not their intention to take away anything from the right of the accused.

The Honourable Sir Henry Craik : He has not got it now.

Mr. Nanak Chand Pandit : There we differ. The Honourable Finance Member says that he has not got it now and therefore it shall not be given in this case. I have submitted before at some length that this right is there and if it has been curtailed it has not been curtailed by the Criminal Procedure Code but it has been curtailed by a certain practice which has risen up and which is improper. This practice is not followed in all cases but only in a few cases and we are afraid that when you are having a special tribunal this special tribunal may not think that they should resort to special methods of evading the spirit of the Criminal Procedure Code. That is the point.

Here is a special tribunal constituted for a special purpose and it has to follow the Criminal Procedure Code. We are anxious that unless you make this provision in the Bill there might be a desire on the part of these special Commissioners to evade the spirit of the Criminal Procedure Code because this amendment of mine though not to be found in so many words in the Criminal Procedure Code, is still being followed everywhere.

That is one point. There was the other point why this Bill should be referred to a select committee, namely, with regard to the appointment of the Commissioners. I have made no secret of my opinion in this matter, namely, that three Commissioners appointed under this Bill will be a far more independent tribunal than the one consisting of one sessions judge acting with the advice of three or four assessors. Ordinarily the assessors' opinion has no weight with the sessions judges. A sessions judge can set at nought the opinion of the assessors. The assessors may declare a person to be guilty and the sessions judge may hold that the accused has been proved to be not guilty. The assessors may say that the accused has been proved to be innocent and the sessions judge can hold a contrary opinion. But with regard to this court that cannot be done. The opinion of the majority must prevail. Therefore, I submit that with regard to the independence of the tribunal, so far as these three sessions judges, or one sessions judge and two lawyer judges, are concerned, I had not made any secret of my opinion that this court would be a more independent tribunal. But I submit that in the appointment of the Commissioners the executive Government must consult the High Court. (*A Voice : Why?*) Why, because the executive Government as representing the Crown is itself a party and the accused is the other party. Therefore it should not be left merely to the executive government to appoint these three Commissioners. They must act in consultation with the High Court or on the recommendation of the High Court in appointing these Commissioners. If you want to carry the people with you, you must ensure that the appointment of the Commissioners does not merely rest in Government's hands. That is the elementary principle, a very healthy principle which should have been incorporated in the Bill.

The Honourable Sir Henry Craik : I rise to a point of order. The honourable member is debating the details of the Bill in regard to which amendments are on the paper. It does seem to me that it would be better from the honourable member's own point of view if he merely mention

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these points and leaves the discussion till we come to the amendments themselves. Discussion of amendments now will be prejudicial to the general discussion and since I have no right of reply, I understand, it will put the House and those responsible for the Bill in an unfair position. The honourable member should confine himself to mentioning the points, but should not argue on the merits of the amendments which will be discussed by the House at a later stage.

Mr. President : I think the Honourable Finance Member's objection is sound. At this stage arguments may be advanced why the Bill should be circulated for the purpose of obtaining opinion thereon. Further details, specially with regard to the amendments which have been tabled by various members should not be discussed at this stage.

Mr. Nanak Chand Pandit : I am not saying anything with regard to the amendments. I am only giving reasons why, if the principles had been accepted by the select committee I would not have moved my own amendment. I submit that public opinion should be concentrated on these points. I am asking the House to accept the amendment, namely, that the Bill be circulated for eliciting public opinion and unless I make out a case.....

Mr. President : The honourable member's argument is that the Bill should be circulated for obtaining opinion thereon because certain amendments proposed by him in the select committee were not accepted by that committee.

Mr. Nanak Chand Pandit : I will not refer to any amendments either of mine or of anybody else. What I am saying is this, I can go into the merits of the Bill generally. I can attack the principle of the Bill.

Mr. President : The principle of the Bill was affirmed by the Council when the Bill was referred to a select committee. Therefore, the honourable member is not in order in attacking the principle of the Bill at this stage.

Mr. Nanak Chand Pandit : Am I not entitled to attack the principles of the Bill ?

Mr. President : Not at this stage. The honourable member is now supporting an amendment moved under paragraph 89 and not an amendment under paragraph 83 of the Business Manual.

Mr. Nanak Chand Pandit : In any case I can advance arguments why this Bill should be circulated for public opinion. One argument is that the Honourable Member should ensure public confidence in the administration of justice and so the public at large should be given a right to express their opinion on this point whether they would like this principle incorporated in the Bill or not, namely, that the executive should not be the persons in whom the appointment of the Commissioners should entirely rest. I submit that on this ground I would request the House, as this point has not been incorporated in the Bill, to vote in favour of the motion that is before it.

Now, what I was submitting and what I wish the House to accept is that both in the interests of Government and in the interests of the public it is essential that the Bill as it has emerged from the select committee should be circulated for eliciting public opinion. It should be sent, I very respectfully submit to the House and to the Government members, to the Bar Association as well, so that they may know exactly what the contents of the Bill are, so that they may suggest in what manner this Bill should be changed, modified or amended, so that the right of the accused is not restricted in any way. With these words I support the motion which has been moved by my honourable friend, Mr. Labh Singh.

Mr. Din Muhammad [East and West Central Towns (Muhammadian), Urban]: Sir, the other day when we discussed a similar motion in this House, the House by a majority resolved that the Bill should not be circulated for eliciting public opinion. (*Mr. Labh Singh*: At that stage). The honourable member from Gujranwala remarks that the opposition of the House that day was confined to the stage in which the Bill was on that day, and his position is perfectly sound. We have now to see what drastic changes have been introduced by the select committee that it has become necessary to circulate the Bill once more for obtaining public opinion. (*Hear, hear*). If the position maintained by the honourable member from Gujranwala be sound, then my humble submission is that the matter is concluded, as in the select committee the Bill has not been so changed as to make it beyond recognition, and no such material changes have been introduced by the select committee in the Bill as would necessitate circulation. Under these circumstances, it would be only reasonable if the House, once committed to the decision arrived at, adhered to that decision and refused to support the amendment which has been moved this morning.

The honourable member from Karnal has raised certain points on the basis of which he asks the House to consider that this Bill should be circulated for obtaining opinion thereon. Some of those remarks he made even before, when he supported a similar amendment on the first day the Bill was moved. Anyhow as those arguments have been advanced once more, it is necessary to see, whether there is any substance in them. Unfortunately, sometimes, when members rise to support their pet views, they are liable to be the victims of inconsistencies. The honourable member from Karnal laid great stress on this point, that human life is very valuable and quoted Shaikh Saa'di, the eminent persian Poet in his support. He read the following verse of his:—

نیر ز د کہ خورنے چکد بر زمین

and remarked that the whole country and the whole world cannot be of the same value as one human life. That is perfectly right. I agree with him in the estimation that he holds of human life. But he forgets that it is for the protection of this same human life, it is for the protection of the lives of those innocent people who are being victimised every day, who are being immolated at the altar of false nationalism, that we are enacting this Bill and asking the House to expedite its passage. (*Hear, hear*). How does he differentiate between the lives of those who are suffering immensely at the hands of the revolutionaries and the lives of the revolutionaries themselves? Is there any reason why he should draw a distinction between these

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two kinds of lives? No body can deny that innocent lives are being sacrificed every day by revolutionaries. Only two days ago we heard that one revolutionary at Delhi attempted the life of two innocent persons; one constable and one other passer-by were actually hit by revolvers aimed at them.

Chaudhri Allah Dad Khan : May I rise to a point of personal explanation? I never meant that revolutionaries should not be brought to book and punished. What I meant to say was that we must enact the provisions in such a way that it should exclude the possibility of an innocent person being hauled up.

Mr. Din Muhammad : I will not demur to that. He admits having submitted before the House that simply out of respect and regard that we should have for human life, we should not expedite the passing of this Bill, as there was a danger that innocent lives would suffer at the hands of the tribunal. This is, I must proclaim, a most fanciful argument to advance. You shall have first of all to concede that the tribunal that you are going to constitute would be just like the Star Chamber; it would be a tribunal that will have absolutely no regard for fundamental principles of law, for established principles of justice and equity, that this tribunal is meant simply to start on indiscriminate programme of butchery. Unless we hold these views, unless we start on these premises, we cannot at all take notice of this fanciful argument that simply because a special tribunal is being constituted, honest lives will suffer at its hands and that the Commissioners will hold their courts solely with the object of butchering everybody that comes before them. Far from this. The Government rather is assuring the public that in the place of one sessions judge who runs the risk of passing an erroneous judgment, they would place three judges and simply for this reason that no innocent life should suffer. They are taking this safeguard merely to appease the public on this point, and to give a guarantee that so far as in their power lies, they will take every precaution that no such biased judgment is given which would in any way jeopardise the life or the liberty of any innocent man. Now, with this guarantee given, why should we obstruct the course of this legislation?

It was further brought to our notice by the honourable member that because we are taking away the assessors, it was necessary that the Bill should be circulated for obtaining public opinion thereon. Sir, I would respectfully submit before this honourable House, that this argument also is being advanced in ignorance of the existing legal position. The assessors' opinion as you are pleased to know, has absolutely no binding authority on the sessions judge. Section 309 of the Criminal Procedure Code subsection (2) lays down that assessors' opinion may be obtained, but in doing so, the sessions judge shall not be bound to conform to the opinions of the assessors. If, Sir, in the place of two or three ill-read, ill-educated, unenlightened assessors, Government substitutes two well-educated, enlightened and experienced sessions judges, is the Government doing anything amiss? Will they not be better than those assessors whose opinions

carry no weight? And these two gentlemen will have a weight attached to their opinions, because the Bill provides that the opinion of the majority shall prevail. So instead of two valueless persons, the Government is making a provision for two competent, well-read, educated and enlightened sessions judges, and this is one of the few points on the basis of which even the honourable member from Hoshiarpur has been pleased to remark that the Bill is an improvement on the ordinary procedure.

Another point that was raised by the honourable member from Karnal was, that because the Bill did away with *de novo* proceedings and the commitment proceedings, it was therefore necessary that it should be circulated. In that connection I had made some submissions on the first day when this amendment was proposed and I do not wish to take the time of the House in reiterating them. The Government has no doubt withdrawn commitment proceedings and the Government has made a provision to this effect that *de novo* proceedings should not be allowed under certain circumstances. But the pros and cons of the whole matter have been thoroughly gone into. They have been considered as best as they could be, with the result that we now see. This provision has been made after being fully satisfied that it would cause no injustice at all to the accused persons who stand their trial before the special tribunal.

The honourable member from Karnal further remarked that there were signs of discontent among the public, that this Bill was being considered as similar in provisions to the Rowlatt Act that was passed in 1918 or 1919 and that, therefore, they as wise friends of Government would advise them to delay its passage a little and give the public an opportunity to go through the provisions of the Bill in order to see what it was. To this part of the argument a conclusive reply is found in the speech of the honourable member from Hoshiarpur, who while supporting the honourable member from Karnal, however, made himself liable to a similar charge of inconsistency. The honourable member from Hoshiarpur was pleased to remark that he had had an opportunity of visiting the members of the Bar at Hoshiarpur and that he had also come across several other enlightened people and he was grieved to know that they all were altogether unacquainted with the sections of this Bill, that they were perfectly ignorant of the true effect of its provisions and that they laboured under a misapprehension that this Bill provided for internment without trial. If that is the state of affairs, if the public is so well informed, if the public is so far enlightened, if lawyers who are expected to know what the provisions of this Bill are, are so much ignorant of them, what good will it serve if this Bill is circulated for public opinion? Will the honourable members of this House also depute the honourable member from Hoshiarpur and other lawyers to go and educate the public as regards this Bill? The Bill has been in circulation for about a fortnight or for more than that period, for the last three weeks, I am told. Every Bar association had an opportunity to look into its provisions. The press is discussing the Bill in its columns every day. And if in spite of all that, even the literate section of the public does not know what the provisions of this Bill are—and this is an argument which is being advanced by the honourable member for Hoshiarpur in support of the amendment—what harm would accrue if illiterate, uneducated, unenlightened public who for some reason or another do not or cannot read the provisions of a

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Bill of this kind, are not consulted? I submit before this House that we are also representatives of that very public. When any question is mooted in this House, we all say that we are the real representatives of the province. We have been returned by almost all the enlightened persons of the province and in that vicarious capacity we are here to convey to this House the views of our own constituencies. We know what their views are in this matter. We are the repositories of their confidence and if in an emergent measure like this we are called upon to convey to the House the considered opinion of our constituency, my humble submission is that we will be failing in our duty if we avoid it. We will be shirking our responsibility, therefore if we refuse to consider the provisions of this Bill at this stage. It is no doubt true that there are Bills which require circulation for the purpose of obtaining public opinion. There are occasions when it is absolutely necessary that Bills should be circulated for eliciting public opinion, but there are Bills and Bills and if it is represented to us, that in view of the emergency that has arisen, in view of the progress that crime is making in the country, it is necessary that this Bill should be considered at once and that no further time should be lost in its circulation, we should not at all refrain from supporting the movers of this Bill and considering its provisions. You can introduce as many safeguards as you like. It would not be the intention of the movers of the Bill even to curtail the rights of the accused persons. We will never be a party to any piece of legislation which curtails the rights and liberty of the people, the rights and liberty, not of one section of the people, but of the majority of the people. You are here advocating the case of those who are, thank God, in a very small minority, the case of revolutionaries, the case of those who have absolutely no respect for law, who have no regard for established authority, who have no respect for Government. You are fighting for the rights of those persons who are in a hopeless minority. We are on the other hand concerned with the protection, the safety and security of the rest of the province and you shall have to concede, that we are advocating the cause of those who are in an overwhelming majority. If, therefore, with a view to secure better protection for the overwhelming majority of the citizens of the Punjab, this Bill is introduced in this House, why should we then place any obstruction in the way of the movers?

It was also urged, why should this province alone be singled out for such legislation and why not a Bill like this be passed in the central legislature. Personally speaking, I would take that also as an indication of the *bonâ fides* of the Government. They want to apply this remedy only where the disease exists and they want to leave the healthy body alone. The Government has introduced this measure in the provinces of Bengal and the Punjab, because affairs in both have gone to that pitch when it has become necessary that some departure from the ordinary procedure of criminal law should be made in order to enable the courts to expedite the disposal of the cases that are sent to them. We should rather thank the Government on this score. If a similar Bill be enacted in the Indian Legislature, that would be a law of the land and would thus apply even in places where there is absolutely no necessity for the introduction or application of this extraordinary measure. Government is introducing such measures cautiously. It first feels the pulse of the country. It diagnoses the disease

of the locality and where it finds that the ordinary law of the land cannot at all keep pace with the growth of the revolutionary crime, it introduces such special measures simply to strengthen the hands of their judiciary, so that no valuable time might be lost in bringing guilty persons to book. Every honourable member who stood up to support the amendment very naturally and very rightly condemned all the revolutionaries in the land and if they are convinced, that this measure is simply intended to check the revolutionary spirit of those persons, is it not their bounden duty to support it? The Bill as has been enacted is not at all going to affect any persons other than those who commit crimes either as members of unlawful associations or under the instigation of a member of an unlawful association. Peaceful citizens are not at all to be interfered with. Ordinary cases are not to be sent to these tribunals. The schedule is quite clear on this point. It is only when the local Government is convinced, that a serious crime like murder or dacoity with murder or burglary, or robbery has been committed by a member of an association or by any person under the instigation or with the abetment of a member of an unlawful association, that it is empowered to send the case to the special tribunal and not otherwise. Now, I submit before this House, that if it is actually found, that there are revolutionary bodies working behind the screens and that they are actually instigating people to commit violent offences like murder or dacoity attended with murder, will you have any sympathy with such persons and if honourable gentlemen really do not have any sympathy for them, then why should they at all feel so very anxious about their safety and about their innocence? We should be consistent. We should be consistent in all respects. Further, why should you in any way look with suspicion on a tribunal that is being constituted under the Bill simply because as you say it will be a creature of the executive? As I put before the House the other day, I do not see any member of the judiciary, even a Judge of the High Court, who is not appointed by the executive. The simple fact of the judges being appointed by the Secretary of State for India in Council or by the Governor-General or by the Governor of a province would not make them creatures of the executive. Why should you, then, distrust this tribunal? Sessions judges appointed by the executive are already exercising their powers, they are trying serious offences, offences like murder and dacoity. Magistrates are already trying serious cases under this warrant-case procedure. You never complained before that they were doing such gross injustice as warranted interference.

Shaikh Faiz Muhammad : Under instructions from the High Court.

Mr. Din Muhammad : Then why should you on this occasion level all sorts of vehement criticism against this procedure? Why should you for the first time during the history of the Criminal Procedure Code come forward with this objection that your rights were being tampered with or your opportunities were being curtailed by magistrates who in practice were following the spirit of the law and not the letter of the law? Sir, there are cases and cases. There may be cases when it may be found necessary to frame a charge before the whole of the evidence is recorded, and there may be cases in which it would be unjust if a charge is framed at such an early stage. That would depend upon the discretion of the tribunal, upon the good sense of the judges that would constitute the tribunal.

Mr. President : May I request the honourable member to reserve his remarks on this point till the amendment to that effect is taken up ?

Mr. Din Muhammad : An argument was advanced, that because in following the new procedure there was a danger of an innocent person being convicted therefore this Bill should be circulated for eliciting public opinion. I was submitting before the House that there was no such danger involved in the provisions of the Bill as this procedure was being already followed, and that, therefore, that was not a sound or valid argument to be advanced.

It was further submitted before the House that a provision should be introduced that the members of the tribunal should be appointed after consulting the Honourable Judges of the High Court.

Mr. President : I am afraid, I cannot allow discussion on that point, as several amendments covering the same point have been tabled and the honourable member will have ample opportunity to discuss the point when one of those amendments is moved.

Mr. Din Muhammad : I was not going to argue that point. I was just going to give a very brief reply to that point. Only the other day a tribunal was appointed which was constituted of three High Court Judges. This enlightened public whom you want to consult had absolutely no confidence in that also. Arguments are being advanced by the opposition merely for the sake of advancing them. If three High Court Judges did not inspire confidence, where is the guarantee that that tribunal would inspire confidence, which is appointed with the consultation of the High Court Judges? This was the reason why I brought this point for consideration.

Sir, as you have been pleased to remark, we have only to consider whether a case has been made out which would justify the circulation of the Bill for eliciting public opinion. On the one hand, it is urged that it is absolutely necessary in the interests of peace and security of the public that certain trials should be held with expeditiousness, that the wasting procedure of commitment should be done away with, and that in its place the warrant-case procedure be introduced with such modifications that no gross injustice be done to the accused persons and that the same facilities which are afforded to the accused by a combined procedure of commitment and sessions be assured to all those accused persons, who stand their trial in this tribunal. As against this, it is being argued that simply because a special procedure is being introduced, time should be wasted in circulating this Bill for eliciting public opinion. We have only to decide between these two positions and if we are convinced that emergency requires that this Bill should be passed without any further delay, if we are also convinced that in such trials delay might prove deleterious, then we are in duty bound to support the original motion, to reject the amendment and not to circulate the Bill for eliciting public opinion.

Mr. D. J. Boyd : Sir, I beg to move that the question be now put up.

Shaikh Muhammad Sadiq : Sir, I thought that honourable members on this side of the House would have spoken as impartial judges, but I find that they are vehemently opposing the circulation of this Bill. The object of eliciting public opinion is to throw more light and if there is any irregularity it may be checked. I cannot understand the mentality behind hurry. I

cannot understand the mentality of the honourable member who has just sat down. He has spoken as if he were a Government member without portfolios. I cannot understand such speech as his, coming from the opposition benches. This motion for the circulation of the Bill should not have been so vehemently opposed. He could have after two or three months supported the same Bill again. He is a lawyer and probably he knows that time is the essence of the whole thing. Sir, the speech of the honourable gentleman from Gujranwala takes me eleven years back. (*Interruption*) I was then as sensible as I am to-day. You remember there was an occasion like this when Government took into its head to introduce the Rowlatt Bill, and thought that there were people who were committing violent crimes and arsons, they were committing dacoities and they wanted to stop these rascally people, and they proposed this Rowlatt Bill. The Rowlatt Bill was passed and after passing it was thrown away even after the Government had it passed in the teeth of opposition. And whom did they catch? They caught the honourable member here who has just sat down, they caught the honourable member the Minister for Local Self-Government and the late Minister for Agriculture, Lala Harkishen Lal and the late Minister for Education, Mr. Manohar Lal. This was the result of the Act.

The Honourable Sir Henry Craik : The honourable member is suggesting that these honourable gentlemen including my colleague were prosecuted under the Rowlatt Act, this is not so.

Shaikh Muhammad Sadiq : No, the Rowlatt Act was never enforced. How could they prosecute them under it? It was passed but it was never applied. So who were the victims of the repression?—The very gentleman who has spoken so strongly against the motion for circulation and the gentlemen who ultimately became Ministers of Government. We want that measures which were applied to him should not be applied to other innocent persons again. We are to prove that hasty action will always make innocent persons suffer. If he had not been innocent he would not have been sitting here, he would have been hanged. The very fact that he is here to-day shows that he was innocent. It shows how wrong was the judgment of Government and we know that in this case also the judgment of Government will not be materially different. Who could be abler than Sir Michael O'Dwyer? The Punjab civilians have yet to produce a man abler than him. It may be that his mentality was wrong, but can there be a difference of opinion as to his ability? Is there an abler man than Sir John Thompson? He may have committed wrong acts, he was hasty, so if such great men can be hasty what guarantee is there that this Government will not make similar mistakes? Let me tell the honourable gentleman that the procedure which once nearly led him to the gallows may lead other innocent persons to gallows and then probably there will not be another Montagu, there will not be another wise statesman like the late Secretary of State for India to save him. I know that in such cases even the highest tribunal is bound to err. Some friend from the Government benches said, look at Delhi. Well, Sir, if there are murderers, hang the murderers, we have no objection, transport them for life, boil them, burn them to death if your conscience allows it, but do not allow the procedure to be tampered with. We do not say that a murderer should not be hanged or that he should not be transported. I have said in my

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last speech that we are not in sympathy with murderers, but we know that till a man is convicted he is innocent (*hear, hear*). But the fact that these gentlemen are here in this Council is a proof that they were innocent. There are so many innocent people in other provinces also. There were in the United Provinces as well. And the fact that two last Ministers were prosecuted for the Rowlatt Act agitation shows that Government can act hastily. But perhaps if I were sitting in my friend's place, in the place of the Honourable Revenue Member or of the Honourable Finance Member, I would also be doing the same thing, but that does not mean that I cannot criticise. The honourable member from Gujranwala should have been wiser. He should have remembered the proverb "once bitten twice shy." That is a proverb coming from the country of the honourable members opposite. If he had acted on this principle, he would have been the first to object to this Bill. But the mentality of these people with new vistas and new visions has changed and he has forgotten that the sword which was used against him is still not so blunt that it cannot be used against others who are equally innocent. For these reasons I wanted that the Bill should be circulated for eliciting public opinion and not for the purpose of delaying its passing. You will find that repression is a double-edged sword. They say that they have not brought forward this measure as a weapon of repression, but simply that they want to change the procedure, but the mentality shown here both on this side of the House and that and more on this side than on that, shows that in the back of their mind is the question of repression. Repression is a double-edged sword. It was applied in 1740 or 1750 in America, it was applied in France and the reign of the Bourbons went to sky, it was applied in Ireland for a hundred years and what was the result? If it had not been done the Englishmen and Irishmen would have been like brothers. Come to Turkey, Sultan Abdul Hamid applied that sword.

Khan Bahadur Nawab Muzaffar Khan : What part of the Bill is he objecting to?

Shaikh Muhammad Sadiq : The honourable member never objected when my friend was wholly irrelevant.

What about Sultan Abdul Hamid? (*Interruption*). The honourable member never interfered when my friend was speaking, why should he interrupt me? What happened in the case of Sultan Abdul Hamid? Although he was asked again and again to grant representative government he started arresting prominent politicians. He said this man should be done away with and that man should be done away with, with the result that Sultan Abdul Hamid has gone the way my friend is urging Government to go. What happened to China? The same story was repeated there. Where is now the old Shahanshah of China?

The Honourable Sir Henry Craik : But do not leave out Argentine and Peru. There has been a revolution there.

Shaikh Muhammad Sadiq : I know about Argentine as much as does my friend. The same thing happened in Argentine and Peru where Government met with the same fate as it did in China. Why should there be a

revolution ? Because Government does not act according to the will of the people. The history of nations shows that repression has never made for peace. There is only one way. Let Government shoot down people in masses, as Halaku Khan and Changez Khan did. Why should there be a pretence of doing justice if there is not to be a fair trial. Shoot them, half-hearted repression will not do. Jallianwala Bagh is a standing challenge to Government.

I have to make only one more point. My friend the Finance Member seems to lay stress on the select committee. The select committee was after all appointed by Government. The members of it were its own selection. These eminent lawyers and the Finance Member forgot one point, that is the right of transfer. In certain cases the accused find that the judges have got against them and they find that they cannot get justice from those judges. In such cases the accused should have the right of transfer.

Mr. President : I do not think that point can be allowed to be argued at this stage.

Shaikh Muhammad Sadiq : There is an amendment to be moved.

Mr. President : When that amendment is taken up by the House, the honourable member may give his arguments for or against it.

Shaikh Muhammad Sadiq : I am simply saying that that point was forgotten.

The Honourable Sir Henry Craik : I never forgot it.

Shaikh Muhammad Sadiq : Then some other member of Government was responsible. Such an important thing has been left out. If this matter had been given due thought, one of the most important sections would have been to the effect that when the accused find that they cannot get justice from the judges, they should have the right to go to a higher authority and say that the case should be taken away from the judges and given to some other judges for trial. There is no section in the Bill introduced by Government under which the High Court can remove these judges. The High Court is reduced to a mere nullity. It can only hear appeals. It has no revising power, it has no superintending power, it cannot order anything. It looks as though Government has intentionally advanced this obstacle, or it may be that the point was forgotten altogether.

The Honourable Sir Henry Craik : Government has forgotten nothing.

Mr. President : As to the transfer of cases by the High Court, I think, section 526, Criminal Procedure Code, is very clear. So, the honourable member should not pursue this argument any further.

Shaikh Muhammad Sadiq : My honourable friend says that this House has the right to pass any Bill. But the constitutional practice is such that with the fullest majority in England Government could not pass a certain Bill because a certain measure had not the assent of their constituencies. When the honourable member was elected and when I was elected everybody thought that the life of the present Council would be eighteen months and that no constitutional question of such importance would be raised. I recognise the right of the House to pass any Bill but the thing which goes to the very root of the matter is that in this case a measure is being introduced,

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the subject of which is not in our ordinary jurisdiction. The Criminal Procedure Code is not under our jurisdiction. By the consent of the Governor-General in Council it has been brought forward here. The public had no information that a thing of this kind will be brought or discussed in this House. There is no harm if this Bill is referred to the public for eliciting opinion.

My friend seems to attack and he has rightly attacked the lawyers who do not know the object of the Bill. That point goes against my honourable friend for it only shows that the Bill has not been sufficiently circulated, and that there is necessity for further circulation. What is the harm if there is constructive criticism? I do not see any harm in circulating it for a further period. The honourable member says that the Bill has been discussed in the press. I want him to show one article from any newspaper, be it Hindu or be it Muhammadan, which has supported this Bill. Can he show one paper which has supported the object of this Bill during the three weeks that the Bill has been in circulation? May I ask him if he can mention any Anjuman-i-Islamia, any Muslim League, any Hindu Sabha, or any Sikh League or even any Bar association, not to mention, any paper worth the name, or even his own colleagues in the Lahore Bar, who have supported the Bill? I asked a big lawyer to show me any bad points in the Bill, and he said, show me any good point. I admit that there are some good points. I admit that the trial by three judges is an improvement on the existing Act. My friend says that giving the fullest opportunity to the accused to re-cross-examine the prosecution witnesses in place of the commitment proceedings having been done away with is a very good point. I agree, but to me these good points look like an ounce of quinine in a jugful of lemonade. If Government think that commitment proceedings should be taken away, I say, well and good provided you give the accused time and opportunity to cross-examine witnesses properly. If they say there should be three judges, well and good. But I do not like to see them tinkering with the Criminal Procedure Code which has been held sacred not only by the lawyers of this country but even by European judges of the country. They have never allowed the Criminal Procedure Code in any civilised country to be easily tinkered with. That is the reason why we ask for the further circulation of the Bill. It is not that we have no sympathy with those good points that have been incorporated in the Bill, but simply because with those two points there are so many objectionable points that it is our duty to resist the Bill. We do not know what the result of the passing of the Bill will be. Often it is different from the one that it was intended to have. I hope the result will be good, but I know the mentality of the people who are going to administer it. Only a few days ago I wanted the court before which I was appearing to show me the list of witnesses but the nab-court said that Government's latest circular forbade them to give the list. The circular said that in future the list must not state what the witnesses were going to depose till the actual witnesses come. I have in my hand a circular signed by the Revenue Member asking his Chief Engineer not to give in future permanent passes for canals. I know the mentality of those who will work the circular. They will say that no private person is allowed to be given a pass. That is how orders are carried out.

Mr. President : The honourable member's remarks are not quite relevant.

Shaikh Muhammad Sadiq : I was only saying that the order says one thing but the interpretation put on it by those who work it is generally different. What will be the position if we pass the Bill? A man is ordered to be hanged. This man will have to wait till a corresponding Act is passed by the Assembly. Is it not a sufficient reason that the Bill should be delayed? To-morrow by 4 or 5 o'clock it will be an Act. It will come into operation soon after. Suppose the tribunal sentences a man to be hanged. He cannot be hanged till a corresponding Act is passed by the Assembly and assented to by the Governor-General. Is it right that you should pass the Act now? Suppose a thing like this happened. If a man is sentenced to three months' imprisonment and if the central legislature does not pass a Bill for six months allowing the right of appeal to the accused, what is to happen to him? He will have served his period of imprisonment before he is given his right of appeal. I do not oppose the Bill simply for the sake of obstruction. I know there are a great number of murderers abroad, I know that there are a great number of bomb throwers in the province. I also know that their activities should be restricted. But I also want that justice should be done to the accused. But the House should not on that account place itself in a most ridiculous position. Take the case of a man who confesses to murder and is convicted by the tribunal and sentenced to be hanged. If it takes six months for the other law to be passed in the central legislature, is the convict to be suffering torture in a solitary cell for all the six months awaiting the law for appeal to be passed before he can go to the High Court in appeal? Do you think there is a greater strain that can be put upon a human being than that? In that case he would much prefer to be hanged and finished to being kept in solitary cell for five or six months and then hanged. There is no greater torture than this. I submit that by this law you are doing injustice to your ordinary system of justice. When I look at the Criminal Procedure Code which was made eighty years back I really marvel at those who, eighty years ago, with so much foresight and so much intelligence, with so much sympathy have tried their best to put safeguards to the accused. I do not think that even in England there is such a fine law as our Criminal Procedure Code. I really admire those people who framed this law for India eighty years back. (*Interruption*). You are not following the tradition, rather you are falling from the tradition. I know every member on the Government bench will shake his head, because it is so easy to shake head.

Government says that by this Act it is going to make murders impossible. How will it make it impossible? Because somebody has been killed in Delhi so somebody in Lahore will be caught. I am reminded here of a *kahani* which I shall relate in Urdu.

It is said that once a man came to Lahore and while walking in a street he saw a donkey and at once began to beat him. A passer-by, amazed at this sudden and uncalled for attack, asked that man as to why he was beating the donkey when the poor animal had given him no provocation at all. The man replied that a donkey had given him a severe kick at Delhi and now he

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was taking his revenge. "But how do you know," asked the other man "that it is the same donkey which kicked you at Delhi"? "Oh, that does not matter much," was the prompt reply, "if it was not this donkey it must be his father or brother or at least his cousin." (*Laughter*).

Thus if the intention underlying this Bill is to arrest any person you come across simply because murders and other such crimes are being committed by some persons in the province, then of course, the present attitude of the official benches can be understood. But if you have any regard for law and justice it is your duty to give the public every chance to point out any flaws in the proposed measure. Therefore, Sir, I request my honourable friends not to care for the smiles or frowns of the official members.

The Honourable Captain Sardar Sikandar Hyat Khan : I rise to a point of order. Is it open to the honourable member to change the language of his speech from English into Urdu ?

Shaikh Muhammad Sadiq : I certainly can.

The Honourable Captain Sardar Sikandar Hyat Khan : I really object to this change of language as a matter of principle. Of course, you can permit any member to speak in Urdu. But in the present case the honourable member wanted to relate a story which he narrated in Urdu. After finishing that he should have continued his speech in English and not in Urdu.

Mr. Nanak Chand Pandit : There have been precedents for the course adopted by the honourable member.

Shaikh Muhammad Sadiq : I can show the honourable member many speeches delivered in two languages. Just now an honourable member recited a Persian couplet while he was making a speech in English.

Mr. Labh Singh : I may remind the House that the previous Leader of the House attempted this performance more than once. That is my recollection.

The Honourable Captain Sardar Sikandar Hyat Khan : He did not speak in two languages at the same time.

Mr. Labh Singh : No. He spoke in English and then continued in Urdu.

Shaikh Muhammad Sadiq : Do the Government object to my speaking in Urdu because they are afraid they will lose some votes if I make my point clear to the non-English knowing members ?

(Urdu) However, Sir, my request to my honourable friends is that they should not care for the frowns of the Government. They should do their duty and go through every line of the proposed Bill as carefully as they can. It is just possible some innocent friend of yours may fall into the clutches of the police and then you may have to run to the Finance Member or the Home Secretary to secure a fair trial for him. Why not, therefore, be careful in the very beginning and give reasonable facilities to all concerned ? I would, therefore, request the House to let this Bill be circulated for eliciting public opinion so that it may receive proper thrashing and then we may be able to discuss it in the light of the criticism offered by the public.

Mr. President : Does the Honourable Leader of the House wish the Chair to give a ruling on the point raised by him ?

The Honourable Captain Sardar Sikandar Hyat Khan : Certainly I would like to be cleared on the point.

Mr. President : Paragraph 58 of the Business Manual leaves it to the discretion of the member to address the Council in Urdu, and so far as I can see, there is nothing in the rule to limit or restrict his discretion. So, I think, it is open to a member to address the Council in Urdu or English, as he may please. If I am right so far, there can be no legal objection to one part of a speech being in English and another part being in Urdu. But if a member chooses to speak one or two sentences in English and again one or two sentences in Urdu he should not expect his speech to be reported faithfully or fully.

The question is—

“ That the Criminal Procedure (Punjab Amendment) Bill as reported by the select committee be circulated for the purpose of obtaining opinion thereon.”

The motion was lost.

Mr. President : The question is—

“ That the Criminal Procedure (Punjab Amendment) Bill as reported by the select committee be taken into consideration.”

The motion was carried.

Mr. President : Now the Council will proceed to discuss the new clauses of which notices have been given by various members.

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhammadan) Rural] : Sir, I move—

“ That in clause 4, sub-clause (3) the following be added at the end :—

“ Provided that no allowance shall be given to any of the Commissioners appointed, for being placed on this special duty, so as to make his pay with this allowance higher than he was receiving before his appointment to this tribunal.”

Mr. President : I doubt if the new clause is in order. The honourable member desires the Council to legislate about the salaries and allowances of certain judicial officers to be appointed as members of the tribunal. Is the fixing of salaries and allowances within the jurisdiction of this Council ?

Lala Mukand Lal Puri : May I point out that the object of this amendment is not to fix the allowances or the remuneration of any official. The object of the amendment is to safeguard against Government giving any special allowances by reason of his acting under this Act. I think it is open to the House to lay down that no special allowance shall be given because a particular judicial officer has been deputed to perform certain duties under this Act.

The Honourable Sir Henry Craik : Sir, my points are two. The first one is the one you have yourself just mentioned that in certain circumstances it would be beyond the jurisdiction of this House to fix the allowance and salary of a sessions judge. Secondly, I take this point that the Bill as passed by the select committee nowhere touches in any fashion, however remote, on the question of the remuneration of the Special Commissioners, and the new clause which it is intended to introduce is therefore inconsistent with the principle of the Bill.

12 NOON.

Mr. President : The Bill clearly provides for the appointment of a certain number of Commissioners, so a provision regulating their salary is neither irrelevant nor inconsistent.

The Honourable Malik Firoz Khan Noon : On a point of order. May I find out from you that supposing these Commissioners are appointed under this Act, whether the provision for salary and allowances of these Commissioners will or will not come before the Standing Finance Committee and be subject to their discussion ?

Mr. President : It may or it may not according to the class of services to which they may individually belong.

Chaudhri Allah Dad Khan : May I know under what rule of the Constitutional Manual you prevent discussion on this point ?

Mr. President : May I invite the attention of the honourable member to section 96-B (2) of the Government of India Act which provides that salaries and allowances of services should be regulated by rules made by the Secretary of State and by the Governor-General.

Chaudhri Allah Dad Khan : The clause before us does not mention that the Secretary of State should make rules regarding the salary and allowance of these Commissioners. I, therefore, think that the Council can consider a motion which will be a recommendation to the Governor in regard to the salary and allowances of the Commissioners under this clause.

Mr. President : If the honourable member wishes the Council to make only a recommendation to local Government, he will have to move a resolution for that purpose. Legislation passed by this Council and assented to by Governor and Governor-General is not a recommendation but law. So, if the salary and allowances of Commissioners to be appointed are fixed by legislation that might interfere with the rule making power of the Secretary of State for India and the Governor-General under Section 96-B (2) of the Government of India Act.

Lala Mukand Lal Puri : May I point out that that section refers in the first instance to the remuneration to be paid to the Civil Service. This Act does not contemplate the employment of persons of the Indian Civil Service.

Mr. President : Services are classified in rules made under the Government of India Act. The measure under consideration provides for the appointment of Commissioners from among the sessions judges who are members of the All-India or of the Provincial Services. Therefore, if the Council inserts the new provision, it might interfere with the rules already made.

Lala Mukand Lal Puri : I submit not. Because all that the amendment says is that they will get the pay and allowances which are sanctioned to them under such rules framed by the Secretary of State in Council and no more.

Mr. President : On that view the proposed clause is superfluous and redundant. If the Council legislates that a sessions judge, who may be appointed a member of the tribunal, shall not get a higher allowance than he may be getting on the day of his appointment, while under the rules in force he is entitled to get an allowance on a future date, would it not be inconsistent with the rules ?

Chaudhri Allah Dad Khan : That is not touched by this clause or the amendment. The amendment only seeks to say that for the members of this special Commission no special allowance should be given. I think that that is within the cognisance of this Council.

Lala Mukand Lal Puri : If the amendment were to be recast to this effect that no such Commissioner shall receive anything higher than he would be entitled to under the rules framed by the Secretary of State, I think that should obviate all possible objections.

Mr. President : Would not the clause be unnecessary in that case, inasmuch as the Government cannot pay a higher allowance than is sanctioned by the rules in force ?

Mr. Labh Singh : It is not a very clear point. At best it is doubtful and I would ask you like a good judge to allow the Council to extend its jurisdiction. If it is considered *ultra vires* later on by any competent authority, it can be so declared.

Mr. President : In a case of doubt I will certainly not rule in favour of curtailment of the jurisdiction of the Council. But the matter appears to be clear. The Criminal Procedure Code makes no provision for the salaries of magistrates, session judges or Judges of the High Court.

Mr. Labh Singh : All that this amendment would provide is that this particular person who might be entrusted with the work shall not be paid anything more than what he would be entitled to if he were not so appointed.

Mr. President : Suppose two of the commissioners are recruited from among the members of the Bar, how will the proposed provision apply to them ?

Chaudhri Allah Dad Khan : If on this Commission sub-judges are appointed, they will be appointed by the local Government and not by the Secretary of State. Besides, such a tribunal does not exist. It will be constituted under this Act and the Secretary of State has made no rules for it. The allowances I think will be paid by the local Government.

Mr. President : May I ask the Honourable Member in charge of the Bill whether allowances are fixed by the local Government ?

The Honourable Sir Henry Craik : I am not in a position to say that at present.

Mr. President : How will the salaries and allowances be fixed and by what rules will they be regulated ?

The Honourable Captain Sardar Sikander Hyat Khan : There may be outsiders, lawyers, whose salary will have to be fixed according to their position in the bar.

Chaudhri Allah Dad Khan : I submit that those allowances will be fixed by the local Government as is always the case whenever a new job is put upon the shoulders of an officer who is already in service. And such allowances are fixed without consulting the Secretary of State. Any way it is intended only to safeguard the independence of the judges and does not seek to interfere with the powers of the local Government.

Mr. Labh Singh : In view of the fact that the Government have not made up their mind on this matter you may allow the debate to proceed on the amendment.

Lala Chetan Anand : I am aware that an allowance of Rs. 300 was given to Pandit Sri Kishen at the committal stage of the Lahore Conspiracy Case.

Mr. President : Will the Finance Member or the Financial Secretary please enlighten the House on that point ?

The Honourable Sir Henry Craik : I do not know exactly on what point the House desires enlightenment. I am asked to say on a hypothetical case put to me what allowances will be given to certain officers in the event of their being appointed as Special Commissioners.

Mr. President : By what rules will the salaries and allowances of the members of the tribunal be governed or regulated ? That is the point.

The Honourable Sir Henry Craik : It is within the competence of the local Government, I think, to fix any allowances except that certain limits are laid down for those payable in the case of members of the all-India service.

Mr. President : In that case the amending clause is not out of order.

The Honourable Sir Henry Craik : But it is perfectly within the discretion of Government under the Bill as it stands at present to appoint as Commissioner a member of the Indian Civil Service who is now acting as a sessions judge or even to appoint a member of the Indian Civil Service now acting as a Judge of the High Court. In that case the allowance would I think be regulated by the rules already in force.

Mr. President : But if an outsider is appointed ?

The Honourable Sir Henry Craik : You mean a lawyer ? Then it will be within the discretion of the local Government to fix the salary.

Lala Mukand Lal Puri : The object of this amendment is to obviate the possibility of members of the Indian Civil Service or of other services being allowed more allowances than they would be entitled to under the rules framed by the Secretary of State, for it is felt that every one who is getting a special pay or special allowance is not interested to see that the work finishes. This amendment—I do not know what the intention of the honourable member, Chaudhri Allah Dad Khan is—really serves to carry out the very object which the Government has in view, to expedite the trial. If you put everybody, the Judges, the Registrar, the police officers, the public prosecutors, prosecuting inspectors, the readers and the typists, and others connected with the tribunal on special rations, it is not in their interests to see that the business comes to an end. In my opinion, it is a very salutary provision, and the amendment should be permitted.

Mr. President : Will not their salaries and special allowances be placed before the Council in the budget session ?

Mr. Nanak Chand Pandit : If they could be placed before the Council then, they can be placed before the Council now.

Mr. President : May I know if the local Government can grant a special allowance without the sanction of the Secretary of State to a member of the tribunal who may be appointed with the sanction of the Secretary of State ?

The Honourable Sir Henry Craik : Yes, it can.

Sardar Jawahar Singh Dhillon : Sir, the object of the clause, as I understand it, is that supposing a lawyer is appointed, say on Rs. 1,500 a month as a judge and he is already drawing Rs. 800, then he should not be given Rs. 1,500 simply because he should get a special allowance.

The Honourable Dr. Gokul Chand Narang : I think the point of view from which this question should be looked at is a purely legal one. The question is whether it is within the scope of the Bill. So far as I am aware no Bill in this Council has ever been based on the question of the payment to the various officers who would function under that particular legislation. As I understand the position, the House has allowed the consideration of the Bill and it is now before the House so far as the consideration of its provisions is concerned and not the propriety or the impropriety of the Bill. I may be permitted to say this that so far as the Bill itself is concerned, it is intended to supplement the Criminal Procedure Code. This has in fact been said in so many words and therefore anything that could not fall within the purview of the Criminal Procedure Code could not be discussed in connection with this Bill, and my submission is that it would be entirely outside the scope of this Bill to lay down any limits to the payment of salaries or allowances to the various members of the tribunal that may be constituted under this Bill when it becomes law. Moreover, the clause as framed does not cover the case altogether, but this is a minor point and I do not lay much emphasis on it. Your ruling is really required on this question, whether it is within the scope of the Bill looking upon the Bill as a Bill to supplement the Criminal Procedure Code and from no other point of view.

Lala Mukand Lal Puri : Sir, the mere fact that a certain provision does not find its place in the Criminal Procedure Code is no reason for maintaining that that provision cannot be put in an enactment which professedly aims to supplement that Code. I am surprised that the Government benches should have resorted to an argument of that kind. We are definitely supplementing the provisions of the Criminal Procedure Code and there is no warrant for the proposition that in a supplementary legislation we should confine ourselves to what is given in an enactment which is proposed to be supplemented.

Rai Bahadur Lala Mohan Lal : Sir, I suggest to the House to have this amendment adopted. My reason for this suggestion is this. Judging from my experience of the Finance Committee as well as of this House I have found that the powers of Government in such matters are not limited. Government makes the appointments, fixes the tribunals, fixes their remuneration, fixes their allowances, and when the matter is put before the Finance Committee we are simply informed by the Government members that as all that has been already done the item of expenditure should be passed. The hands of the Council and the Finance Committee are tied if Government

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retain power in this matter also as they have been retaining before, because as I have said, my experience shows that Government make the appointments and then ask the Finance Committee and the Council to agree to the appointments.

The Honourable Sir Henry Craik : On a point of order. Since the question before the Council is whether this amendment is in order or not, I take it that the point raised by the honourable member is not in order. The honourable member is speaking on the merits of the case. I submit he is out of order.

Mr. President : The question is whether it is within the jurisdiction and competence of this Council to refuse the allowances or salaries of certain officers when the annual budget is passed. If the Council has that power, then I am inclined to hold that the proposed new clause is out of order.

The Honourable Sir Henry Craik : The Council could not take power to fix an allowance in the case of any member of an all-India Service. That would be quite beyond the jurisdiction of this Council.

Mr. President : Will it not be open to the Council to refuse to grant the salaries and allowances of the ministerial staff of the tribunal ?

The Honourable Sir Henry Craik : Yes, Sir.

Mr. President : How will then the work go on when there is no ministerial staff ?

The Honourable Sir Henry Craik : It would not be within the power of this Council to fix the pay of any Commissioner who happened to be a member of an all-India Service.

Mr. President : That is not denied. But cannot the Council refuse the salary of a Public Prosecutor ?

The Honourable Sir Henry Craik : The amendment does not mention Public Prosecutors.

Mr. President : What I mean to say is that, although the salaries and allowances of such members of the tribunal as may belong to all-India Services cannot be touched by the Council at the budget time, yet it may refuse to vote the salaries and allowances of such members of the tribunal as may belong to provincial services, or may be recruited from amongst the members of the Bar. Besides, the Council may also refuse the salaries of the Public Prosecutors and the ministerial staff attached to the tribunal, and thus render its work impossible. It is clear, therefore, that the Council has indirectly, if not directly, a voice in the matter under discussion.

Rao Bahadur Chaudhri Chhotu Ram : Sir, the simple question is whether there is any law or rule in existence which precludes the discussion or incorporation in a Bill of a clause like the one that has been put forward by my friend from Ambala. Government have failed to indicate the existence of any such law or rule. Unless there is something to bar the incorporation of the present clause, discussion of the amendment ought to be allowed to proceed.

Mr. President : I think this is a fiscal matter in a way.

Lala Mukand Lal Puri : The Honourable Minister for Local Self-Government said that the Criminal Procedure Code does not contemplate salaries. I beg to submit that the Criminal Procedure Code is for ordinary procedure and there is no need for any . . .

Mr. President : Order, order. If the honourable member redrafts the clause and words it properly, I will not object to its being moved for the consideration of the House.

Mr. Labh Singh : Sir, may I read out the new draft ?

Mr. President : Please send it to me. In the meantime we will take up the next clause.

Mr. Nanak Chand Pandit : May I know in what order you are taking up the amendments ?

Mr. President : New clauses are taken up before verbal amendments to clauses are considered.

Lala Mukand Lal Puri : Sir, I beg to move—

“ That the following new sub-clause (5) be added to clause 5 :—

“ Every accused shall be supplied with a list of prosecution witnesses along with a brief resumé of their evidence and the statements, if any, recorded under section 164 of the Criminal Procedure Code, a week before the commencement of the hearing before the tribunal; provided that nothing in this section will interfere with the discretion of the court to allow the prosecution to produce any witness not mentioned in the list.”

Sir, I consider that this amendment does not interfere with the principle of the Bill. It tries to go a great way to meet the possible objections that have been brought forward on the floor of this House against the Bill. I submit that the object of this clause is two-fold, first, to provide a substitute for omission of the commitment proceedings, and, secondly, to carry out the professed object of the Bill which is to reduce the duration of the trial. Now, the commitment proceedings, as has been repeated very often, serve a very useful purpose inasmuch as in offences punishable with death or in which more serious penalties can be inflicted, an accused before he is placed on his trial is told all that his accusers allege against him.

A charge is framed by a magistrate after recording the entire evidence and after the charge is framed the accused is committed to take his trial before the court of sessions. Now, ordinarily the period which elapses between the completion of proceedings in the court of the magistrate and the commencement of the trial before the sessions judge is six to eight weeks. Therefore during these six to eight weeks the accused can chalk out a line of defence and prepare his defence. The commitment proceedings are being done away with and we want a substitute for that, and I propose that before the commencement of the hearing, accused is given the names of the witnesses which the prosecution want to produce against him and also a brief resumé of their evidence. This, as the honourable member from Amritsar told the House, is usually done also in ordinary warrant cases. When a challan is put in the court a calendar of witnesses is put with the challan and a name of each witness is given in it and the purpose for which he is being produced is also given. For instance, against a particular witness it is noted down that he is being produced because he is a marginal witness as to discovery, another witness is being produced because he is an eye-witness. That gives some

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information to the accused so that if a respectable gentleman or another person is merely a witness as to discovery on other formal matter, an accused need not unnecessarily make enquiries with a view to discredit the testimony of that witness. All that I propose is this, that challan instead of being put in the court on the date when hearing commences should be put in court or be made available to the accused a week before the commencement of the hearing, and it should contain a brief resumé of the evidence of the witnesses and not merely give indication of the object with which they are produced. The second point which I want is that statements of the witnesses recorded under section 164 of the Code of Criminal Procedure which are usually recorded several days in advance and which are always with the prosecution and which the prosecution usually put with the challans or in any case which can be compulsorily brought on record as soon as the deposition of the witness has been recorded, should also be put in court or made available to the accused a week before the commencement of the hearing. I submit, Sir, that if an accused person really wants to defend himself, this clause would enable him to know a week before the hearing a resumé of all the evidence that is proposed to be led against him and he can set about in right earnest to prepare for his defence. I submit that we must put in some provision in the Bill as a substitute for omission of the commitment stage which though it may not be quite as useful and helpful to the accused as his having seen the witnesses himself or having heard their evidence sometime before the actual trial will still be some substitute for the privilege which is being denied to him under the new procedure. I submit that in doing so I am not placing the prosecution in any great disadvantage either. The calendar of witnesses with a brief indication of their evidence is put in in court even now in a warrant case; let it be placed in court or let it be made available to the accused a week before the commencement of the hearing. In the proviso which I have added to the clause, I have guarded against the possibility of the prosecution losing the right of producing any material witnesses simply by their omission to include that witness in the list of witnesses. You will find that from the proviso which runs as follows :—

“ Provided that nothing in this section will interfere with the discretion of the court to allow the prosecution to produce any witness not mentioned in the list.”

If, therefore, the object of this Bill is not to spring any surprise upon the accused or not to steal a march on the accused I do not see why the Government should not accept this suggestion which I submit I am placing not only in the interests of better trial but also in the interests of the very object which they have in view. I sincerely believe that if depositions under sections 164 are made available to the accused a week before the commencement of the trial, the length of the cross-examination after the charge is framed would be considerably reduced because the accused, if he has got the deposition of an approver under section 164 with him a week before the trial, would practically exhaust his cross-examination before the charge is framed, and it would be in very rare cases where he wants to make any special point that he would ask the court to re-summon the witnesses after the charge is framed. A point was made, I think, on the first day that the commitment proceedings are bad because the prosecution at the sessions stage are able to make up the deficiency which was discovered or the lacuna which was left out at the

commitment stage. I sincerely believe that any good counsel, if he has really made any point in cross-examination before the charge, would be very reluctant to re-summon that witness for cross-examination and would avoid any possibility of any defect being made up in that manner and, therefore, this amendment if accepted, or if the Honourable Finance Member provides this in the rules and this amendment is given effect to, will curtail the length of the trial. Therefore, while this will obviate to some slight extent the disadvantage under which the accused is being placed by being tried under the special procedure it will also achieve the object which the framers of this Bill have in view.

Mr. President : The following new clause be taken into consideration :—

- “(5) Every accused shall be supplied with a list of prosecution witnesses along with a brief resumé of their evidence and the statements, if any, recorded under section 164, Criminal Procedure Code, a week before the commencement of the hearing before the tribunal: Provided that nothing in this section will interfere with the discretion of the court to allow the prosecution to produce any witness not mentioned in the list.”

The Honourable Sir Henry Craik : I have no objection to its being taken into consideration.

Mr. President : Question is that the new sub-clause be taken into consideration.

The motion was carried.

Mr. S. L. Sale (Legal Remembrancer) : Sir, the main reasons which I wish to advance for opposing the new clause suggested by my honourable and learned friend is that it goes a very great deal further than what the Criminal Procedure Code and indeed all the principles of the common law, allow. I must ask the House to bear with me for a short time while I try and explain what I may call the principles of the ordinary common law and how they are amended by the Code of Criminal Procedure. The first point is that I use as my authority a ruling of the Madras High Court which I think, except for an allowance necessitated by an amendment of the Code of Criminal Procedure in 1923 in regard to section 162, is still good law. 30 Madras 466 says that an accused person under the ordinary law has no right either to copies of the statement of witnesses under section 162 or to the statement recorded by a magistrate during the preliminary investigation under section 164. That decision was arrived at after discussing some English authorities, and it is based on the principle contained in section 125 of the Indian Evidence Act which excludes from evidence the source of information as to the commission of offence, unless the witness is willing to disclose it. On the basis of that section in the Indian Evidence Act it was held by the Madras High Court—I quote here their words :

“ We know of no general principle of common law which would entitle an accused person to copies of documents of this kind.”

“ Documents of this kind ” mean in this case documents of the kind covered by section 162 and section 164 of the Code of Criminal Procedure, and the learned judges also went on to say—

“ We are not aware of any English authority in favour of allowing an accused person to inspect and take copies of such statements as these.”

[Mr. S. L. Sale.]

That was the state of law up to 1923. In 1923 the Criminal Procedure Code was amended so far as section 162 is concerned. It was not amended so far as section 164 is concerned. Under the amendment of the Code of Criminal Procedure in 1923, an accused has now a right under certain circumstances to obtain copies of statements made to the police by witnesses and recorded in writing. What is important to note is that the accused has a right to these documents, not a week before the trial, not a day before the trial, not any period of time before the trial, but only when the trial has actually started.

Mr. Labh Singh : Does it exclude commitment proceedings ?

Mr. Sale : Yes. The proposed sub-clause says that when any witness is called for the prosecution in such enquiry or trial the accused shall be supplied with a list of prosecution witnesses along with a resumé of their evidence and the statements recorded, if any, a week before the commencement of the hearing. In other words, this amendment or rather this new sub-clause which is now being discussed, would go a good deal further than the amendment of the Code of Criminal Procedure in 1923. I understand from the report of the select committee on the amendment to the Criminal Procedure Code in 1923 that there was some question of amending the Code then in regard to section 164 but that amendment was deliberately rejected.

That amendment was deliberately rejected with the result that now under the ordinary law as contained in the Criminal Procedure Code the accused has no right to the statements recorded by magistrates during the preliminary investigation under section 164. I think there is a very obvious reason why the select committee in 1923 did not amend section 164 as regards the supply of statements of witnesses recorded by magistrates under that section. Section 164 mainly concerns confession or admission made by an accused person to a magistrate and it is legally necessary that those confessions must be recorded in a particular way. Certain safeguards have to be followed by the magistrate recording them and in the absence of those safeguards, the courts may hold that those statements are inadmissible in evidence. Now to allow the accused a right to inspect those statements a week before the trial is started, may give the accused a right to certain documents which are in fact inadmissible in evidence and which the prosecution themselves may not use. Further, I think that by allowing the accused a right to look into such documents a week before the trial starts, you will be putting the prosecution in an unfair position. It has been suggested by some learned members of this House that the principle of Criminal Procedure Code is that the accused should know all the evidence against them at the earliest possible opportunity. I beg leave to differ from that point of view. The object of the law, as I understand it, is not to give the accused the earliest possible opportunity of knowing the evidence, but the earliest possible opportunity of knowing what the charges are against him. Unless the accused knows what the charges are against him he cannot possibly know the case which he is being called upon to defend. That, I believe, is the real reason why we have in section 254 of the Criminal Procedure Code a provision by which the magistrate can, even before the whole of the prosecution evidence is recorded, frame charges against the accused, if he is of opinion

that a *prima facie* case has been made out by the prosecution. Even though he may have recorded only the statements of three or four witnesses out of 50, he is entitled under the Criminal Procedure Code to frame charges; and the reason why that provision is there is not to handicap the accused in their defence but to enable the accused to know as early as possible the real nature of the charge which has been brought against him. That provision of section 254 is to a certain extent altered in an amendment in this Bill, which says that the prosecution shall not be entitled to lead further evidence after the charge has been framed. That in itself, as I shall show later on, goes a good deal beyond the ordinary Criminal Procedure Code. But the point that I want to make absolutely clear is that in opposing this amendment we should not be thought to be curtailing in any way the opportunities of the accused to defend himself according to law. That we do not wish to do. What we do wish to do is to follow the ordinary law and not to subject the prosecution to the handicap of allowing the defence counsel and the accused to know before the case comes into court what the nature of the evidence is against him. This procedure relates, as has already been pointed out, to certain special cases and not to all cases, to certain special cases of outrages by revolutionaries. If, before the case comes to court, the other side are going to know what evidence the prosecution are producing, what the nature of evidence against them is and so on and so forth, it will give an opportunity to the other side to terrorise the witnesses which it is the object of this Bill to prevent. (*Hear, hear*). It is for these reasons that I object to this amendment. I wish to make it very clear that the Crown does not wish to curtail the opportunities of the accused to whom it wishes that justice should be done. But doing justice also includes bringing to light the truth of the charges. If the evidence is sufficient, let the accused be convicted. If it is not sufficient let him be acquitted. But the point is that it is just as much a miscarriage of justice if a guilty man should escape, as that an innocent man should be convicted; and that principle is in no way contrary to the underlying principle of English law that it is more desirable that 99 guilty men should escape rather than one innocent man should be convicted. The point is that in this particular case we want the guilty man to be brought to justice. In order to do this we want both sides, the prosecution and the defence, to have equal rights under the law. For these reasons I oppose the amendment.

Mr. Nanak Chand Pandit [Hoshiarpur (non-Muhammadian), Rural]: Sir, I am rather surprised at the arguments which my learned friend, the Legal Remembrancer has brought with regard to this particular motion moved by my honourable friend Mr. Mukand Lal, Puri. His first objection is that the amendment of the clause in question goes beyond the object of the Criminal Procedure Code and the principle of Common Law. The second argument is that of the authority quoted by him, of the Madras High Court, that is, 30 Madras, page 466. Then, he, on general grounds, opposed the clause brought forward by my honourable friend for the consideration of this House. I entirely fail to understand how it goes beyond the object of the Criminal Procedure Code. The Criminal Procedure Code has definitely laid down a certain procedure with regard to offences which are now going to be tried by the Commissioners, namely, that there would be a commitment stage (*A voice*: No) in most of them at any rate; if there is a conspiracy,

[Mr. Nanak Chand Pandit.]

then, in all of them. I submit I am perfectly right when I say that in all cases of offences which are going to be tried by the Commissioners and which fall within the definition of conspiracy, each one of the offenders will be subject to a sentence of death if the crime is proved against any one of the accused and it is further proved that he was a conspirator with the other accused. Obviously the object of the commitment proceedings is to make the accused acquainted with the evidence that is going to be let in against him in the sessions court. How can it be argued by the learned Legal Remembrancer that it goes against the spirit of the Criminal Procedure Code, I fail to understand. On the one side the argument is, 'Do away with the commitment proceedings' and on the other side you invoke the Criminal Procedure Code for supporting the argument that the accused should not be given the right to know what the evidence against him is.

Then the Legal Remembrancer referred to Common Law. I do not know what the Common Law is to which my learned friend, the Legal Remembrancer, referred, but it is an elementary principle of criminal procedure all over the civilised world that you cannot haul up a person unless he knows what the evidence against him is. Therefore these preliminary trials are necessary before the case is actually tried by a court which has got the authority and jurisdiction to pass sentence of death. The further object of these commitment proceedings and other preliminary enquiries is to make the accused acquainted with all the evidence against him. So, I submit that it is not against the principles of Common Law or against the object of the Criminal Procedure Code. Why is it necessary to adopt this special procedure which my learned friend on my left has suggested? Because, in this procedure, in this special legislation you are going to defy the rules of evidence and therefore it is necessary to have this safeguard. Has the Honourable Legal Remembrancer forgotten what is stated in clause 10? It is stated—

"Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any magistrate, such statement may be admitted in evidence in any trial before Commissioners appointed under this Act."

Mr. S. L. Sale : We are going to discuss the amendment to clause 10 later on. I fear any reference to clause 10 at this stage will be raising new points to which we will have no right of reply.

Mr. Nanak Chand Pandit : We have the principle of the Bill accepted by the House and it is one of the principles of the Bill and the House has agreed that commitment proceedings should disappear. The spirit of the provisions has been accepted by the House. I am therefore entitled, I submit, to refer to this principle of the clause in order to support my argument. Here is a special procedure, you are going to enact; you are going to do away with the proceedings laid down by the Criminal Procedure Code, you are going to defy the Indian Evidence Act and therefore, if we say that this small amendment is necessary, I do not see why the learned Legal Remembrancer should be nervous about the matter.

Mr. S. L. Sale : I think I can show a little later, when we discuss clause 10, that it is not in defiance of the Indian Evidence Act.

Mr. Nanak Chand Pandit : The learned Legal Remembrancer is entitled to have his own opinion. I do not deny that. But I am also entitled to interpret the law as it stands or the report of the select committee as it has been placed in our hands. I submit that it is in defiance of the existing rules of evidence. The special mention of the words "Notwithstanding anything contained in the Evidence Act" means that you are going to do something which is not at present sanctioned by the Indian Evidence Act.

At this stage the Council adjourned for lunch till 2 P.M.

After lunch (2.P.M.)

Mr. Nanak Chand Pandit : I was submitting that the clause which has been proposed by my honourable friend, Mr. Mukand Lal Pari, goes neither against the object of the Criminal Procedure Code nor against the principle of the Common Law. During the interval I have been able to get a copy of Outlines of Criminal Law by Kenny. I will read a very brief passage from this book which will show what the object of the commitment proceedings in England is and why the motion under discussion does not conflict with that object. I read from the chapter headed "Ordinary Procedure." It begins with an enumeration of the various stages with regard to the trial of indictable offences. These are: Information, arrest, *commitment for trial*, prosecution, arraignment, plea and issue, trial and verdict, judgment, reversal of judgment, reprieve or pardon. There is a specific mention of commitment or trial. At page 450 of the edition of 1902 of the book we find:

"It will further be the duty of the justices to transmit to the court where the trial is to take place the depositions of the witnesses and the prisoner's statement; of which we have already spoken. The depositions are important for several purposes. They enable the opposite party to check the evidence given at the trial, and to cross-examine or contradict a witness whose evidence there varies from that which he gave at the commitment. They form a substitute for the witness in the event of his being, at the time of the trial, either dead or too ill to travel or to give evidence. They assist the draftsman who has to frame the indictment. They enable the judge to learn the difficulties of the case before he charges the grand jury. *And they inform the defendant as to the precise case which he has to meet.* To him this is obviously an advantage; and it is often an advantage to the public, for if the case thus disclosed be a strong one, the defendant is the more likely to plead guilty."

These are the various objects of the commitment proceedings and now that you are going to do away with that stage, it cannot be said that the clause under discussion is a negation of the principles of the Code of Criminal Procedure. Then, the learned Legal Remembrancer quoted 30 Mad. 466. Unfortunately that ruling goes against the Legal Remembrancer. For this is what it reads:

"An accused person under remand is not, *before the commencement of the preliminary enquiry*, entitled to be furnished with copies of statement made on oath by various persons and recorded by the magistrate under sections 162 and 164 of the Code of Criminal Procedure.

Note the words 'before the commencement of the preliminary enquiry.' You are going to do away with the preliminary enquiry. At page 467 we find:

"The question referred to us is whether an accused person under remand is, before the commencement of the preliminary enquiry against him, entitled to copies of statements of various persons recorded by the 2nd class magistrate under section 164 of the Criminal Procedure Code.

[Mr. Nank Chand Pandit.]

"The Code of Criminal Procedure does not give an accused person a right to inspect and have copies of statements recorded under section 162 before the beginning of the preliminary enquiry, but merely provides for giving the accused a copy of the charge, section 210, for giving any person affected by any judgment or order passed by a Criminal Court, a copy of the Judge's charge to the jury or of any order or deposition or other part of the record under section 548....."

The precise question before the judges was with regard to the obtaining of copies before the preliminary enquiry, not before a trial. It follows from this ruling that an accused person is entitled to have these copies after the commencement of the preliminary enquiry. This difficulty is remedied under the present Code of Criminal Procedure. Section 162 lays down :

"No statement made by any person to a police officer in the course of an investigation under this chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose.....at any enquiry, or trial in respect of any offence under investigation at the time when such statement was made :

"Provided that, when any witness is called for the prosecution in such enquiry or trial whose statement has been reduced into writing as aforesaid the court shall on the request of the accused refer to such writings and direct that the accused be furnished with a copy thereof....."

This is an enquiry and not a trial. The learned Legal Remembrancer thinks that we are now dealing with the enquiry stage. We are not. The Bill absolutely does away with the enquiry stage. The enquiry or investigation is before the committing magistrate. The proceedings before the Commissioners are not an enquiry but they are a trial. Even at the enquiry stage under the present Criminal Procedure Code the accused has the right to get the deposition made before the police officer. I may submit that some misapprehension is created in the minds of those who oppose this motion. The clause now proposed requires that every accused person shall be supplied with a list of prosecution witnesses along with a brief résumé, of their deposition. It is only with regard to the copies of statements which are recorded under section 164 of the Criminal Procedure Code, that the whole statement is required to be given to the accused. With regard to others only a brief outline or a brief statement of his evidence, what the witness is coming for, what his object is and so on is needed. You are not required to give copies of the statements made to the police. When under clause 10 of this Bill you are doing away with the provisions of the Indian Evidence Act, how necessary it becomes that the accused should have the right to get a copy of the statements which are going to be produced against him ! The spirit of the Common Law is in favour of the clause which is placed for the consideration of the House. The Criminal Procedure Code is definitely in favour of the accused knowing the whole case before he enters upon his trial—I do not say, upon the defence—before he is tried, before even the prosecution evidence is laid. Even at that stage he is entitled to know the whole case against him. The various authorities upon which the Legal Remembrancer relied entirely go against him.

Then there were certain general considerations on which the Legal Remembrancer asked the House to reject the clause. He said that it would place the accused in a better position than the prosecution witness.

Here again I may just briefly refer to what the practice is in England. I will read these lines from Kenny—

“To him (i.e., the accused) this is obviously an advantage; and it is often an advantage to the public, for if the case thus disclosed be a strong one, the defendant is the more likely to plead guilty.”

The accused in England is placed in a better position than the prosecution and it is but fit and proper. When you are making a man take his trial for the most serious offence known to the Indian Penal Code it is but essential that he should have every possible facility to know what the case against him is. This is the practice followed in England. This is the practice followed in India. And this I hope will be the practice which will always be followed wherever there is rule of law. The idea lurking in the mind of the Legal Remembrancer and my honourable friend, Mr. Din Muhammad, who spoke on the previous motion is this. The moment a person is accused, he is to be dubbed a revolutionary, it must be assumed that he is a person who is going to throw bombs or who has thrown bombs. In other words before he is actually tried he is considered to have been convicted.

Mr. S. L. Sale: On a personal explanation, I must repudiate all these suggestions which the honourable member Pandit Nanak Chand is putting in my mouth, of making a man guilty before he is tried. I agree that every man is innocent until he is proved guilty.

Mr. Nanak Chand Pandit: I am only repeating an argument made by my learned friend, the Legal Remembrancer. I am very glad that he has repudiated the suggestion. I am glad to find that that was not his intention. I would leave it there. There are certain members in the House who assume that the moment the police lays its hands on any individual, that individual is to be considered a revolutionary. Our every day experience shows that on various occasions people who are absolutely innocent are brought before court and after going through lengthy trials, the court comes to the conclusion that those individuals had nothing to do with the crime. In the recent Lahore Conspiracy Case before the charge was framed, some people were discharged. Certain others were acquitted. So the law assumes, and it is a very healthy principle, a very elementary principle, that a person must be regarded as innocent before he is actually proved to be guilty. It is no use saying to the House: ‘Oh! you are in favour of a revolutionary because you want these changes made in the Bill’. That is not at all the case. We must look upon this clause purely from the point of view of the accused person. No amount of saying that we are in sympathy with the revolutionaries, will make us change our angle of vision. Our angle of vision is simply this, that the accused must have a fair and honest trial. He must have an opportunity to know what the evidence against him is going to be. This is what the clause aims at. And when you are going, as I said already, to do away with the commitment proceedings and certain other sections of the Indian Evidence Act, it is but fair and just that this little concession to the accused should be granted. With these words, I support the motion.

Mr. Labh Singh [Rawalpindi Division and Lahore Division North (Non-Muhammadan), Rural]: I have just to offer a few remarks to controvert the position that has been taken by the learned Legal Remembrancer, and

[Mr. Labh Singh.]

to show that the authorities that he has quoted and the law that he has sought to place his reliance on do not really help him. The reasons for that are perfectly obvious. The entire atmosphere in which and the point of view from which this amendment and in fact all the propositions relating to this Bill are being discussed appear to me to be vitiated and misconceived. We have got to keep in mind the Statement of Objects and Reasons. That statement says that all that is being aimed at is expedition. And if that object is secured then the purpose of the Bill is served. Anything therefore that goes beyond that circumscribed and declared purpose of the Bill ought to be looked upon with suspicion, and very rightly. Most of the speakers in this House who have spoken against the Bill have declared it as their opinion that they have no objection to any provisions being brought in for discussion and incorporation in the Bill which would serve this declared purpose.

But anything that goes beyond it should be scanned very carefully. If the abridgement of the commitment stage saves time, I for one would be prepared to vote for the abridgement of the committal stage, but only on one condition, namely, that the other natural facilities which are open to the accused under the ordinary law are not taken away from him. But if you under the guise of merely saving time, force other disabilities upon the accused or take away from him the facilities which are now open to him, then I would very respectfully submit, we are doing something which is not ostensibly intended by those who are proposing this Bill and bringing it forward for the consideration of the House. Now, as my friend from Hoshiarpur has rightly pointed out the English criminal law, I would not complicate matters by calling it Common Law, because as a matter of fact, the term Common Law has a very strictly limited application to criminal procedure in England, provides that full notice of the evidence that has to be led against the accused should be given him and that he has full access to the statements which have been recorded against him at the preliminary enquiry stage. Now here you do away with the commitment. Why not furnish the accused with the copies of such statements or depositions of witnesses as have been taken? What does this clause say? It is probably a poor substitute for the doing away with commitment proceedings. It is to be regretted really that the learned Legal Remembrancer has not clearly stated which part of this clause he objects to and how much of it he is willing to accept. Had he stated so, then the discussion on this part of the clause to a large extent would have been simplified. Is he averse to supplying the accused with a resumé of the evidence for the prosecution or a list of names of the prosecution witnesses?

The Honourable Sir Henry Craik : He is entitled to that under the present law.

Mr. Labh Singh : Are you opposing this clause wholesale? You have not stated how much of it you are going to agree to and how much you are not going to give. I might remind you that even under the martial law trials the accused are furnished beforehand, before the trial commences with a resumé of the evidence which is to be led against the accused. This is considered necessary even under martial law procedure. The very learned

Legal Remembrancer has said that he would go to the length even of withholding the names of the witnesses and that it in no way prejudices the accused if the names of the witnesses are withheld from him. He assigns the obvious reason that the names of the witnesses for the defence are not disclosed beforehand by the accused and he wants to put the prosecution in this matter on the same footing as the defence. How far this line of reasoning is justified by the spirit or the letter of the law which we are seeking to amend is for the House to determine. We want that every accused shall be supplied with the names of prosecution witnesses. Is this being objected to? and also that he should be supplied with a brief resumé of the evidence and copies of the statements already recorded. I hope this also is not objected to because it is said that under the ordinary criminal procedure these would be furnished to the accused.

Mr. S. L. Sale : There is some misunderstanding. There is nothing in the Code of Criminal Procedure which allows an accused statements of the witnesses a week before the trial.

Mr. Labh Singh : Here in this Bill we are dealing with cases which if tried under the ordinary law would be preceded by what is called a preliminary enquiry or commitment stage, at any rate most of them would be so preceded and if this is so, then all these statements that have been made before the police under section 162 or those statements which have been recorded under section 164 would be made available to the accused at the enquiry, and between the enquiry and the actual trial ordinarily there lapses a period of two months and sometimes more. If this is so, then all the accused who would be brought under the purview of this Bill would have been, if they had been tried ordinarily and under the ordinary procedure, in possession of all these statements. So, my submission is this. By all means abridge the commitment stage, shorten the period during which the trial is to be held. All these things might be done, but all these things can be done consistently with granting to the accused all the facilities which are open to him under the present procedure, because *ex-hypothesi* expedition is your sole declared purpose. You are not, you say, for curtailing any facilities, you are not for taking away the rights and privileges which the accused enjoy at present. Give him all these facilities and privileges and save your time also, but under the guise of merely saving time, you should not endeavour to do things which would really impose serious disabilities on the defence and which would be construed as really attempts at giving a short shrift to the persons to be tried under this new fangled procedure.

The Honourable Sir Henry Craik (Finance Member) : I deny altogether that we are abridging any of the facilities to which the accused is entitled under the existing code except in so far as we are cutting out the commitment stage. We are not even cutting out the commitment stage in a very large proportion of cases, because a very large proportion of these offences can be and usually are tried by magistrates specially empowered. This amendment is objected to by me on two grounds. The first ground is that part of the amendment is unnecessary. It is proposed that every accused shall be supplied with a list of prosecution witnesses along with a brief resumé of their evidence. This is already provided for in the existing Code under section 173, sub-section (4). It is true that that sub-section directs that a copy of any report which is referred to in the challan shall on applica-

[Sir Henry Craik]

tion be furnished to the accused before the commencement of the enquiry or trial. Now this right we are not interfering with in any way. The amendment proposes that these statements shall be supplied to the accused 7 days before the commencement of the hearing before the tribunal. This is so far from abridging the facilities which the accused have that I contend that this amendment confers on the accused privileges which he does not enjoy under the existing code and for which I see no reason whatever. I do not say that the brief statement of the list of witnesses with a resumé of their evidence would in actual practice be any more helpful to the accused one week before the commencement of the trial than it would be if it were given to him at any time just before the commencement of the trial. The proposal is also objectionable in that it increases the chances of terrorising or intimidating witnesses. Now the second part of the amendment proposes that a summary of the statements, if any, recorded under section 164 of the Code shall also be given to the accused one week before the commencement of the hearing before the tribunal. Now I am not quite sure if the intention of the honourable mover is to include statements recorded under section 164 only or confessions.

Lala Mukand Lal Puri : All statements recorded under section 164 including confessions, because confessions of co-accused are evidence against the other accused.

The Honourable Sir Henry Craik : The honourable mover says that all these statements whether of a witness or a confession of the co-accused recorded by a magistrate under section 164 should be supplied to the accused a week before the commencement of the trial. To that, Sir, I take strong objection. No such facility is given under the existing Code in a trial under the warrant case procedure and I can see no reason for granting it under this Bill. In fact I see strong reasons against it. Under the existing code if any such statement is put in in evidence and is ruled by the court to be admissible in evidence and that comes on to the record the accused would necessarily have every facility for obtaining a copy of it before the charge is framed, and in actual practice I suppose in 99 cases out of 100 he does obtain a copy. What the amendment means is that every statement recorded by a magistrate, whether admissible in evidence or not, whether used by the prosecution or abandoned as evidence by the prosecution, should be given to the accused person. I am interpreting the words of the amendment exactly as it stands and that is the effect of the amendment. You say nothing about excluding statements that are inadmissible in evidence and ruled by the court to be inadmissible. You say that all statements are to be made available to the accused.

The effect of the amendment is exactly what I say. You cannot get out of it. I believe, Sir, that such a procedure would be inequitable and grossly unfair to the prosecution. Not only does it confer on the accused a facility which he does not possess under the existing Code, it puts the prosecution in a position of the very gravest disadvantage. On that ground I must oppose this amendment.

Rai Bahadur Lala Mohan Lal : Sir, may I know whether the Government is prepared to supply the statements to the accused person as required in this amendment? If so, at what period?

The Honourable Sir Henry Craik : The honourable member cannot have listened to my speech. He seems to have a curious lack of acquaintance with the existing Code. Under the existing Code the accused is entitled to the first set of statements before the commencement of the trial. The honourable member may refer to the section that I quoted—section 173 (4) in the existing law. Further than that I see no reason for going.

Mr. President : The honourable member is not in order in making a second speech.

Lala Mukand Lal Puri : Sir, I am glad to find that Government considers....

Mr. President : Does the honourable member wish to make a speech ?

Lala Mukand Lal Puri : I am replying to the debate.

Mr. President : Has the honourable member any right of reply ?

Lala Mukand Lal Puri : That is for you to decide. This is a fresh clause and not an amendment.

Mr. President : It is a fresh clause no doubt.

The Honourable Sir Henry Craik : Sir, I move—

“That the question be now put”.

Lala Mukand Lal Puri : Sir, it is conceded, I take it....

The Honourable Sir Henry Craik : Has the honourable member a right of reply ?

Mr. President : In our Standing Orders there is no express provision about new clauses.

The Honourable Sir Henry Craik : The honourable member has spoken already.

Mr. President : After the House agrees to take a new clause into consideration, honourable members can discuss the clause or move amendments to it. But at that stage the mover of the clause as such has no right of reply because after the decision of the House to take the clause into consideration, the clause is considered by the House by virtue of that decision and not by virtue of the motion of its original mover.

Lala Mukand Lal Puri (Punjab Industries) : Sir, it has been conceded that part of the amendment or part of the clause which I proposed for insertion in the Bill is unnecessary inasmuch as it is already provided in section 173 (4). If that is so, there should be no objection to the acceptance of this proposal. The only difference which I find is that my proposal says that this information should be supplied a week before the commencement of the hearing, while under the existing law, it is stated by the Honourable Finance Member, it is made available to the accused before the commencement of the hearing but not necessarily a week. The other day the Honourable Finance Member rightly pointed out that these cases require for their working out a highly organised and highly efficient staff which collects material and sorts out evidence. Therefore when the prosecution is in such capable hands and the whole prosecution is prepared beforehand by a special staff engaged for the purpose, no hardship or inconvenience is likely to be caused to the prosecution if instead of making the resumé of evidence and the names of witnesses available before the date of hearing,

[L. Mukand Lal Puri.]

they make it available a week before the day of hearing. This is no special privilege. In fact, all that is asked for in the interest of the accused is that instead of giving an accused two months after he has heard the evidence face to face and after he has cross-examined the witnesses, as at present, you should give him only one week instead of eight weeks. I submit, Sir, that this should have been permitted and the Government should have had no hesitation to accept this amendment. There is no meaning in the suggestion put forward from the Government benches that by disclosing the names of witnesses you are exposing them to unnecessary risk, because when under the existing law before the commencement of the hearing the names of the witnesses are disclosed, the first witness is examined on the first day and the turn of the remaining 599 witnesses will come three months afterwards, so that by enlarging the period by four days you are in no way increasing the risk, if risk there is, to which prosecution witnesses would be exposed by way of any possible conspiracy on the part of the friends of the accused. I submit no valid reason has been given why the concession—if concession it is—should not be given. I claim that this clause has been put forward with a view to curtail the period which would be spent in double cross-examination. The main objection to the Bill is not as the Honourable Finance Member sarcastically put it “the denial of the sacred right of the accused to hear evidence twice over,” but that Government does not give to its political opponents the right of trial by ordinary law and procedure and before ordinary tribunals. The Government is claiming to try political offenders by extraordinary tribunals, by extraordinary rules of evidence different from the ordinary law and by extraordinary procedure. I say, Sir, that you should take the sting out of the opposition to this Bill by conceding on these minor points. If you do not, you give grounds for the impression which exists in the minds of the people that this extraordinary procedure has been invoked and is being enacted to prevent a fair trial of persons who would be political offenders in these cases. No doubt, Sir, the Bill makes no distinction between persons who commit violent crime with a political motive and those who commit crime with another motive, but it is obvious that persons who would be tried before these tribunals would be those who commit violent and no doubt, detestable crimes in pursuance of political motives. When the Government claims the right to deny its political opponents a trial by ordinary tribunals by ordinary law and in the ordinary way it should do all it can to remove the suspicion which exists, that these tribunals will work unfavourably to the accused. What I submit is this, that the verdicts of these tribunals will be judged not only in this province, but will be criticised in other provinces and the sentences that would be passed by these tribunals would be not only considered in the whole of India but may form the subject of criticism outside the bounds of India, on the continent of Europe and America, and let not the impression be created that the British Government denies to its political opponents although accused of violence, although accused of improper methods, the right of trial by the ordinary law of the land. And, Sir, if a legislation is rendered necessary by the exigencies of the situation that a more expeditious trial is necessary, while securing that expeditious trial every effort should be made that the accused is not prejudiced. I submit.

that on looking at it from that point of view, it is not a question of what the accused is entitled to under the existing law. It is a question whether the Government cannot, while asking us to resort to these extraordinary means, be a little more liberal without taking any risk of letting any guilty man escape, by allowing him to have his say in as reasonable a manner and as efficient a manner as he can. Therefore I submit that the Government should have accepted the first proposal because, if I may say so, even if it were a concession to public opinion, it would be a concession which would redound to the credit of Government because it would remove the suspicion which unfortunately exists of executive influence upon or interference with judicial verdicts in the trial of political offenders. When I make this amendment I make it with the view that there should be a fuller public confidence in the decisions of these tribunals.

Now with respect to the second portion of the clause which I have proposed I have submitted already that this is a perfectly innocuous amendment and one which would serve a useful purpose of the Act. When a statement has been recorded under section 164 of a person who has to appear as witness, it is conceded that that statement can be made available to the accused as soon as the challan is put in. The Legal Remembrancer referred to a judgment of the Madras High Court reported in Indian Law Report, Volume 30 (Madras) where it was stated that it is not the right of the accused to claim copies of these depositions. All that is stated there is that he has not the right to claim them before the case is put in court. I may refer in this connection to a decision of the Lahore High Court which came up before the Honourable Mr. Justice Skemp on an application for transfer of a case. One of the allegations against the magistrate among other allegations, was that he had refused to supply a copy of the deposition made by a witness under section 164, Criminal Procedure Code, after the case had been put in court and before the witnesses had come into the witness box. The learned Judge of the Lahore High Court pointed out after considering 30 Madras that this should not have been refused and that it was improper on the part of the magistrate to do so. The Honourable Legal Remembrancer might possibly like to see if what I have said is borne out by the reference I have quoted. The case is reported in 117 Indian Cases 377. What I submit, therefore, is this, that if the Government admit that as soon as the case is put into court the accused can have those copies, what objection have they in supplying them a week before? It is in the interest of Government themselves to make a statement to this House and to the public outside that everyone who would be brought before these tribunals would have a fair chance to establish his innocence. Whatever may be said of the sacred right, as the Honourable Finance Member put it, which the accused claim of hearing prosecution witnesses twice over, still the advantages which the accused derives by the commitment stage are unmistakable. If you take away the rights which the accused enjoy under the present procedure, you should substitute something in its place which would enable the accused to meet their case fairly and squarely. It has been said that we do not propose in this legislation to take away any rights which the accused at present possess, and shelter is taken behind some 32 sections which are given in the schedule, but it is known to everybody that it is not for those sections that these tribunals are created. It is not because a police cons-

[L. Mukand Lal Puri.]

table has been assaulted that a person would be put up before the tribunal. It is only in cases where there has been killing and bomb throwing that this procedure would be brought in. Sir, I submit a very valuable right is being taken away, and if Government accepts this proposal it will be a bare act of justice and this will be some substitute, although a poor substitute, for what is being denied to the accused by this special legislation.

Mr. President : The question is—

“ That the following new sub-clause (5) be added to clause 5 of the Bill :—

‘ Every accused shall be supplied with a list of prosecution witnesses along with a brief *resumé* of their evidence and the statements, if any, recorded under Section 164, Criminal Procedure Code, a week before the commencement of the hearing before the tribunal: provided that nothing in this section will interfere with the discretion of the court to allow the prosecution to produce any witness not mentioned in the list.’ ”

The Council divided—Ayes 33 ; Noes 31.

AYES.

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| Rai Bahadur Lala Mohan Lal. | Chaudhri Nazir Husain. |
| Mr. Labh Singh. | Khan Bahadur Sardar Habibullah. |
| Rai Bahadur Lala Sewak Ram. | Khwaja Muhammad Eusooif. |
| Lala Mukand Lal Puri. | Mian Nurullah. |
| Mr. Nanak Chand Pandit. | Mr. Din Muhammad. |
| Lala Nihal Chand Aggarwal. | Rao Bahadur Chaudhri Chhotu Ram. |
| Thakur Pancham Chand. | Pir Akbar Ali. |
| Kanwar Mamraj Singh Chohan. | Shaikh Muhammad Sadiq. |
| Chaudhri Shah Muhammad. | Chaudhri Ram Sarup. |
| Mr. P. Mukerji. | Chaudhri Muhammad Abdul Rahman Khan. |
| Lala Jyoti Prasad. | Chaudhri Muhammad Yasin Khan. |
| Lala Chetan Anand. | Sardar Buta Singh. |
| Lala Ramji Das. | Honorary Lieutenant Sardar Raghbir Singh. |
| Chaudhri Nathwa Singh. | Sardar Bishan Singh. |
| Lala Bhagat Ram. | Sardar Jawahar Singh Dhillon. |
| Chaudhri Bansi Lal. | Guru Jaswant Singh. |
| Chaudhri Allah Dad Khan. | |

NOES.

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| Lieutenant-Colonel C. A. Gill. | Mr. C. M. G. Ogilvie. |
| Mr. H. Calvert. | Mr. D. J. Boyd. |
| Mr. C. A. H. Townsend. | Khan Bahadur Nawab Muzaffar Khan. |
| Mr. E. Maya Das. | Mr. S. L. Sale. |
| Dr. (Mrs.) M. C. Shave. | Mian Ahmad Yar Khan Daultana. |
| The Honourable Dr. Gokul Chand Narang. | Shaikh Faiz Muhammad. |
| The Honourable Malik Firoz Khan Noon. | Khan Bahadur Mian Muhammad Hayat Qureshi. |
| The Honourable Sardar Sir Jogendra Singh. | Maulvi Sir Rahim Bakhsh. |
| Mr. Alan Mitchell. | Khan Bahadur Malik Muhammad Amin Khan. |
| Sir George Anderson. | Maulvi Imam-ud-Din. |
| Mr. F. H. Puckle. | Khan Bahadur Chaudhri Fazl Ali. |
| Mr. W. S. Dorman. | Sardar Mohan Singh. |
| Mr. H. F. Ashton. | Sardar Gurbachan Singh. |
| Mr. J. W. Hearn. | Sardar Bahadur Sardar Sheo Narain Singh. |
| The Honourable Sir Henry Craik. | Second-Lieutenant Sardar Ram Singh. |
| The Honourable Captain Sardar Sikandar Hyat Khan. | |

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhamadan) Rural]: Sir, in sub-clause (2) of clause 6 it is laid down that—

“ If in any trial under this Act it is found that the accused person has committed any offence, whether such offence is or is not an offence specified in the schedule, the Commissioners may convict such person of such offence.”

The object of the amendment I propose to move is that if during the course of the trial it is found that the offence is not connected with any of the offences referred to in this Bill, then the accused should be awarded the ordinary punishment such as the magistrate competent to try the case can award. I shall illustrate my point by an example. Supposing a man assaults a police constable and supposing he is brought before a court under section 332 as laid down in the list of offences in this Bill, and then it is found that the man assaulted the constable in his private capacity on account of some personal or private consideration, then the offence is clearly triable under section 323 by a magistrate of the third class who can inflict a maximum sentence of one month's imprisonment. The object of my amendment is that the Commissioners also in that case shall inflict only that much sentence upon the accused and nothing more. This is a very harmless provision, and I suppose everybody will concede it. I beg to move that this proviso may be added at the end of the clause I have referred to.

Mr. President: The honourable member has not moved the new clause which stands in his name. I therefore now pass on to the next clause.

Mr. Labh Singh: If you will allow me one minute I shall move a new clause in the form of this proviso.

Mr. President : If the honourable member wishes to move any new clause, he may hand it over to me in writing, and if I consider it important and not frivolous, I will allow it to be moved in its own turn.

Rai Bahadur Lala Sewak Ram : May I move my amendment which is to the same effect ?

Mr. President : The honourable member's amendment will be taken up in its own turn. These clauses are now being considered in the order in which notices of them were handed to the Secretary.

Chaudhri Allah Dad Khan : Sir, I move—

“ That at the end of clause 8 the following proviso be added :—

‘ Provided that if an accused person makes an application under section 526, Criminal Procedure Code, for a transfer of his case from this tribunal, and his application is accepted by the High Court, the case shall be either transferred to an ordinary court in the locality in which the offence alleged occurred, or the local Government shall replace the Commissioner or Commissioners on whose account the High Court orders the case to be transferred by others or another qualified under sub-clause (3) of clause 4 of the Bill.’

Mr. President : I am inclined to rule this clause out of order for two reasons, (i) that the transfer of a case from the tribunal to an ordinary magistrate would frustrate one of the main objects of the Bill ; (ii) that under section 526, Criminal Procedure Code, the High Court can transfer to itself a case from the tribunal.

Mr. Nanak Chand Pandit : In order to have a case transferred to the file of the High Court it is essential that an application should be made. Supposing an application is made to the High Court, the High Court can transfer the case to its own file or the High Court is under this section given power to transfer the case to an ordinary court. I do not think that this clause in any way conflicts with the objects of the Bill. I would request you to make your meaning clear with regard to this matter, because I do not understand how by moving this clause the object of the Bill is defeated. Transfers of cases take place on certain grounds. Those grounds are to be found in law reports, and so on and so forth. Supposing in the case of the Commissioners these grounds exist, are we to take away the right of the person to apply for transfer which the Criminal Procedure Code allows him ? (*A voice :* No). The Criminal Procedure Code has got nothing to say about these special tribunals. Therefore there must be a special provision with regard to transfers which may become essential if the Commissioners do not behave in the manner they are required to behave. I submit that it is absolutely essential that a provision of this kind should be made, because under the Criminal Procedure Code, the High Court has got no authority to listen to applications of transfer of cases which relate to these tribunals. I, therefore, submit that this clause is perfectly in order.

The Honourable Sir Henry Craik : Sir, apart from the ground mentioned by you I submit that this clause is wholly *ultra vires* of this Council and is, therefore, out of order. The clause proposes to direct that when the High Court accepts an application for transfer it shall transfer it to an ordinary court. In other words, the clause purports to restrict the discretion which the Code confers on the High Court of trying the case itself or transferring

it to any court either within the locality or to any court outside it. Under section 106 of the Government of India Act, the several High Courts in India have such jurisdiction, original and appellate, as are vested in them by Letters Patent, not by any Act of any legislature in India whether central or local. And subject to the provisions of any such Letters Patent, the High Courts exercise such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of the Act. That is to say, a High Court could only exercise its jurisdiction under an Act such as the Code of Criminal Procedure subject to the Letters Patent. The Letters Patent establishing or vesting jurisdiction, powers or authority in a High Court may be amended from time to time by one authority and one authority alone, His Majesty the King Emperor. No legislative body in this country, subject to certain provisions, can amend the Letters Patent. The authority for this view is a decision of the Bombay High Court in *Hari versus Secretary of State*, 27 Bombay, a ruling which I understand has been followed by various other High Courts. I have not got the whole ruling but I have the relevant extracts. The Judges observe :

"But if this be so, the improvement Act (which was the Act then in question) cannot confer on us this jurisdiction."

These are the important words :

"Because the local legislature has no power to control or affect by their acts the jurisdiction or procedure of the High Court, as that power rests with the Imperial Parliament and with the Legislative Council of the Governor-General,—*vide* 24 and 25, *Vic. Ch. 104.*"

the reference being to the Indian High Courts Act, an Act of Parliament.

Mr. S. L. Sale : May I say that we have agreed with the Government of India to the effect that any legislation by the provincial legislature which either adds or detracts from the jurisdiction of the High Court is *ultra vires* and will not be assented to by the Government of India. May I also read section 97 of the Lahore Letters Patent. It lays down :

"We do further ordain and declare that all the provisions of these Letters Patent are subject to the legislative powers of the Governor-General in Legislative Council and also of the Governor-General in Council under Section 71 of the Government of India Act."

Mr. President : The clause of Letters Patent, read out by the honourable member, makes only the provisions of Letters Patent subject to the legislative powers of the central legislature. It has nothing to do with the Criminal Procedure Code or the Indian Evidence Act, with the amendment of which we are concerned at present.

Mr. S. L. Sale : The point before the House is the transfer of applications to the High Court. The powers of the High Court governing transfer applications are governed not only by the Criminal Procedure Code but also by the Letters Patent. Clause 22 says that the High Court has the authority to transfer any case from one court subordinate to it to any other court. This particular amendment says that the Lahore High Court has got to do a certain thing. In fact, it restricts the wide powers which are given to the High Court under the Letters Patent. The Lahore High Court, if this amendment were carried, would have to look at this particular section rather than at the Letters Patent, and it is for that reason that this amendment trenches on the jurisdiction of the High Court and is *ultra vires*.

Mr. President : While the Letters Patent empowers the High Court to transfer a criminal case from one subordinate court to another court of equal or superior jurisdiction, section 526, Criminal Procedure Code, empowers it to transfer a case even to itself. Thus section 526, Criminal Procedure Code, appears to confer upon the High Court greater powers than clause 22 of the Letters Patent. But the question is whether the tribunal to be appointed under the law we are considering will be subject to the superintendence and control or appellate jurisdiction of the High Court. The Bill does not appear to exclude the application of section 526, Criminal Procedure Code, with regard to cases pending before the tribunal. Therefore, the new clause moved by the honourable member for Ambala appears to be out of order.

Rai Bahadur Lala Sewak Ram : The debate may be allowed. The points may be made clear during the debate.

The Honourable Dr. Gokul Chand Narang : As it is a pure question of law, I would like to say just a few words. To my mind the position seems to be very simple. And that is, has the High Court under the present law the power vested in it under section 526 of the Criminal Procedure Code with reference to a case which would come before this tribunal, if this Bill is passed into law? If the answer to that is in the affirmative, no question arises. The amendment will go out automatically.

Mr. President : Is there any clause in the Bill which precludes the jurisdiction of the High Court?

The Honourable Dr. Gokul Chand Narang : No, there is none. The High Court has got the power. It has not been taken away and it continues. Therefore this amendment becomes unnecessary and would be ruled out on that ground. If the High Court has not got that power, then this Council cannot confer that power upon the High Court and on that ground as well the amendment would go out.

Mr. Labh Singh : This reminds me of the old historical dictum, either the books are in accordance with a certain doctrine or they are not.

Mr. President : The High Court possesses ample powers to transfer a case from one criminal court to another.

Mr. Labh Singh : I had my doubt regarding this matter. That is why I have tabled another amendment to which I may just refer at this moment only to show why I put in that amendment and how it suggests my doubts regarding this question of jurisdiction. That amendment is to the effect that the Commissioners appointed under the Act will exercise their powers subject to the ordinary powers of revision and superintendence of the High Court. You have been pleased to hear it asseverated with all the strength that the Government benches are capable of, that this Bill will be a nullity unless some competent legislature makes a provision for appeal to the High Court. That is what has been said over and over again. It is, however, doubtful if the powers of appeal would also carry with them the powers of revision and superintendence.

My submission is that the powers of transfers although they are not abrogated in so many words by the passing of this Bill, would be impliedly abrogated in very much the same way as all those provisions relating to

appeal stand abrogated. It is necessary, therefore, that a special clause should be there which would place this matter beyond doubt, and we shall not be losing anything if we err on the right side.

Mr. President : Which clause of the Bill repeals the Criminal Procedure Code or the Indian Evidence Act ?

Honourable Members : Clause 8.

Mr. Labh Singh : All those provisions which relate to the matter of appeal.

Mr. President : It has been expressly stated by the member in charge of the Bill that the law relating to appeals to the High Court will be introduced in the central legislature.

Mr. Labh Singh : It would be quite easy to say at once and it will set the whole matter at rest if it is said that powers of supervision as well as revision would be vested in the High Court in regard to this matter.

Mr. President : Is the honourable member in charge of the Bill prepared to state that section 526 of the Criminal Procedure Code is not touched by the legislation under consideration ?

The Honourable Sir Henry Craik : In my opinion the provisions of section 526 of the Code are saved by clause 8 of the Bill which says that provisions of the Code shall apply so far as they are not inconsistent with the provisions of this Act. There is nothing inconsistent in section 526. I would ask that we may have your ruling on this very important point, about which some honourable members feel some doubt that it does not lie within the competence of this legislature to pass any measure affecting in any way the jurisdiction or the powers of the High Court.

Mr. President : I shall gladly give my ruling, but as the question is a very important one, I would like to have the views of the lawyer members of the Council. A decision of the question appears to be necessary, as some honourable members have given notice of new clauses intended to confer appellate jurisdiction upon the High Court.

Mr. Nanak Chand Pandit : I submit that it is absolutely essential that this matter be discussed here. Section 526 definitely says.....

Mr. President : Will not that section be covered ?

Mr. Nanak Chand Pandit : No, I submit that it will not be covered and that is the point which I will make now. Section 526 definitely says :

“ It may order that any particular case or appeal or class of cases or appeals be transferred from a criminal court subordinate to its authority to any other such criminal court of equal or superior jurisdiction.”

Supposing the matter is brought before the High Court and the High Court holds that this case must be transferred, to which court is the High Court going to transfer this case ?

Mr. President : To itself.

Mr. Nanak Chand Pandit : Supposing the High Court says that we are not going to take such lengthy cases. Under section 526 and the clause which I have just read out to you ordinary cases can be transferred to courts of equal jurisdiction. But this clause or this Bill limits the jurisdiction of the High Court, because it would be only the High Court to which the case

[Mr. Nanak Chand Pandit.]

can be transferred. Now what the Bill wants is that the High Court should retain its powers which are given to it under section 526, namely, that not only shall the High Court be competent to transfer the cases to its own file but the High Court is given authority to transfer the case to some other court also and courts are defined in this clause which has been proposed by Chaudhri Allah Dad Khan. In one case you will see that the Criminal Law Amendment Bill which is before you limits the jurisdiction of the High Court and, therefore, it infringes upon the powers of the High Court which are granted to it under Letters Patent and also by the Code of Criminal Procedure. By accepting this clause you are retaining for the High Court this power which exists in section 526.

Mr. President : But at the same time the adoption of the proposed new clause would defeat one of the objects of the Bill. If a case pending before the tribunal is transferred by the High Court to an ordinary magistrate, the Bill will become nugatory.

Mr. Nanak Chand Pandit : The object of the Bill is not the appointment of three Commissioners. The object of the Bill is to avoid delay.

Mr. President : No. The object of the Bill is to have certain offences tried by a tribunal of three judges as speedily as possible.

Mr. Nanak Chand Pandit : Even then I submit that this power is essential, because if you curtail the right of the High Court by bringing in this procedure you have got also the right to consider whether the High Court will retain these powers or not. Now, Sir, what does this amendment say? The amendment definitely says, supposing it cannot transfer a case to an ordinary court, still the power is given to the High Court to have some other Commissioners in place of the late Commissioners. If the three Commissioners are retained, how under section 526 can the High Court transfer these cases to other three Commissioners?

Mr. President : If there is only one tribunal, the High Court will have to transfer a case to itself or refuse its transfer.

Mr. Nanak Chand Pandit : From the discussion of this point of order I can say this, that the High Court may transfer the case to its own file or appoint three other Commissioners of equal jurisdiction to try the case or it may direct the local Government to appoint three other Commissioners for the trial of the case. I submit that it is absolutely essential that these powers of transfer be retained. The power of transfer does not rest with the High Court on account of revisional jurisdiction, not at all, the power is given under a specific provision, namely, section 526.

Mr. President : And also clause 22 of the Letters Patent.

Mr. Nanak Chand Pandit : The question merely is this—are there courts in existence which have equal jurisdiction to which a case can be transferred? I submit there are none, and unless this Act confers this power to the High Court to have courts of concurrent jurisdiction or similar jurisdiction, we would be quite in order to say that the Bill as it stands restricts the right of the High Court and infringes upon the provisions which is not the intention of the framers of this law. I, therefore, submit that that would be an argument to consider a clause of this nature. Then my learned friend

the Honourable Minister for Local Self-Government stated, if this power exists where is the necessity of having it in the Bill? I say that if the power exists, make it more clear in the Bill and thereby remove all doubts about it. Thereby you will be doing nothing against the spirit of the Criminal Procedure Code. If it does not exist, there is reason enough why this power should be conferred. We are bringing the law into line or harmony with the provisions of the Criminal Procedure Code. For these reasons I submit that this clause should be considered, and the clause in its present form or in a modified form may be permitted to be discussed by the House.

Mr. S. L. Sale (Legal Remembrancer) : Sir, I would like to make a few observations which may help a decision on this very thorny point. The main point I think to be considered is whether the special court which this Bill is setting up is or is not a court subordinate to the High Court. I would draw attention to section 6 of the existing Code of Criminal Procedure which describes the classes of criminal courts that exist in this province and in other parts in India :—

- (1) Courts other than the High Court.
- (2) Presidency Magistrate.
- (3) Magistrates of the 1st Class.
- (4) Magistrates of the 2nd Class.
- (5) Magistrates of the 3rd Class.

Therefore the Criminal Procedure Code contemplates courts of six classes in existence, one being the High Court and the other five being those extra five that I have just mentioned. This Bill is constituting a special court, the court of the Commissioners, under this Act. That court does not exist in the eyes of the Criminal Procedure Code, and therefore in order to make that court subordinate to the High Court for the purpose of appeal or revision we should have to confer on the High Court an additional jurisdiction which the ordinary criminal procedure does not allow. Now, Sir, I will concede at once that as soon as the High Court is given powers of appeal in respect of these cases the special court of the Commissioners will at once become a court subordinate to the High Court and the High Court will have all the powers under section 526 which it has got in respect of other courts. But until the powers of appeal are given to the High Court these special courts which this Bill is setting up will not be courts subordinate to the High Court, and, therefore, section 526 at present does not apply. It is, however, the intention of the local Government that it shall apply in due course. It will be made applicable automatically by the grant of appellate powers to the High Court.

Mr. President : If the High Court has no power to transfer even to itself a case pending before the tribunal, then the legislation under consideration is clearly intended to curtail the jurisdiction of the High Court.

Mr. S. L. Sale : It is not a question of curtailing. The jurisdiction does not exist. The jurisdiction will exist later on as soon as the tribunal becomes, as it is intended that it should become, a court subordinate to the High Court. Then the necessity for this amendment will not arise at all.

Mr. President : Therefore, as desired by the member in charge of the Bill, we are to decide the question whether this Council is competent to pass any law curtailing or extending the jurisdiction of the High Court. In my opinion, the decision of that question depends upon the sanction of the Governor General given under section 80-A (3) of the Government of India Act.

Mr. S. L. Sale : That point is definitely answered by the ruling of the Bombay High Court.

Mr. President : I am not prepared to attach any weight to that ruling, as it is more than 20 years old, and was given at a time, when section 80-A of the Act now in force did not exist. The question is whether the Governor General has accorded sanction to this Council to amend the Criminal Procedure Code.

Mr. S. L. Sale : Sanction was given under section 80-A (3) of the Government of India Act. It was necessitated for this Bill because Criminal Law and Procedure is a central subject and cannot, under the devolution rules, be altered by a provincial council except with the previous assent of the Governor General. That is why this sanction was obtained and given in this case merely to enable this Council to legislate on a question of Criminal Procedure, but that sanction does not allow the local legislature to discuss or legislate on a subject which is not within the constitutional competence of the provincial council.

Mr. President : I am inclined to differ. I am not aware of any law which lays down that a local legislature cannot amend or alter the Criminal Procedure Code even if the Governor General gives his sanction under section 80-A (3) of the Government of India Act. There is no doubt that without such sanction a provincial council cannot amend or alter certain laws, but I am unable to agree that when such sanction is given by the Governor General even then a provincial legislative council cannot modify or repeal those laws.

Mr. S. L. Sale : The Criminal Procedure Code is one of the codes of law which are protected by, I think, the Local Legislatures (Previous Sanction) Rules.

Mr. President : Yes, but may I request the honourable member to read out the Governor General's sanction given in the present case ?

Mr. S. L. Sale : Sir, I have not the file with me, but I think it reads something like this : " I am directed to say that the Governor General has signified his previous assent under section 80-A (3) to the consideration of this measure."

Mr. President : If the sanction is so general, I think, the Council is not precluded from amending the Criminal Procedure Code.

Mr. S. L. Sale : I can give you an example of an Act in which that point arose, that is, the Sikh Gurdwaras Act, 1925.

Mr. President : I do not think the point now before the Council was discussed in that case.

Mr. S. L. Sale : I would like to remind you that in the course of the consideration of the Sikh Gurdwaras Act, in order to add to the jurisdiction of the High Court it was found necessary in 1925 to enact a supplementary

law in the central legislature, because the Punjab legislature could not either give a right of appeal to the High Court or provide for one of the Judges of the High Court to sit on the Gurdwara tribunal. It was in connection with that Bill that this point was definitely taken up and decided and we are in possession of authority from the Government of India that local legislatures cannot in any way affect the jurisdiction of the High Court.

Mr. President : Have the Government of India given any authority for that view, or have they simply expressed their opinion to that effect ?

Mr. S. L. Sale : The authority for it is section 106 of the Government of India Act.

Mr. President : That section does not appear to touch the point.

Mr. S. L. Sale : Secondly, the Letters Patent and, thirdly, the ruling of the Bombay High Court—40 Bombay—which I can confidently inform this House still holds as good law. I submit that it is settled law, that local legislatures cannot introduce or discuss legislation which affects.....

Mr. President : Even with the previous sanction of the Government of India ? That is the point.

The Honourable Sir Henry Craik : May I call your attention to section 106 ? Sub-section 1 (a) says :—

“The Letters Patent establishing or vesting jurisdiction, powers or authority in a high court may be amended from time to time by His Majesty by further Letters Patent.”

As I have said, no other authority can do that. The proposed amendment would be amending the Letters Patent. It is true that apart from the jurisdiction vested in the high courts by the Letters Patent they have also such jurisdiction, powers and authority as were vested in them at the commencement of this Act, that is to say when the Government of India Act came into force, but that jurisdiction is all subject to the Letters Patent. That is to say, it is only by an amendment of the Letters Patent that you can affect, restrict or extend the jurisdiction of the High Court.

Mr. President : It is not denied that the Letters Patent conferring powers or jurisdiction on a High Court can be amended under section 106 (2) of the Government of India Act by His Majesty by further Letters Patent, or under Clause 37 of the Letters Patent by the Indian legislature which under section 65 of the Government of India Act has power to make laws for all persons, courts, places and things within British India. But the question under discussion relates to the curtailment or extension of powers conferred by the Criminal Procedure Code upon a high court. There can be no two opinions that ordinarily it is the Indian legislature alone which can amend or repeal the laws passed by itself. But section 80-A (3) (h) of the Government of India Act clearly lays down that with the previous sanction of the Governor General a local legislature can make or take into consideration any law, altering or repealing the provisions of any law made before the commencement of the Government of India Act, 1919, by any authority in British India, unless the rules made under the Government of India Act declare that a local legislature cannot repeal or alter the law without previous sanction. The Criminal Procedure Code is a central subject, no doubt, but when the Governor General has been pleased to give sanction to this Council to take the

[Mr. President.]

Criminal Procedure (Punjab Amendment) Bill into consideration, I am inclined to think that this Council is not precluded from amending the Criminal Procedure Code provided that the amendments it makes are not inconsistent or do not frustrate the object of the law under consideration. Any authority to the contrary is welcome, but the mere argument that the Law Department of the Government of India holds a contrary view is neither convincing nor conclusive.

Mr. S. L. Sale : I may confidently say that when the Governor General gave his sanction to the introduction of this Bill he did not contemplate that this Council would alter it in any way so as to affect the jurisdiction of the High Court.

Mr. President : I am concerned with the intention as expressed in words and not with any latent intention.

Shaikh Muhammad Sadiq : I should like the sanction of the Governor General to be read out to the Council.

The Honourable Sir Henry Craik : The sanction is given to the introduction of the Bill.

Chaudhri Allah Dad Khan : Is there any qualification to the sanction ?

The Honourable Sir Henry Craik : No, but it is understood, because in a previous case, that of the Gurdwaras Bill, the Governor General had to introduce supplementary legislation in the central legislature affecting the jurisdiction of the High Court.

Mr. President : Even assuming that the point was then examined carefully, the opinion of the Law Department of the Government of India is not a judicial decision.

The Honourable Sir Henry Craik : When we asked the Government of India to obtain the previous sanction of the Governor General to the introduction of this Bill we made it perfectly clear in addressing the Government of India that in our opinion this Council had no power to pass a Bill providing the right of appeal to the High Court and that it would, therefore, be necessary at a later stage to undertake legislation for that purpose in the central legislature. The Government of India no doubt advised the Governor General to give his previous assent to this Bill on that clear and express understanding. If that understanding did not exist, I have not the slightest doubt that the Government of India would have advised the Governor General to refuse assent and the Governor General would ordinarily accept such advice and have refused his previous assent.

Mr. President : As sanction was obtained on that understanding, the whole aspect of the question is changed.

Lala Mukand Lal Puri : That makes the whole point clear.

Mr. President : As sanction was clearly obtained on that understanding, no further discussion on the point is necessary.

The Honourable Sir Henry Craik : In asking for the sanction we made it clear to the Government of India that it would be necessary for the Government of India to introduce a supplementary Bill and get it passed in the central legislature.

Chaudhri Allah Dad Khan : Will the Honourable Member please lay on the table the sanction of the Governor General ?

The Honourable Sir Henry Craik : I may read one extract from the letter in which this Government asked the Government of India to obtain the sanction of the Governor General. The extract is as follows :—

“ In order to supplement this provincial legislation, I am to ask that, as foreshadowed in the penultimate paragraph of the Statement of Objects and Reasons, the Government of India should undertake central legislation on the lines of the first three sections of the Bengal Criminal Law Amendment (Supplementary) Act, 1925, in order— (a) to give the right of appeal to the accused to the High Court, and (b) to make capital sentences subject to confirmation by the High Court. Since it will probably not be possible for the Government of India to introduce this legislation until some time after the session of the Punjab Legislative Council, I am to ask that the Punjab Government may be authorized to give an assurance in the Legislative Council that the Government of India will undertake this legislation.”

Then in reply to that we received a letter from the Government of India in the Legislative Department stating—

“ I am directed to convey the previous sanction of the Governor General under subsection (3) of Section 80-A of the Government of India Act to the Criminal Law (Punjab Amendment) Bill.”

Mr. President : The sanction is no doubt general but in view of the contents of the letter on which it was accorded, there can be no doubt that only two matters were excluded from the sanction. In all other respects the jurisdiction of the Council is left untouched.

Mr. Nanak Chand Pandit : Yes, but only in so far as appeals to the High Court and confirmation of capital sentences are concerned. Only these two points are beyond the competency of the local Legislative Council. All other matters are within the competency of this House.

Mr. Labh Singh : I rise to a very preliminary point of order. It is an important point. In view of the important nature of the points contained in the letters from the Government of India and the letter from the Punjab Government, I would respectfully submit that this correspondence should be laid on the table so that it may be accessible to all of us.

The Honourable Sir Henry Craik : I shall lay the extracts which I have read on the table.

Mr. Nanak Chand Pandit : After hearing what the Honourable Finance Member had to read, I am definitely of opinion that this Council is seized of this matter and so can change the law and can confer jurisdiction on the High Court with regard to this particular matter, namely transfer of cases.

Mr. President : Transference, reference, revision, superintendence and general control.

Mr. Nanak Chand Pandit : Quite so. There are only two point which we cannot touch, namely, the right of appeal to the High Court from the decisions of the Commissioners and the confirmation by the High Court of death sentences. Assuming that these two points are practically kept

[Mr. Nanak Chand Pandit.]

away from the competence of the local legislature, because the Legislative Assembly is going to make some provisions in regard to these points, all other matters, I submit, we can touch and we can discuss. The point is quite simple. Here is the sanction of the Governor General with regard to sentences of death. That sanction is given in very wide and general terms. Not only by passing this Bill are we going to take away from the powers of the High Court, but I submit that unless we make this provision we would be lending ourselves to an act of injustice which will result in injustice. Therefore my respectful submission to you and to the members of this Council is that we would not be doing our duty unless we allow the High Court to retain its full power.

Now, I would invite the Legal Remembrancer to kindly read section 6 upon which he relies. Section 6 says "Beside the High Court and the court constituted under any law under this Code for the time being in force." I submit that all courts come within the jurisdiction of the High Court, that is, all courts coming under the Criminal Procedure Code. Therefore even taking into consideration section 6 on which the Legal Remembrancer relies, we are entitled to give to the High Court that power which exists under section 526 in ordinary cases. Therefore, I hope that you will rule that we are entitled to debate this matter and give our final decision with regard to this clause and other similar clauses in the Bill.

The Council then adjourned till 2 p.m., on Wednesday, the 5th. November, 1930.

PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Wednesday, the 5th November 1930.

THE Council met at the Council Chamber at 2 P.M. of the clock. Mr. President in the Chair.

THE CRIMINAL PROCEDURE (PUNJAB AMENDMENT) BILL-- (CONTINUED).

Mr. President : I rule that the amending clause* moved by the honourable member for Ambala (Muhammadan) is out of order. The first part of the clause aims at empowering the High Court to transfer a case to a magistrate and would defeat the purpose of the Bill in at least in those cases in which the High Court may decide under section 526, Criminal Procedure Code, to transfer a case to a magistrate. The second part of the clause is not out of order, but it should be moved as an amendment to a clause and not as a new clause, and, as we all know, several honourable members have given notice of amendments to that effect.

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan) Urban] :
Sir, I beg to move—

“ That for clause 10 the following be substituted :—

‘ Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been legally recorded by any magistrate if such person is dead or cannot be found or is incapable of giving evidence and it is proved to the satisfaction of the Commissioners that such death, disappearance or incapacity has been caused in the interests of any accused, such statement may be admitted in evidence against such accused in any trial before the Commissioners appointed under this Act.’

Sir, it is only a very small change compared with the original clause. The word “legally” has been added. The words “Notwithstanding anything contained in the Indian Evidence Act,” in the original clause without the addition of the word “legally” may result in this. A statement recorded by a magistrate or scribbled down or even heard by word of mouth may be brought in against the accused. We wish that only statements legally recorded should be made use of. Then the word “such” towards the end of the amendment places a healthy restriction on the use of such statements. The question is whether the statement recorded should be used against all or any one person in whose interest that statement was recorded. I think it is only fair that Government should admit that if a person is dead or cannot be found or is incapable of giving evidence and it is proved to the satisfaction of the court that it was done in the interests of

*That at the end of clause 8 the following proviso be added :—

Provided that if an accused person makes an application under section 526, Criminal Procedure Code, for a transfer of his case from this tribunal, and his application is accepted by the High Court, the case shall be either transferred to an ordinary court in the locality in which the offence alleged occurred, or the local Government shall replace the Commissioner or Commissioners on whose account the High Court orders the case to be transferred by others or another qualified under sub-clause (3) of clause 4 of the Bill.

[Shaikh Muhammad Sadiq.]

any accused—it must be proved to the satisfaction of the tribunal—only that much of the statement should be admitted in evidence and only against that particular accused and not others. I concede there may be a clash of interest and all the accused may be involved. But it is only fair and just that those people who had no hand in the disappearance or where the disappearance is not to their interest, should not be involved. It is only when the Public Prosecutor proves to the satisfaction of the court that the disappearance of any person was for the benefit of a particular accused that the statement will be taken against such accused. I would really have liked to omit this clause altogether for it goes against all canons of law and justice. It is said of course that the object of the Bill is to expedite the trial. But this is not in the interests of mere expedition but, as it has been said time and again—perhaps it has become stale by frequent repetition—it goes to the root of the matter. If it should happen that a man disappears, and you have to prove that he has disappeared, a fresh investigation has to be started in the case. The ordinary course would be to allow the law of evidence to operate, the law which has been accepted in all countries that the accused should have the right to face the witnesses, see their demeanour and have the opportunity of saying whether the evidence against him was concocted at the instance of the police. Very often a man is arrested and is kept in police lock-up for three or four weeks. His will is broken and he is probably afraid of the police and when he is brought before the magistrate, he records his evidence in a different way from what he would have if free. In the police custody though he is legally free he is yet made to sit from day to day in the *thana*. In such cases it is not right that the accused should not have an opportunity of cross-examining such witnesses. With these words I move my amendment.

Mr. Nanak Chand Pandit : On a point of order, Sir. The clause suggested amounts practically to an amendment of the existing clause 10. You have already ruled that only new clauses are now being taken up. I do not know whether we would be in order in taking this clause now, for it is not a new clause but a mere amendment here and there of the existing clause.

Mr. President : It is not a mere amendment inasmuch as it necessitates a re-drafting of the whole clause and is, therefore, in the nature of a new clause.

The motion moved is—

“ That for clause 10 the following be substituted :—

“ Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been legally recorded by any magistrate if such person is dead or cannot be found or is incapable of giving evidence and it is proved to the satisfaction of the Commissioners that such death, disappearance or incapacity has been caused in the interests of any accused, such statement may be admitted in evidence against such accused in any trial before the Commissioners appointed under this Act.”

The Honourable Sir Henry Craik (Finance Member) : Sir I oppose the motion that this clause be taken into consideration. I do not consider that the clause is in any way an improvement on the clause as it emerged from the select committee. In fact I consider that it is from many points

of view a worse clause. Its only effect can be to give rise to a number of arguments in the court of the special commissioners and the court of appeal. To begin with I do not understand what the honourable member means by "legally recorded." If the statement is recorded by a magistrate, the presumption is that his action has been legal and if for one reason or another it has not been legal it is quite open to the defence to prove that. Secondly, Sir, the clause as now drafted requires that it should be proved to the satisfaction of the Commissioners that such death, disappearance or incapacity has been caused in the interests of any accused. I do not see, Sir, how it would be possible to prove that the death, disappearance or incapacity of the witness was in the interests of a single accused, or of two accused out of three, or of any smaller number out of a larger number of accused persons. Thirdly, Sir, the clause purports to rule that such a statement, once it has been recorded by a magistrate, may be admitted in evidence against only those accused in whose interests the death, disappearance or incapacity of the witness has been proved to be caused. There again it seems that it would be impossible to split up the statement into a number of statements, some of which might refer to some accused and some to others. That would destroy the general effect of the statement altogether and would make the statement a series of disconnected and possibly unintelligible sentences. The general rule which it is desired to introduce appears to me to be sufficiently and adequately stated in clause 10 as it emerged from the select committee. It embodies a principle which exists in other parts of India and has been shown to be extremely necessary, as cases have occurred of a witness being deliberately murdered in order that his evidence should not be available. There is a grave risk in my opinion that a similar crime might be committed in the Punjab. I do not consider that there would be any advantage in limiting the scope of the clause as proposed by the honourable mover. I see nothing but confusion and difficulty as likely to result from this new clause and I, therefore, oppose the motion that it should be taken into consideration.

Mr. President : The new clause reads—

"Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been legally recorded by any magistrate, if such person is dead or cannot be found or is incapable of giving evidence and it is proved to the satisfaction of the Commissioners that such death, disappearance or incapacity has been caused in the interest of any accused, such statement may be admitted in evidence against such accused in any trial before the Commissioners appointed under this Act."

The question is that this new clause be taken into consideration.

The motion was lost.

Sardar Jawahar Singh Dhillon [Lahore (Sikh) Rural]: Sir, I suggest that out of three Commissioners to be appointed for this tribunal, two should be from among the advocates practising in the High Court who have 5 years' or more practice to their credit, for the simple reason that a lawyer commissioner is likely to be more independent than one who has been in service from the very beginning. I, therefore, move that the following sub-clause be substituted for the existing sub-clause (3) of clause 4 :—

"All trials under this Act shall be held by three Commissioners of whom at least two shall be persons who at the time of appointment under this section, have been advocates of the High Court for a period of not less than five years, and the third is a person who has for at least three years served as or exercised the powers of sessions judge or additional sessions judge."

Mr. President : The new clause moved is—

“ That the following be substituted for sub-clause (3) of clause 4 :—

‘ All trials under this Act shall be held by three Commissioners of whom at least two shall be persons who at the time of appointment under this section have been advocates of the High Court for a period of not less than five years and the third is a person who has for at least three years served as or exercised the powers of sessions judge or additional sessions judge.’ ”

The Honourable Sir Henry Craik (Finance Member) : Sir, I oppose the consideration of this clause. The House has had a good many specimens already in the course of the discussions on this Bill of amateur attempts at drafting, some of them not very successful. I feel I cannot hold this to be a very successful specimen. The honourable member's object apparently is that the tribunal should consist of advocates of at least 5 years' standing, that is, that two of the three Commissioners should be such advocates. He appears to have overlooked that clause 4, as it stands, gives the local Government power to appoint, should it so desire, 3 advocates of at least 5 years' standing. Thus the effect of his amendment would be actually to limit the discretion of the local Government in regard to the appointment of advocates. Secondly, Sir, why advocates alone? Are not pleaders of the High Court to be eligible for membership of this tribunal if they are eligible for a seat on High Court bench? I do not understand why the honourable member should make this invidious distinction between advocates and pleaders. Thirdly, Sir, why advocates of 5 years' standing only? There are, I understand many of the leading vakils of the High Court who are advocates and who are in every way qualified under section 101 of the Government of India Act for appointment to the High Court bench but who were admitted to the status of advocates of the Court less than 5 years ago. Why should they be excluded? I think, Sir, I have said enough to show that this amendment is not one which has been very seriously considered and is not one which the House should agree to.

Mr. President : The question is that the proposed new clause be taken into consideration.

The motion was lost.

Mr. Nanak Chand Pandit [Hoshiarpur (Non-Muhammadan) Rural] : Sir, I rise to a point of order. My amendment, I submit, is really an amendment of words. It is not a new clause. Had I said that in place of the words “ in the trial of offences punishable with death ” the following be added.....

Mr. President : The power to decide whether an amendment is in the nature of a new clause or a mere amendment to a clause vests in the Chair and in the exercise of that power I have decided that the clause in question is a new clause to all intents and purposes. Therefore, I would request the honourable member to proceed to move the clause if he desires it to be taken into consideration. It was open to him indeed to so word his amendment as not to make it a new clause. But the clause as it stands is clearly a new clause and I would request him to proceed to move it if he wishes to do so.

Mr. Nanak Chand Pandit : I want to ask you one more question. Supposing this clause is lost, would I be within my rights to move that these words be substituted for the words which I read just now? We are put at a double disadvantage. First the votes are taken on the question whether the House will take into consideration the particular clause and then the discussion takes place. There is double voting on the question.

Mr. President : The honourable member is aware, I presume, that an amendment should not be inconsistent with the Bill as so far agreed to, or with a decision already taken on a previous amendment. This is all I can say at present in reply to the honourable member's hypothetical question.

Mr. Nanak Chand Pandit : I wish to move this clause.

Mr. President : It is open to the honourable member now to move it and be content with his amendment to a clause if he is very sure of his ground.

Mr. Nanak Chand Pandit : Will you permit me to change the wording and move it at the proper time?

Mr. President : Has the honourable member given notice of his amendment?

Mr. Nanak Chand Pandit : I can give it now. No harm would be done because the House has already had notice of the amendment and this will practically be the same thing stated in a different way. Then you would be able to permit me to move that amendment and I will give you in writing now. Can I do so?

Mr. President : The honourable member may act as he pleases.

Mr. Nanak Chand Pandit : I want an assurance.

Mr. President : The point will be decided when it arises.

Mr. Nanak Chand Pandit : Sir, you have already permitted several members to move amendments when they were given in writing, before they were actually moved and I would, therefore, request you to kindly permit me to do the same. I will move the amendment at the proper time, if you give me permission to do so.

Mr. President : The honourable member ought to know that if two clear days' notice of an amendment is not given it is open to any member of this House to object to the amendment being taken into consideration, and it is at that stage that the chair can in the exercise of its special power allow or disallow the objection.

Mr. Nanak Chand Pandit : In that case I will move the new clause now. I beg to move—

“ That in clause 5, the following be substituted for sub-clause (3) :

‘ That in all trials under this Act the prosecution shall not be entitled to lead further evidence after the charge has been framed. ’ ”

I would request the honourable members to read what is given in the existing clause 5 (3) :

“ In the trial of offences punishable with death the prosecution shall not be entitled to lead further evidence after the charge has been framed.

‘ Provided that, subject to the provisions of sub-section (4) nothing in this sub-section shall be deemed to affect the provisions of section 10 of this Act and of sections 256 and 540 of the Code. ’ ”

[Mr. Nanak Chand Pandit.]

This, I submit, is the crux of the whole Bill which is before the House, and I would very respectfully request the honourable members to concentrate their attention on this clause which I have submitted for their acceptance. At least I would request the Government Members not to oppose the consideration of this clause because it goes to the very root of the defence which the accused has to put in. What is it really which the Government has proposed or the select committee has proposed in this clause? The select committee had accepted the principle that in cases in which a sentence of death is involved, the prosecution will not delay the evidence after the charge is framed. They have accepted the principle but they are not prepared to extend this principle to other cases in which a sentence of death is not involved, and I submit that in serious cases of conspiracy where a large number of people are likely to be hauled up, it is essential that this healthy provision of law which is now sought to be restricted to cases which involve a sentence of death should be extended to other cases also. I submit that the spirit of the Criminal Procedure Code is also in favour of it. Ordinarily we find that the magistrates following the provisions of the Civil Procedure take down all the evidence before the charge is framed and the accused is then given the right of cross-examining these witnesses if he so chooses, and he has the right to re-examine them. But I understand that there was some sort of a circular issued by the High Court—I have not been able to lay my hand on it in spite of my best effort to do so—that magistrates are given the power to frame the charge even after taking partial evidence. Supposing there are a hundred witnesses in a criminal case. It is open to the magistrate to take the evidence of three or four witnesses and then frame a charge and put in the remaining ninety-six witnesses after the charge has been framed. I submit that that is putting the accused in a very awkward position when you practically take away from him the right of defence and the right of proper cross-examination. It is the elementary principle of law and I read out to you various extracts from the "Proceedings in Indictable Offences, in England" that the accused should have the right to know the whole of the evidence before the charge is framed, before he is actually accused and asked to enter upon defence. I do not know why the Government should not be prepared to extend the same right to the accused here or to curtail his right by making this distinction. Had this distinction not been made, perhaps the Commissioners would have followed the procedure of taking down all the evidence before the charge is framed, but now when you make this distinction in cases which involve the sentence of death, namely that the whole of the evidence is to be taken before the charge is framed and afterwards the prosecution shall have no right to lead evidence, when this distinction is allowed, the Commissioners can infer that they are entitled to charge an accused before the whole of the evidence is given, and I, therefore, submit that when the Government is moving a special legislation against which there is a great hue and cry and which is regarded as an unpopular measure, it is in the interests of Government itself that this provision should be made, so that it may be known to everybody that the accused will not be hampered in any way, that his rights will not be restricted and that he has got full facilities to enter upon a full defence and to cross-examine the

witnesses in a full manner. I would, therefore, request the House to consider the importance of this clause and to discuss it in a calm manner and permit this clause to be taken into consideration and to throw light upon it from all points of view. With these words I move that this clause be taken into consideration and accepted by the House.

Mr. President : The new sub-clause moved—

“ That in clause 5, the following be substituted for sub-clause (3) :

‘ In all trials under this Act the prosecution shall not be entitled to lead further evidence after the charge has been framed .’ ”

The question is that the sub-clause be taken into consideration.

Mr. Labh Singh : Sir, there are several members who do not know what the matter is on which their votes are going to be taken. I would request that the matter under vote may be translated for the benefit of the members who do not understand English.

Mr. President : If the honourable member wishes anything to be explained in Urdu, will he please in future ask the Chair in time ?

Pir Akbar Ali (*getting up, while the division bell was ringing*) : Sir, I rise to a point of order.

Mr. President : Order, order. When a division is going on, a point of order may be raised by a member sitting.

The motion was carried.

The Honourable Sir Henry Craik : Sir, I oppose the insertion of this sub-clause in the Bill. In the first place, the sub-clause as drafted is defective. It proposes that certain words should be substituted for the existing sub-clause (3). I understand that that is not the real object of the mover. He desires the proviso to sub-clause (3) to stand. But his amendment as drafted will cause the omission of the proviso to the sub-clause. That is not probably his intention, but that will be the effect.

Apart from that formal, but vital, objection to the amendment, I oppose this amendment on its merits as being opposed to the finding, a very careful and long-discussed finding, of the select committee in which this particular point was discussed at great length and in which the majority of the select committee decided in favour of the sub-clause as printed in the Bill as reported by the select committee. (*A voice : It was five against five*). No, it was seven against three. The principle underlying this Bill is that the trial of these particularly heinous offences should be expedited by the omission of the commitment stage. But it is altogether opposed to the principle of this Bill that the accused persons merely because they are accused of a particularly heinous and detestable form of crime, should be given special facilities which they do not enjoy under the present Code. Under the Code, as it stands at present, any person charged with an offence not punishable with death can be tried under the warrant case procedure by a magistrate specially empowered ; and I suppose 80 per cent., probably 90 per cent., of the cases not punishable with death are so tried. As regards that procedure the Code is perfectly clear. It is not obligatory, as my learned friend stated, under the Code that the magistrate should record all the evidence before framing a

[Sir Henry Craik.]

charge. Section 254, as I have observed already in the course of the discussion on this Bill, gives the magistrate discretion to frame the charge at any previous stage of the case. Therefore, in eighty cases out of a hundred of serious offences not punishable with death, the accused will be treated under this Bill exactly as he is treated under the Code of Criminal Procedure. Nothing will be taken away from him; no right whatever will be taken away from him. The honourable member has misled the House when he suggested that there is a question of curtailing the rights of the accused. There is no such proposal. The rights of the accused person remain exactly as before. It was on this account that the select committee decided that it was both logical and just that the special rule prohibiting the prosecution from leading evidence after the charge is framed should be confined to the trial of offences punishable with death. And I hope the House will endorse the very carefully considered finding of the select committee on that point. This sub-clause, the House will observe, did not appear in the original Bill as introduced. In the original Bill there is no such limitation to the power of the prosecution to produce evidence at any stage. This sub-clause (3) was inserted in the select committee not on the proposal of any Government Member, but on the proposal of a non-official member who is a lawyer. He appreciated the very important point to which I have just drawn the attention of the House, that by confining the special rule to the case of offences punishable with death you secure to every accused the facilities which he enjoys under the procedure laid down for the trial of warrant cases under the present Code. I therefore hope that the House will have no hesitation in rejecting this suggested sub-clause.

Mr. Labh Singh [Rawalpindi Division and Lahore Division North (Non-Muhamandan) Rural]: I submit that the opposition offered to this clause is neither logical nor just, as the Honourable Member in charge of the Bill has claimed that it is. He has taken two objections, one a formal one, and the other, as he suggests, on the merits. As regards the first objection which is of a formal nature, I would submit that it does not appeal to me. The proviso may be allowed to stand or it can be slightly modified; and in any event it does not present a very insuperable difficulty. It is a mere matter of redrafting of the proviso when the occasion for redrafting comes, and even if it is allowed to stand now as it is, it can be corrected at a later stage.

As regards the merits, I would like to point out with your permission in the first place that I take very strong exception to the curious doctrine which the learned Member in charge of the Bill has been pleased to enunciate. He has in so many words told us that the mere fact that the offence is a detestable one, is a good enough reason why we should not give additional facility to the accused. I should have thought that the requirements of jurisprudence were just the other way about, namely, the more detestable the offence, the more heinous the crime, the greater are to be the facilities that should be afforded to the accused to prove his innocence. The advocates of the Bill are guilty of what may be called transfer of malice (*Laughter*). You cannot convict a man on mere suspicion. The graver the

offence, the larger and more extended should be the opportunity which should be allowed to the accused. So, it is very difficult really to either subscribe to the doctrine as enunciated or to its more obvious implication.

Another difficulty that has arisen in consideration of this particular clause is this, that what appears to me to be wrong information has been supplied to the House with respect to the procedure adopted by the magistrates who are invested with section 80 powers under the Criminal Procedure Code. There is no doubt that in the procedure provided for the trial of warrant cases, it is open to a magistrate to frame a charge as soon as he thinks that a *prima facie* case has been made out against the accused. But magistrates who exercise enhanced powers under section 80 of the Code and who therefore try cases which are even sometimes tried by the court of sessions, those magistrates very seldom, if ever, resort to this procedure, namely, of framing charge against the accused before all the evidence has been recorded (*Interruption*) if they ever do so at all. In my experience, at any rate, this thing has seldom happened. I must have appeared at least before two dozen Additional Magistrates if not more and I do not easily recall a single case in which charges were framed before practically the whole of the material evidence was recorded. I may recall a case or two in which formal evidence might have been recorded after the charge was framed, but as a rule, I am prepared to assert it again without any fear of serious contradiction on the basis of knowledge that this is the case in practice. (*Interruption*). I think I am making an assertion which is capable of being verified. The honourable member in charge of the Punjab Publicity Department can search the records of the criminal courts at Gujranwala for the last fifteen years and I may tell him that he will not find even half a dozen cases in which charges were framed before the entire material evidence was brought on record. This House and the honourable member cannot therefore question my statement. This is a positive statement of fact which is susceptible of being proved or disproved. I think the honourable the Home

3 P.M.

Secretary might have been in a position to contradict me when I was speaking with respect to the state of things in the Gujranwala district had he exercised powers under section 80 when he was there. I think he was not exercising those powers when he was posted there, unless it be for a very brief interval. I do not think that he could contradict it as a question of fact unless he has verified it. And I believe on very competent authority that this is the case elsewhere as well. (*Honourable members*: No.) If that is so, then we have got to see whether it is only in cases in which death penalty can be inflicted that this special facility should be accorded to the accused. The real principle, the real touchstone, ought to be this, that in ordinary cases in which punishment of a few months or even a few years may be awarded, in those cases this facility may be denied to the accused, but in all serious cases, for instance those punishable with transportation for life or with penal servitude for ten years or more, in all those cases which are of a serious type, it is but reasonable, just and logical that this facility should not be withheld from the accused. Of course it is true, as I have already submitted that the Code of Criminal Procedure does not make it obligatory that the entire evidence should be recorded, but as a matter of practice this is so done and certainly in all serious cases. I would

[Mr. Labh Singh.]

submit also that this is also the practice in England in all indictable cases, in all serious cases, to use the equivalent language prevalent here, that this double hearing is allowed. The accused is given a chance to know almost the whole of the case that is against him. I would submit there is also another reason why we should see to it that the draft as presented by the select committee should be altered in the way in which the mover of this clause has suggested, and that is this. The clause as it stands reads : ' In the trial of offences punishable with death.' This goes even beyond what is contained in the Criminal Procedure Code in the matter of the trial of warrant cases. My reason is this. These special tribunals as our experience shows are apt to behave in a very special manner. As a matter of fact they are special tribunals not because their jurisdiction is special, not because they have got to try any special class of cases or to give special forms of punishment, but because they behave in a special manner. They are historically known to have behaved always in a particular manner. They have always tended to behave as if they were behaving to order. And when we provide in this clause that it is only in the case of offences punishable with death that they are not to allow any further evidence to be led after the charge is framed, we are leaving a very wide door open to them. They would, my submission is, rather see to it that in all cases in which the offences are not punishable with death record the evidence of a few witnesses only and proceed to frame the charge. This would result in the utter denial of justice in many cases while apparently it is not the object of this Bill that it should be so.

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhammadan), Rural] : Sir, as has been submitted, it is laid down in the Criminal Procedure Code that a charge can be framed after taking the evidence of some witnesses which would give the magistrate the idea of a *prima facie* case against the accused. In practice this is very rarely done.

Mr. President : May I point out that a repetition of arguments advanced by an honourable member himself or others is not permissible.

Mr. Nanak Chand, Pandit : But, Sir, an argument can be repeated in conjunction with other new arguments. You may be aware, Sir, it was definitely ruled by your predecessor, Mr. Casson, that an honourable member is entitled to repeat an argument provided he is going to link up some other argument with that argument which he is repeating.

Chaudhri Allah Dad Khan : I am going indeed to link up other arguments of mine. I have just begun and if you rule that I should not repeat even a single sentence already advanced before the House, it would be rather hard.

Mr. President : The honourable member opened his speech by repeating the arguments of another honourable member.

Chaudhri Allah Dad Khan : But that was by way of introduction.

Mr. President : Arguments ought not to be repeated on the plea that they are only introductory and if the honourable member persists in repetition, I may have to request him to resume his seat.

Chaudhri Allah Dad Khan : I shall proceed with a new argument. If you look at the list of offences in this Bill it will be found that all of them

are triable, if committed as a result of any conspiracy, by the court of sessions and in the court of sessions before the commitment is ordered almost the whole of the prosecution evidence is taken down. So, it is possible in the case of an accused arraigned before the tribunal under this Act to allege the existence of a conspiracy. That will generally be the case and the very spirit of the Act is to crush the very idea of conspiracy. It is said that if an offence is committed by a member of, or instigated by a member of, an unlawful association, the offence will be cognisable under the new Act. It is indisputable that the existence of a conspiracy would be alleged in most of the offences. In that way there is no harm if this provision were made in the Act, that the whole of the prosecution evidence should be taken down before the charge is framed. When we are doing away with commitment proceedings it is just and proper that we should give in the trial something that would make up for it. In that way the clause is a sound one and it should be supported by the whole House. Besides, as this is already done in practice, it will not be a departure from the existing law. We will only be providing for those exceptional cases in which the magistrate can dispense with some of the prosecution witnesses at the outset and in this way when the whole evidence has been taken down the accused will have the advantage of cross-examining them twice just as he would have had if there were a trial by the sessions court. As we are taking away the proceedings before the sessions court this is a very necessary provision to be made here. With your permission, Sir, I shall sum up my arguments in vernacular.

Mr. President : The honourable member need not translate his speech. If any honourable member desires any speech to be rendered into Urdu, the Secretary will do the needful.

Chaudhri Bansi Lal (Punjabi) : Sir, it would enable us to participate in the discussion, if the speech of the honourable member is translated in vernacular.

The Honourable Captain Sardar Sikandar Hyat Khan : I think it is only fair that notice should be given that certain speeches should be translated.

Mr. Labh Singh : The very presence of illiterate members in the House is to be treated as not only sufficient but a standing and crying notice unless you, Sir, in your discretion rule that they shall not be taken into the confidence of the House.

Mr. President : But the fact that even illiterate members did not before to-day wish any speech to be translated for their benefit, is sufficient to show that the theory of presumptive notice has little force. I allow the honourable member for Ambala to summarise his speech in Urdu, if he wishes to do so.

Chaudhri Allah Dad Khan was translating his own speech in Urdu when the Honourable Captain Sardar Sikandar Hyat Khan made some remarks to which the member in possession of the House took objection.)

Mr. Nanak Chand, Pandit : Sir, would you be pleased to call the Leader of the House to order? He has more than once interrupted the honourable member and it is really disgraceful that an honourable member should be interrupted like this.

The Honourable Captain Sardar Sikandar Hyat Khan : Sir, every member has a right to question a statement, I do not think it is right for the honourable member to use the expression 'disgraceful.'

Mr. Nanak Chand, Pandit : It does not befit the dignity of the House that the Leader of the House should be interrupting members when they are in possession of the House.

Mr. President : The expression used by the honourable member is unparliamentary.

Mr. Nanak Chand, Pandit : Sir, I withdraw that expression.

Chaudhri Allah Dad Khan : Sir, I now rise to a point of order. Will you kindly order that no member should interrupt another member when he is in possession of the House and any member interrupting shall rise in his place and rise to a point of order? By such actions, only interruption is caused and nothing else, because the member who is really speaking is not listened to.

Shaikh Muhammad Sadiq (Amritsar City, Muhammadan, Urban) (Urdu) : Sir, I am at a loss to understand the reason for which our benign Government has all of a sudden, taken into its head to amend a law which has stood the test of 80 long years and which has, during this long interval, never been found to be defective, incomplete or even ambiguous. There have been conspiracies elsewhere, in Bengal and in other provinces, but such drastic measures have never been passed before. Then, why is it that the Punjab is now receiving special attention in this respect and why it is that the people, or I should say the accused, are being deprived of a right which they have enjoyed for the last 80 years? To me there seems to be no earthly reason why such a step should have been taken and for all the arguments that have been advanced in favour of the Bill, Government, does not seem justified in taking away this recognised right of the accused. But it appears that no power on earth can stop our Government from doing a thing that it has determined to do. We thought, and very naturally too, that in the present Council which has come into existence pending the result of the Simon report no such controversial measures would be introduced. But it seems we were mistaken. I would request the honourable members to just picture before their mind's eye the condition of the accused charged with a serious offence. He becomes so much over-awed by the very thought of punishment that may be awarded to him that his face appears to be wet with perspiration and his hands and feet tremble with fear in the court. Even the witnesses in such cases do not escape the contagion. But what do my honourable friends who are occupying the Government benches care for the accused? They cannot realise the feelings of the accused in such cases at least so far as they are in India and enjoy the privileged position of being, so to say, placed above the law. And if they cannot realise the feelings of the accused, let them take it from me that all are not Bhagat Singhs who would cheerfully accept any sentences of punishment that may be awarded to them or who would not care to fight cases filed against them. I know that the conspiracy case in which Bhagat Singh and others were involved was unnecessarily prolonged but such cases are very rare. Bhagat Singh and his co-accused have reaped the fruit of their conduct in that case. Barring these few exceptions, in all cases the accused take every opportunity and

fully avail themselves of their right to defend the cases that may have been filed against them. No accused has ever and will ever waste a minute that can be saved. They have to engage lawyers to conduct the cases on their behalf and have to pay heavy fees every time these lawyers have to attend the Court'. It is, therefore, always their sincerest desire that the cases against them should be finished as soon as possible. Therefore for God's sake do take pity on these unfortunate people. Please do not take steps in a hurry which might result in the loss of many innocent and precious lives. We are not asking for a new privilege or right that the accused have never enjoyed before. If the commitment stage is to be done away with, it is necessary that the proposed new clause should be inserted in the Bill. In these days when the police have been invested with very vast powers and when it is very easy for them to persuade the district magistrates to commit any person to the tribunals, it is all the more necessary that such safeguards should be adopted so that the accused may have full opportunity to prepare for his defence. Unless of course it is intended to spring a surprise or to steal a march on the accused or to trick him into his being easily convicted, it is essential that he should know beforehand who are the persons who are going to appear as witnesses against him; whether they are black men or white men and whether they are honest or dishonest and whether they are dead or alive or whether they are men or animals. Supposing I appear in a case as prosecution witness and I say that I am a barrister and an M.L.C. The accused should know it beforehand so that he may be able to question whether I am really still a member of the Council or my name has since been struck of the register of the members. If the accused is supplied with the brief resumé of the evidence that is to be led against him, he and his relations and the counsel engaged by him can have ample time to think out the line of best defence. Many things can strike them as would go a long way to prove the innocence of the accused, but if the accused is met all of a sudden with a volley of charges, it is very likely that he and his counsel might get confused. Although I do not claim to be a prominent lawyer, still from what experience I have got of the courts for the last 17 years I can say that in almost all such cases the magistrates have always framed charges after recording the whole evidence on behalf of the prosecution. By the grace of God the magistracy of our province is yet free from at least this blame and it is very seldom that a magistrate has overlooked this important procedure. They know that if they were to ignore this procedure, they are sure to earn a bad name and the public will raise a hue and cry against their conduct. If in any such case any magistrate does not happen to observe this procedure, the accused and his relative at once infer that he is doing so at the instance of the District Magistrate or the police or, I should say, some power which reigns supreme not in heaven but on earth and consequently steps are taken to have the case transferred from his court. But as I have said by the grace of God the magistracy is yet free from this blame. I request the Honourable Finance Member to be a little generous. We are not asking for this concession for our friend or for our relations. It is the case of the accused that we are pleading. We are not doing all this with any such motive as obstruction of the passage of this Bill. By suggesting such safeguards to be adopted as would make it impossible to hang or to punish with transportation for life any innocent person, we

[Shaikh Muhammad Sadiq.]

are doing service to the Government. Such safeguards are necessary to save the good name of the British Government. Otherwise it will also come to be looked down upon by the people and will be remembered as *Sikka shahi* is remembered. The Government will be well advised to pause and consider and not to earn a bad name for itself for a period of only one and a half-years after which the whole constitution is expected to change. Why is it that my honourable friends occupying the Government benches should embitter the feelings of the public for this short interval? Some of them are very able and we shall require their services to guide us in the future administration of the province. I am not flattering them and it is not my habit to flatter any one. I have said what I sincerely believe to be true. I warn them not to make unnecessary haste and not to commit the sin of taking away the lives of innocent persons, by an unjust procedure. In the bureaucratic form of Government the higher officers cannot possibly know whether the officers of the lower ranks are doing what is right or whether in some cases they are not taking their personal grudges. It is, therefore, highly necessary that Government should be very cautious in giving them large powers without any reservation. Although it is not my business to do so, yet I request the Government with folded hands that it should proceed carefully and should hold the balance of justice evenly. Intoxicated with power as it seems to be, it should not.....

Mr. President : May I request the honourable member to speak to the motion?

Shaikh Muhammad Sadiq (Urdu) : Sir, through you, I request the Government that the proposed provision should be inserted and the proposed tribunal should frame charges after the whole evidence is recorded. What is the reason for the prosecution to keep secret the names of some of the witnesses that are to be produced in evidence against any accused? The Government has already admitted the principle in regard to cases involving sentences of death and I wonder why it should hesitate to accept this principle in regard to cases in which an accused can be punished with transportation for life. As they say 'what is sauce for the goose is sauce for the gander.' The sentence of transportation for life is not less severe than the sentence of death because many of the convicts who receive the first mentioned sentence will not come back alive and most of them may die while in prison. I might again assure the Government that it is not our motive to obstruct the passage of the Bill by these amendments. We are only anxious that no innocent man should suffer. We have no sympathy with those who are out to commit violence. We want that justice should be done and nothing else. The Government should take into consideration that all the accused in such cases are not always persons who can afford to engage lawyers from the very beginning of the case. Those who are men of limited means and who get involved in such a case, may try to engage a counsel only at the last stage. They will let the witnesses give their evidence at the preliminary stage without any examination or cross-examination except of persons giving evidence against them, but if the facility proposed is not provided they are sure to be doomed. Do you think that a shoe-maker or a carpenter or a man whose aged mother is earning her livelihood by grinding *chakki* day and night could afford to

engage a counsel from the very start? That is not only improbable but impossible and in the cases in which men of such limited means would be involved, it is very likely that injustice, and grave injustice, may be done unless of course the proposed provision is inserted in the Bill. In the circumstances I hope that the whole House will vote for this motion which the Government has unfortunately come to think as unnecessary. It appears that the Government is not prepared to listen to reason so far as this Bill is concerned and is sitting here not with its open mind. If the Government has closed all doors against reason I would request the non-official members to break open those doors and convince the Government by their attitude that the proposed provision is very necessary.

The Honourable Captain Sardar Sikandar Hyat Khan (Revenue Member), (Urdu) : Sir, the speech of the honourable member who has just sat down was undoubtedly very amusing, as usual, but I am sorry to say that in regard to this matter of vital importance he has, by putting wrong constructions on the provisions of the Bill, tried to mislead those zamindar members of the Council who are like myself ignorant.....

Shaikh Muhammad Sadiq : Sir, the Honourable Revenue Member is not in order to call other members of the House ignorant. He may call himself any name he likes.

The Honourable Captain Sardar Sikandar Hyat Khan : If the honourable member had allowed me to finish my sentence he would have known that I meant to say ignorant of the intricacies of law. With due deference to him I submit, Sir, that the honourable member has not stated the real facts and has thus tried to create a wrong impression about this Bill. The constructions that he has put on the provisions of the Bill are, to say the least, far from being true. If I may say so, he has tried to misrepresent the Bill by wrongly depicting it as a measure of repression. To remove any misunderstanding that may have been created, I wish to make it clear that it is not the intention of the Government to curtail the rights and privileges which the accused enjoy under the present law. My honourable friend particularly stressed the point that it was not for himself or his friends that he was pleading for leniency but he desired his amendments to be made in the interests of poor people like dhobies, mashkis, and bhangis, who may become involved in such cases. Admitting that he did not want to have this concession for himself, I fail to understand why he should try to implicate the poor people whom he has mentioned as an example. Does he desire to make us believe that these poor people would turn into revolutionaries and bomb throwers and take up arms against the Government established by law and commit dastardly outrages? Sir, this Bill will affect only those who wish to disregard the law of the land and adopt cowardly methods of terrorism by murdering innocent people and guardians of law and order, people who are a menace to the peace of the province. The Honourable Finance Member in his opening speech referred to the many cases in which attempts had been made on the lives of policemen and innocent people who had been injured or killed. There is no reason why such a state of affairs should be tolerated, and these people who have no respect for human life, should be given a longer rope than the ordinary criminal. On the one hand the opponents of the Bill assert that they have no sympathy with revolutionaries, and in the same breath they denounce the measures which are

[Capt. Sardar Sikandar Hyat Khan.]

meant to restore peace and order in the province. Can one be blamed for disbelieving these hollow assurances? Sir, I hope that the honourable members of the House will not be misled by what my honourable friend has said and my zamindar friends with their usual common sense and sense of responsibility will vote against the motion under consideration.

Thakur Pancham Chand [Kangra (Non-Muhammadan) Rural] : Sir, the declared object of the present Bill is to expedite the trials, and, as the Government alleges, to prevent the crimes committed by the so-called revolutionary party and to ensure peace in the province by this extraordinary measure. But one fact we should not ignore is that we should not be instrumental to a law which may prove detrimental to the interest of the accused and which may defeat the end of justice and bring a bad name to the whole machinery. Sir, the presumption in law is this, that every person is innocent unless the charge brought against him is proved by reliable and substantial evidence beyond any shadow of doubt. I submit that there is only one principle underlying this law that there should be no delay and if I convince the House that the insertion of the clause in the Bill would cause no delay, then I think the whole House will agree with me that this clause should be inserted in the Bill. The Bill as it stands at present is a serious encroachment on the right of the accused because it takes away the commitment stage and does away with the cross-examination, both in the court of the committing magistrate and in the court of the sessions judge. Under the procedure prescribed for the trial of warrant cases the magistrate may, and generally does, examine a few witnesses and then he frames a charge. At least that is the practice in my district. Thereafter those witnesses are examined who are produced after the charge is framed. The accused has only one opportunity to examine those witnesses. In that case mischief can be done to the accused while framing the charge after producing two or three formal witnesses and in that case the accused will not be entitled to have the witnesses cross-examined twice. Therefore, I submit that the whole evidence must come on record. It would come on record whether the charge is made afterwards or before. My point is that there would be no delay in the trial. The amendment reads :—

“ In all trials under this Act the prosecution shall not be entitled to lead further evidence after the charge has been framed.”

So the whole evidence must come on record, whether material or formal, either before framing the charge or after framing the charge. This clause is the most innocent because it will not defeat the aims of this Bill. I submit that cross-examination is a valuable right of the accused. This is the only weapon in the hands of the accused by which he can establish his innocence. Otherwise from my own experience I may submit that no defence evidence, however strong it may be, however, reliable it may be, can be of any use to the accused in getting acquittal. In the end I submit that this amendment in no case stands in the way of the Bill and in no way does it defeat the object of the Bill. I, therefore, support this amendment and strongly appeal to the House to vote in its favour.

Khan Bahadur Mian Muhammad Hayat Qureshi [Shahpur West (Muhammadan) Rural] (Urdu) : Sir, as has been rightly pointed out by the

Honourable Leader of the House I am not a lawyer and therefore not well-versed in legal matters. But any how ordinary things are not beyond the comprehensions of people not utterly devoid of common sense and intelligence. As is obvious, the necessity of enacting this measure has arisen on account of the present disorderly condition prevailing in the country. The principal object of the Bill is to help the early and prompt disposal of cases relating to revolutionary crimes. The aim of the Bill is not repression but establishment of law and order in the country. I may say that I am not for affording such facilities to persons accused of political crimes which may amount to undue concessions. If the Bill is passed into law I do not think any injustice will be done to the accused and as such no reasonable person need oppose it. The offences falling under sections 148, 382, 454, 455, 457 Indian Penal Code, are usually tried by a first class or second class magistrate. But according to this Bill such offences will be tried by a tribunal consisting of three persons of whom two would be sessions judges and the third a barrister of long standing. Surely this tribunal consisting of such learned and experienced persons would constitute a better court as compared with the court of a first or second class magistrate. I wonder what objection can be taken to the appointment of such a tribunal? If the honourable member had proposed that only such offences should be tried by the tribunal as are at present exclusively triable by sessions judges, it would have meant something, and we need not have opposed him. But he has not proposed that. I therefore, see no reason why we should vote for it. With these words I oppose this motion and resume my seat.

Mr. S. L. Sale: There is one aspect of this amendment which was referred to by the Honourable Member in charge of the Bill when he spoke, but I do not think the effect of it has been realized. I want to stress it here before I pass on to deal with some of the arguments that have been advanced. In the select committee, in discussing the clause that the prosecution shall not be entitled to lead further evidence after the charge had been framed in the case of offences punishable with death, the select committee added what I think the majority of the select committee considered a very salutary proviso, the effect of which was to allow the court discretion to call more evidence under section 540 of the Criminal Procedure Code. The effects of the amendment now moved, whether it was intentional or not, is to delete the proviso, with the result that the prosecution cannot get a charge framed until the whole of the prosecution evidence has been recorded, and after that the courts will have no discretion to call further evidence in the interests of justice. The effect of that will be that there will be very serious delay for the prosecution will ask that no charge be framed until they can get some witness from Calcutta or somewhere else, or if, in the interests of expedition, the charge is to be framed early, they would put forward such evidence as they have, in order that the charge may be framed and then the hands of the prosecution will be tied afterwards.

I understand that the main reason for pushing this amendment is to get what is described as twofold advantage to the accused, an advantage described as a fundamental principle of law in each case. The one is that the whole of the evidence should be heard before the charge is framed and the second is that the accused should have a right to double cross-examination.

[Mr. S. I. Sale.]

In that connection, it was admitted that there is a section of the Criminal Procedure Code, section 254, which gives discretion to a magistrate in trying cases according to the warrant case procedure, to frame a charge at the earliest possible opportunity. One speaker said that in his experience, magistrates did not make use of this power, but always insisted on the whole of the prosecution evidence being led before the charge was framed. Now, I have served in this country as first class magistrate, as section 30 magistrate and as sessions judge and I can confidently assert that in my experience that is not the case, but that magistrates frame charges as a general rule at the earliest possible opportunity. (*Hear, hear*). They do so because it is considered by the High Court to be in the interests of justice that the charges should be framed at the earliest possible stage. I have been inspected as first class magistrate, as section 30 Magistrate and as sessions judge by Honourable Judges of the High Court and in each of these capacities different Judges of the High Court have insisted on the desirability of magistrates trying warrant cases conforming strictly to the procedure of section 254. To such an extent is that insistence stressed, that I have known cases in which the Crown prosecution is actually endangered, because the magistrate who frames a charge at the earliest possible stage after hearing all the witnesses, acquits and the result is that thereafter the Crown is debarred from any other remedy except appeal against acquittal, whereas if the same magistrate had heard the whole evidence before framing the charge, he might have discharged, which would have given the Crown a right of moving the District Magistrate to have the discharge order set aside.

Now, I imagine that the reason why section 254 appears in the Code — which even the supporters of this measure, I think, have realised, is a very excellent provision of law—my honourable friend opposite I understand said that for 80 years the Criminal Procedure Code has stood the test of time and was universally described as very admirable—the reason why this provision exists giving this discretion to the magistrate is presumably that it is not considered to be a principle of law that the accused should know the whole of the evidence against him before the charge is framed, but rather that it is a principle of law that the accused should know the charge against him at the earliest possible opportunity (*Hear, hear*), because, unless he really knows what the charge against him is, he will not be able to know what defence he is to offer, and the result is that a good deal of cross-examination before the charge is framed will be irrelevant and useless and may do more harm than good.

Another point that has been stressed is this alleged right that the Criminal Procedure Code gives of double cross-examination. The actual fact is that after the charge has been framed the accused has a right at the next hearing to say that he desires further to cross-examine the witnesses, and the magistrate must summon those witnesses. Experience has shown that double cross-examination by the accused very often does a great deal more harm to the accused than benefit. I have had cases before me both as a magistrate and as sessions judge and I can confidently assert that an order of conviction has had to be registered because of unfortunate admissions secured through cross-examination by the counsel of certain witnesses, the credibility of whose evidence counsel was presumably trying to destroy.

In this connection, it is, I think, advantageous to this House to know what the procedure is in England and what some of the biggest criminal lawyers in England think of this right of cross-examination. In England it is most unusual, — I believe I am right in saying unknown, — that the whole of the evidence should be heard before the case is tried in the sessions or in the High Court. A prosecution in England can be launched on a certificate of the Advocate General alone in which case no evidence is heard before the case comes up before the trial court. It is further very frequently the case that the sessions is seized of a case as a result of the coroner's verdict. A good deal of evidence may be taken before the coroner, but the point is that a good deal of the evidence, a good many of the statements made before the coroner are not necessarily used in evidence at all. The accused certainly will not know until the case comes up for trial, whether the evidence of witnesses brought before the coroner will be used or not. It is suggested that the grand jury procedure gives the accused a right to know what the evidence against him is. There is a certain amount of truth in that statement, but it is quite wrong to suppose that the whole evidence is before the grand jury. As a matter of fact the grand jury are simply told in the form of an address what the evidence is. They certainly do not hear witnesses. In practice most of the cases, at any rate in the London area, are committed to the sessions as a result of a short hearing before a stipendiary magistrate. That hearing seldom, if ever, takes more than two days, even in the most complicated cases. I will remind the House of the procedure in the cases connected with what is known as the Hatry Frauds. In that case which was a most complicated one and which took the special investigating staff some weeks to prepare the committal procedure in the court of the Lord Mayor of London occupied less than two days. All that was done was that a few, I think, only one, witness was called and that was all. The Lord Mayor said that he was satisfied that there was a *prima facie* case, bail was refused and the man was committed and afterwards a sentence of 14 years was pronounced by the judge.

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Another thing is this that in the proceedings before a stipendiary magistrate it must not be thought that all the evidence is recorded in any detail. As a matter of fact there is very often no record of the evidence whatsoever. The stipendiary magistrate merely hears one or two witnesses, expresses his opinion that he thinks there is a *prima facie* case and the accused is committed. He writes no judgment, he writes no committal order and there is no record of evidence beyond what the prosecution had before the case was brought before the stipendiary magistrate's court.

But the most important point which I want to stress on this occasion is that in my experience—and I can claim to a certain amount of experience, having been called to the bar at home and having read in a barrister's chamber for a year and having attended stipendiary magistrate's courts and the High Court and having attended the Old Bailey—I do not remember any case in which counsel for the accused cross-examined witnesses before the committing magistrate. He reserves his cross-examination till the trial. The fact of the matter is that the cross-examination is realised by all counsels.

[Mr. S. L. Sale.]

of experience to be a double-edged weapon. A good cross-examination is extremely valuable to the accused but a bad cross-examination is detrimental to the interests of the accused. And I think I am right in saying that none of our big criminal counsels at home, well-known cross-examiners like (the late) Viceroy of India, none of them would care about cross-examining the same witness more than once. They would wait until they had one opportunity to cross-examine a witness and having cross-examined him they would leave it at that. In fact, I once attended a trial in which the counsel leading for defence being away, junior counsel started cross-examining the witness in a rather haphazard way, then the senior counsel came in, heard one or two sentences of the cross-examination and pulled him down whispering, "shut up." I make these observations in order to make it perfectly clear that there is no fundamental right of double cross-examination to the accused, and the reason why there is no such fundamental right is that the law gives a discretion in the matter and it is open to the defence counsel to use that cross-examination in the way in which they think best. But it is quite a mistake to suppose that because there is no opportunity of double-examination, the facilities for the defence of the accused are in any way fettered.

The last point that I think I should mention in this connection is that by allowing this amendment in the present form you are giving the accused coming before this tribunal a right which is denied to a large number of accused under-trials before second class and first class as well as section 30 magistrates. A good many of the cases covered by the schedule are triable not only by first class magistrates but also by second class magistrates. When an accused, say under section 148 or 386 or 387 has not got this right of claiming that the whole of the prosecution evidence should be heard before the charge is framed, why should we give the accused this so-called right in the present case? I, therefore, press that this amendment be rejected. (Cheers).

Khan Bahadur Nawab Muzaffar Khan : I move--

"That the question be now put."

The motion was carried.

Mr. Nanak Chand Pandit : It is a new clause, Sir, and you ruled the other day that members moving new clauses shall have the right of reply. I suppose I have the right in this case.

Mr. President : The honourable member has no right of reply, inasmuch as the clause is before the House by virtue of their decision to take it into consideration. The honourable member had no doubt a right of reply when the motion that the new clause be taken into consideration was before the House. But after that motion was adopted and the House decided to take the clause into consideration, the honourable member could only take part in debate and has no right of reply.

Mr. S. L. Sale : The amendment is not that the following be added, but that the following should be substituted.

Mr. President : Clauses intended to take the place of clauses recommended by the select committee are essentially new clauses and have to be treated as such.

The question is—

“That in clause 5, the following be substituted for sub-clause (3):

“In all trials under this Act the prosecution shall not be entitled to lead further evidence after the charge has been framed.”

The motion was lost.

Rai Bahadur Lala Sewak Ram [Multan Division (Non-Muhammadan), Rural] (Urdu): Sir, I beg to move—

“That in clause 6, the following proviso be added at the end:—

“Provided that such sentence should not exceed the term of imprisonment or fine which could have been awarded by a magistrate of lowest competent jurisdiction.”

The relevant clause in the Bill as reported by the select committee is sub-clause (2) which runs as follows:—

“If in any trial under this Act it is found that the accused person has committed any offence, whether such offence is or is not an offence specified in the schedule, the Commissioners may convict such person of such offence and pass any sentence authorised by law for the punishment thereof.”

This means that if the police challans any case in the court of the Commissioners and the Commissioners find that the accused person has committed an offence which is not specified in the schedule, they will be competent to hear the case and pass judgment thereon. Now I beg to submit that usually the police are anxious to see that the accused gets the highest possible punishment, and, therefore, their tendency will be to bring before the Commissioners even such cases as are triable by ordinary magistrates. Thus, if such a case is heard by a court competent to award higher sentences, there is every likelihood of the accused person getting a harder sentence than would have been awarded to him by a magistrate under the existing law. My object in moving this proviso is to ensure that if such a case is tried by the Commissioners they should not be authorised to inflict upon the accused person a higher punishment than would have been awarded if the case were tried by an ordinary magistrate of lowest competent jurisdiction.

I, therefore, request the House to add this proviso to the clause in question, and if, as my honourable friend from Dera Ghazi Khan seems to think, there be any flaws in its language, they may be removed by the committee which will be appointed to make consequential amendments in the Bill. My honourable friend Khan Bahadur Mian Muhammad Hayat Qureshi has said that the present measure should not be made stiffer than the existing law. I quite agree with him, and that is exactly the reason why I urge that this proviso may be added to the Bill so that the Commissioners may not be able to inflict higher punishment than the magistrates of competent jurisdiction at present can.

Mr. President: The motion moved is—

“That in clause 6, the following proviso be added at the end:

“Provided that such sentence should not exceed the term of imprisonment or fine which could have been awarded by a magistrate of lowest competent jurisdiction.”

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan), Urban]: Sir, I am not only opposed to the Bill but I am also opposed to this amendment. I would, therefore, request the honourable mover to withdraw it. If we have to pass the Bill let us not make it ridiculous.

Mr. President : Question is that the motion that in clause 6 the following proviso be added at the end be taken into consideration.

“ Provided that such sentence should not exceed the term of imprisonment or fine which could have been awarded by a magistrate of competent jurisdiction.”

The motion was lost.

Mr. Labh Singh [Rawalpindi Division and Lahore Division North (Non-Muhammadan) Rural] : Sir, I beg to move that the following be added after sub-clause (3) of clause 4 :—

“ (4) No sentence shall be passed in a case tried in accordance with the provisions of this Act until the right of appeal to the High Court has been secured to the accused.”

Mr. President : If I remember aright, the honourable member in charge of the Bill clearly stated the other day that law providing for appeals to the High Court will be introduced before long in the central legislature.

Mr. Labh Singh : I understand that no undertaking even by the Member in charge of the Bill can be a part of the Bill.

Mr. President : I think the honourable member ought to accept the assurance given by the mover of the Bill.

Mr. Labh Singh : It is because such an undertaking has been given and I know that it will be honoured that I insist that it should be provided in the Bill, provided the law permits and there is no technical bar. The undertaking is that every person who is tried in accordance with the special procedure provided by this Bill will have secured to him the right of appeal to the High Court, before the limitation for his appeal expires.

Mr. President : What has the Honourable Sir Henry Craik to say on this point ?

The Honourable Sir Henry Craik : I have already given an express undertaking that every person tried under this Bill will have a right of appeal to the High Court. I cannot go further than that and though I have no objection to the principle of this amendment I do not see that it is really necessary to include it in the Bill.

Mr. President : Is this not enough ?

Mr. Labh Singh : No, Sir. Because I have got another way of putting it and that is this. The Honourable Legal Remembrancer was pleased to give it as his opinion yesterday that if the right of appeal to the High Court is given, then the High Court of Judicature at Lahore in virtue of the powers of appeal that shall vest in it will have also incidentally and by necessary implication the right of superintendence, control as well as the right of revision over the proceedings of this special tribunal. Appeal is no doubt a very valuable right.....

Mr. President : As regards the power of control and supervision, may I refer the honourable member to section 107 of the Government of India Act. If the right of appeal is given to the High Court, the tribunal shall become subject to the jurisdiction of that Court and “superintendence” and “control” will follow as a matter of course.

Mr. Labh Singh : It is because of that that I have moved this clause to be embodied in the Bill. It is absolutely necessary if you see it from the same point of view as I look at it.

Mr. President : Will not superintendence and control result automatically from the appellate jurisdiction ?

Mr. Labh Singh : That is so. I grant that and the right of appeal will not be given to the accused according to the formal undertaking of the Honourable Finance Member perhaps before three or four months are over. We have been also told that cases are ready for being tried by this special tribunal and this special tribunal would be constituted long before the right of appeal is conferred on the accused. It means that if any accused has any real grievance against the special tribunal short of the exercise of right of appeal, he could not go to the High Court. Now I am aware that it is not open to the accused.....

Mr. President : But does the honourable member really believe that after having given a definite undertaking the Government would have any person convicted by the special tribunal without giving him a right of appeal ?

Mr. Labh Singh : Certainly not. It is not in their power to see to it that the other privileges which the right of appeal carries with it also should be conferred on the accused from the very start of the tribunal. The tribunal will begin to function as soon as the Bill is passed and the sanction of His Excellency the Governor to it is given. The tribunal will be constituted and the accused will be put before it for trial. The accused may have certain grievances against the tribunal, they may wish to go to the High Court for protection on certain other points during the pendency of the trial proceedings and it is absolutely necessary that provision should be made for that from the very start, just as in the cases which are being tried by ordinary magistrates the accused have all sorts of grievances which may be remedied before the final stage of appeal comes and the accused should not be deprived of these remedies.

Mr. President : May I invite the attention of the honourable member to Clause 8 of the Bill and point out that barring the right of appeal to and confirmation by the High Court, all proceedings of the tribunal shall be regulated generally by the Criminal Procedure Code, so far as its provisions are not inconsistent with the provisions of the Bill.

Mr. Labh Singh : From that point of view I would suggest that no expression of such an undertaking is binding on those who would be called upon to interpret this Bill when it is passed into law and, therefore, it is in the interests of the accused, of clarity and of better understanding and of erring on the side of caution that we should adopt this clause as part of the Bill because there are some doubts. This is what I suggest, and if the Honourable the Finance Member has not taken objection to the incorporation of this clause in the Bill on principle, then I would submit that as a piece of precaution it should be added because it gives some safeguards to the accused and those we do not intend to take away from him. It should be open to him to go to the High Court at any intermediate stage if he so chooses and seeks redress from the highest court in the province, if he has any genuine grievance.

Mr. President : Question is that the following new clause be taken into consideration :—

“(4) No sentence shall be passed in a case tried in accordance with the provisions of this Act until the right of appeal to the High Court has been secured to the accused.”

The motion was carried.

The Honourable Sir Henry Craik (Finance Member): Sir, if I understand the honourable member aright his object is not so much to secure the right of appeal—I understand he accepts my assurance that the right of appeal will be secured—but to secure over the proceedings held by this special tribunal the powers of revision and control at present exercised by the High Court. I want to make it quite clear that in my opinion no such amendment is necessary because I have no doubt whatever in my mind that these powers of revision, control and superintendence undoubtedly exist whether the High Court has the right of appeal or not. Section 6 of the Code of Criminal Procedure describes certain classes of courts, the court of sessions, Presidency Magistrate's court, first, second and third class magistrates' courts. This tribunal will be another kind of court, but the section also refers to courts "constituted under any law other than this Code for the time being in force." There are thus five classes of courts contemplated under the Code and in addition to them there is the sixth class, namely courts constituted by any other law for the time being in force. Section 561-A of the Code gives the High Court inherent powers to make such orders as may be necessary to give effect to any order under this Code. That clearly brings the court constituted under this Act within the control of the High Court. The High Court under this section also has a general power "otherwise to secure the ends of justice." The High Court may make any order that it may consider necessary to secure the ends of justice and I have no doubt whatever in my own mind that this section of the Code gives the High Court complete powers of control over the special Commissioners.

Now, Sir, there is another point. Even presuming I am wrong, the honourable member's amendment does no good, because it does not secure the very object that he wants to secure. The honourable member would have us make a rule that no court should pronounce a sentence till the right of appeal is secured. Once the sentence is pronounced, the right of appeal would accrue and according to the amendment the control and superintendence of the High Court would also accrue. But what use is that? Suppose the accused has a legitimate complaint before the sentence is pronounced. According to the honourable member's doctrine he has no right at that stage of applying to the High Court to remedy his complaint and the honourable member's amendment will not give him any such right. Then I think the honourable member had better accept my view. Even before the central legislature gives this power of appeal, the High Court has in my view a full power of control and superintendence and it has the very wide power of passing any order "to secure the ends of justice." I think the honourable member will agree that the power he wants is already there, and I trust that he will not press his amendment.

Mr. President: The question is —

"That the proposed new clause be adopted".

The motion was lost.

Mr. Labh Singh: I beg to move—

"That after sub-clause (3) of clause 4 the following be added:

"(5) The Commissioners appointed under this Act shall exercise their powers subject to the ordinary powers of revision and superintendence of the High Court of Judicature at Lahore."

The reasons in support of the amendment are the same that have already been urged, and if the interpretation of the law is that these powers are ordinarily vested in the High Court inherently, then it becomes unnecessary. But I would like it to be said so in so many words on the floor of the House.

Mr. President : New sub-clause moved is—

“ That after sub-clause (3) of clause 4 the following be added :

‘ (5) The Commissioners appointed under this Act shall exercise their powers subject to the ordinary powers of revision and superintendence of the High Court of Judicature at Lahore.’”

The Honourable Sir Henry Craik : The reasons have already been given. I consider that the powers conferred on the High Court by section 561 (a) read with section 6 of the Code already give the necessary powers.

Mr. President : The question is :

“ That the proposed new clause be taken into consideration.”

The motion was lost.

Mr. Labh Singh : Sir, I beg to move—

“ That after sub-clause (v) of clause 11, the following be added :

‘ (vi) the supply to the accused free of cost of copies of deposition of witnesses and documents exhibited from day to day.’”

Sir, this point is partly covered by the clause which was carried by the House yesterday. This matter was discussed by the select committee and most of the members agreed that it was but reasonable that copies of depositions of witnesses should be supplied to the accused from day to day and it will not really entail any very serious expenditure and would certainly work in the interest of expedition. Most of the delay that is caused in these trials is really due to the delay which takes place in the supply of copies of the relevant documents and depositions. It was mentioned by the Honourable Member in charge of the Bill that these points will be conceded and that provision will be made for them in the rules to be framed under section 11 of the proposed Bill. My submission is that instead of relegating these matters to the rules to be framed under the Act this matter should be explicitly embodied in the Act itself, for a good reason and that is this. Personally I am averse to anything being left over to the rules in an important matter like this and I am against important provisions being made in Acts under the rule making power. Therefore if the principle stands accepted and it is also conceded that this would work in the interest of expedition and would entail no serious expenditure, then I would submit that this be made a part of the Bill, more especially when we are by the Bill as it is going to be passed, taking away certain serious privileges from the accused no harm would be done if we make a paltry concession to the defence.

Mr. President : The question is that the following new clause be taken into consideration.

“ That after sub-clause (v) of clause 11, the following be added :

‘ (vi) the supply to the accused free of cost of copies of deposition of witnesses and documents exhibited from day to day.’”

The Honourable Sir Henry Craik : I have already given an undertaking in this House in the course of the debate in presenting the report of the select committee that a rule would be framed under section 11 of the Act that copies of deposition were to be supplied to witnesses so far as

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possible from day to day. The honourable gentleman asked me if I would supply them free of cost and I replied "yes." I should have thought that that undertaking would have satisfied the honourable member. I am averse to adding another to the already long list of sub-clauses in the rule-making clause merely because I think it unnecessary, and it is a very sound rule in drafting legislation, as I have found after a good deal of experience, to have nothing in a Bill that is unnecessary or redundant. I have the further objection that sub-clause (v) gives the local Government the power of making rules regarding any matters which appear to the local Government to be ancillary to trial before the Commissioners, a phrase which obviously covers the cost of the supply of documents. It is not logical or reasonable to give a man power to make rules and then yourself to lay down the rules which he is to make. I think the honourable member should rest content with my quite explicit assurance and should not press for the sub-clause to be added.

Mr. Labh Singh : I am satisfied by this undertaking, Sir, as it covers the entire substance of my amendment, and I ask for leave to withdraw the same.

The motion was by leave withdrawn.

Mr. Labh Singh : Sir, I beg to move—

"That in clause 4, sub-clause (3), the following be added at the end :

'Provided that no allowance shall be given to any of the Commissioners appointed for being placed on this special duty, so as to make his pay with this allowance higher than he would be ordinarily receiving under the rules already in force.'

This clause was partly discussed yesterday. The reason for moving this clause is perfectly obvious. We are all agreed that everything should be done which would work for expedition and nothing should be done which would work for delay. It has been suggested that if officers are placed on special duty and special remuneration is allowed them over and above what they draw ordinarily, then it would be a temptation for them to prolong the proceedings and to continue the work for which they have been specially commissioned. Without stressing this suggestion I would only remark that special remunerations may be calculated to impair the independence of the Commissioners. It is therefore but reasonable and just and fully in accord with the spirit and purpose of the Bill which is before us that an amendment of this description should be accepted by the House without demur.

Mr. President : The new clause moved is—

"Provided that no allowance shall be given to any of the Commissioners appointed for being placed on this special duty, so as to make his pay with this allowance higher than he was receiving before his appointment to this tribunal."

The Honourable Sir Henry Craik : Sir, I am afraid I cannot accept this clause, but I assure the honourable member that any proposal for allowance for any of the Commissioners appointed will be very carefully scrutinised by the Government in the Finance Department, and I think I can assure him that any allowance that gets through the scrutiny of the Finance Department is hardly likely to be so substantial as to tempt one of the gentlemen selected for the office of Commissioner, however low the honourable member's view may be of them, to deliberately delay the trial of cases in order that he may continue to draw the allowance.

On the other hand, it would, I think, be manifestly unfair, if it happens to be necessary to bring a special Commissioner from a distant or even an outlying station and ask him to stay in Lahore,—I take Lahore, because it is notorious that temporary accommodation at Lahore is more expensive than elsewhere—I think it would be unfair to expect us to order an officer to move from a distant station and reside in Lahore, possibly for quite a short time, which would mean that he will have to keep up his establishment at his permanent station as well as find accommodation here, it would be unreasonable to deprive us of the power of giving him any allowance whatever. That, I think, will be generally accepted by the House.

Moreover, I would point out that assuming, as seems probable, that these special Commissioners will extend into the next financial year, it would obviously be necessary to make provision for them in the Budget and the House will then have an opportunity of criticising the provision made and the scale of allowances, if any, that may be sanctioned by Government. As regards the current year, I have not yet had time to ascertain whether it would be necessary to present a supplementary or token demand for the Council. But, if it is necessary, that would of course give the Council an opportunity of criticising the expenditure of the current year. My main point is that it is only reasonable to give an allowance to an officer on whom his appointment to the Commission may compel the incurring of extra expenditure.

Mr. President : The question is—

“That the following new clause be taken into consideration :

‘Provided that no allowance shall be given to any of the Commissioners appointed, for being placed on this special duty, so as to make his pay with this allowance higher than he was receiving before his appointment to this tribunal.’”

The motion was lost.

Mr. Labh Singh : Sir, I beg to move the following new clause :

“That at the end of sub-clause (2) of clause 6 the following proviso be added :

‘Provided that if an accused is convicted of an offence triable by a magistrate of the first class, or first or second class or any class, respectively, as laid down in Schedule II of the Criminal Procedure Code, the Commissioners shall not award to him a sentence of a higher term of imprisonment or fine than the magistrate of the lowest class by whom the offence is triable can award.’”

This is a clause to which on dispassionate consideration I fancy, no member of the House can take any objection. You will be pleased to notice that it has been pointed out by more than one honourable member in this House that the schedule appended to this Bill is a very miscellaneous and comprehensive one, and covers offences which will ordinarily be triable by third class magistrates, second class magistrates, first class magistrates, first class magistrates with additional powers under section 30 of the Criminal Procedure Code and offences triable exclusively by sessions judges. In view of the miscellaneous and comprehensive nature of the category of offences appended to the Bill by way of schedule and in view of the fact that some of these offences are really triable by third class magistrates who cannot possibly award a sentence greater than one month or a fine of Rs. 50, this amendment is a just and necessary one. When these offences come to be tried by the special tribunal, the special tribunal by virtue of its exalted position and of special powers which it would enjoy and exercise would naturally treat all the minor offences even if they were really very grave

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and would be competent to award any sentence. Although we have absolutely no objection to a provision being made that even less grave offences ordinarily triable by a lower class of magistracy should come up for trial and punishment before this special tribunal if the Government so certifies or because at the end of the proceedings it is disclosed that the accused before the special tribunal has been guilty of such an offence, even though not mentioned in the schedule, our submission is that in such cases the sentence which this special tribunal should inflict upon those unfortunates should be such as would not exceed the maximum sentence which can be awarded for that offence to the accused if the accused had been tried by a magistrate of the lowest class competent to try it. Nothing could be more reasonable I would imagine than a provision of this description and I really fail to see if any objection on any score can be taken from any quarter of the House to such a salutary and reasonable demand. If we see that opposition even to this proviso is possible from any quarter, then, one cannot really but remark that the Bill is not being dispassionately considered. With these observations I would submit that this proviso be taken into consideration and accepted by the House as part of the Bill.

Mr. President : The new clause moved is—

“ Provided that if an accused is convicted of an offence triable by a magistrate of the first class, or first or second class or any class, respectively, as laid down in Schedule II of the Criminal Procedure Code, the Commissioners shall not award to him a sentence of a higher term of imprisonment or fine than the magistrate of the lowest class by whom the offence is triable can award.”

The Honourable Sir Henry Craik : Sir, the honourable member must be very optimistic indeed if he thinks that no objection is likely to be taken to this amendment from any quarter of the House. Of all the amendments moved or tabled this is one to which the most strenuous objection should be taken. I would like to draw the attention of the House to the proposition which the honourable member by implication lays down in this amendment. Hitherto the honourable member with the other opponents of this Bill has stressed the great importance of not prejudicing an accused person or trying to secure the conviction of an innocent man merely because he is accused of a certain sort of crime. With that, Sir, I am, broadly speaking, in agreement. In this amendment the honourable member goes a good deal further than that. We have now reached the stage where the man has been found guilty, where there is a judicial pronouncement that he is guilty of one of those, what I described just now as, detestable crimes. It is no longer a question of preventing the conviction of an innocent man. It is now a question of how to punish a guilty man. Very well. There the honourable member from Gujranwala, says : “ This noble-minded patriot, because his crime is of a political character, is to get a less severe sentence than an ordinary criminal. Because he is one of an organised gang committing these offences, therefore his punishment should be less severe than that of a person committing one of these offences on his own.” That, Sir, surely is not a proposition which the House will endorse. However great their sympathy, however great their desire to prevent the conviction of an innocent man, a desire which I fully endorse, they will

surely not go so far as to say that when a man's guilt is proved to the hilt before this tribunal, then merely because he is one of those revolutionary organizations, therefore his punishment is to be much less severe. I would call attention to the fact that all the offences specified in the schedule—a very large number, I think I am right in saying I have not checked them—the majority of them are triable by magistrates of first class. That is to say, that in a large number of cases the honourable member would in no circumstances award one of these convicts a longer sentence than one of two years' imprisonment. But further than that, there are no less than four offences, all of them of a comparatively serious character, which can be tried by a magistrate of the second class. These offences are—(1) putting or attempting to put a person in fear of injury in order to commit extortion, (2) mischief by injury to a public road, bridge, navigable river or navigable channel rendering it impossible or less safe to travelling or conveying property (that is, for example, placing a bomb under a railway bridge, a not uncommon form of crime, let me assure the honourable member, of which we had several instances in the last few months), (3) housebreaking by night. Why does the honourable member consider that a man convicted of house-breaking by night should not get more than six months' imprisonment if he is tried under this Bill? The fourth offence triable by a magistrate of the second class is that of criminal intimidation. More than these, there is one offence triable under this Bill, the offence of house-trespass in order to the commission of an offence punishable with imprisonment, which is triable by any magistrate, that is to say, by a magistrate of the third class. So great is the clemency of the honourable member that on conviction for that offence he would limit the power of the tribunal to inflict a punishment of one month. I think, Sir, this amendment stands self-condemned.

Mr. President : The question is—

“That the new clause be taken into consideration.

The motion was lost.

Rai Bahadur Lala Sewak Ram [Multan Division (Non-Muham-
madan), Rural]: I beg to move that for Sub-clause (3) of clause 4 the fol-
lowing be substituted:—

“(3) All trials under this Act shall be held by three Commissioners of whom at least two shall be persons who at the time of appointment under this section are serving as, and have for at least three years served as or exercised the powers of Sessions Judges, or Additional Sessions Judges, or are persons qualified under sub-section (3) of section 101 of the Government of India Act, for appointment as Judges of a High Court. The third Commissioner shall be a person who has actually practised as a lawyer for a period of not less than ten years.”

This is quite a different section to what had been proposed by Sardar Jawahar Singh and there is nothing new in it because the old section in the original Bill proposed is the same as this. In that it was stated in the end of that clause before the Bill was committed to the select committee that two should be sessions judges. It read: “All trials under this Act shall be held by three commissioners of whom at least two shall be persons who at the time of appointment under this section be serving as Sessions Judges.” I simply want to fit in my clause with the old clause which was in the Bill before it was submitted to the select committee, that is, two must be sessions judges and the third must be one who must be a lawyer of at least ten years' standing which

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includes lower court and High Court practice. This has been the practice in all the commissions that have been so far appointed under Martial Law, or under the Gurdwara Act or under any other Act. There has always been a lawyer of ten years' standing on the commission. I, therefore, beg to submit that the clause which is in the Bill after it has come out of the select committee be substituted by the clause which I have proposed.

Mr. President : The new sub-clause moved, that for sub-clause (3) of clause 4 the following be substituted :

"(3). All trials under this Act shall be held by three Commissioners of whom at least two shall be persons who at the time of appointment under this section are serving as, and have for at least three years served as or exercised the powers of Sessions Judges or Additional Sessions Judges, or are persons qualified under sub-section (3) of section 101 of the Government of India Act, for appointment as Judges of a High Court. The third Commissioner shall be a person who has actually practised as a lawyer for a period of not less than ten years."

The Honourable Sir Henry Craik (Finance Member).: Sir, I understand the honourable member's intention is to go back to the provisions of the Bill as introduced, that is to say, to provide that at least two persons shall be sessions judges, put briefly, and the third shall be a lawyer. I cannot say that his amendment makes it any more likely that a lawyer would be appointed to the tribunal, but it makes it quite impossible for Government to appoint two lawyers.

Lala Mukand Lal Puri : He is against lawyers.

The Honourable Sir Henry Craik : If he is against lawyers, why does he use this very extraordinary definition, i.e., "who has actually practised as a lawyer for ten years."? That section would enable Government to appoint a Liverpool solicitor on these commissions. A solicitor is just as much a lawyer as a barrister. He says "who has actually practised as a lawyer" it might be before a High Court. I think the House will agree with me that it is much better to stick to the sub-section as amended by the select committee and to allow all the three commissioners to be either sessions judges or qualified for appointment to a High Court bench.

Mr. President : The question is that the proposed new clause be taken into consideration.

The motion was lost.

Shaikh Abdul Ghani [West Punjab Towns (Muhammadan), Urban]: Sir, I rise to move that in clause 4, sub-clause (2), line 4 after the words "person or persons" the following words be added:—

"But nothing herein contained will authorise the trial of one or more persons under the Act, to the exclusion of others, where several persons accused of the same offence are under trial."

My object, Sir, in moving this amendment is simply to clear all ambiguity which I find in the wording of the original clause as drafted in the Bill. The clause runs:—

"Such Commissioners may be appointed for the whole of the Punjab or for any part thereof, or for the trial of any particular accused person or persons."

There might be cases in which the wording of the clause, as it stands, might be misinterpreted, though I do not think that is the object of the legislature and of the Honourable Finance Member who is in charge of the Bill. But it is just possible that supposing there are ten accused in a case, a very

serious case, the prosecution agency or the police want that the ringleaders might be tried by the tribunal, though there are other accused who are under arrest in the same case. What I mean to say is that some of the accused may be picked up and their cases may be transferred to the tribunal or the commission while as a matter of fact there are other co-accused who are under arrest and are kept back and their cases are never sent before the commission. All these extraordinary powers which none of us at present think that we are giving to the police or the prosecuting agency might in certain cases work to the detriment of the crown case as well as to the detriment of the accused. So I think that if the learned Legal Remembrancer agrees with me that would be clearing an ambiguity. Is there any other provision which clears this ?

The Honourable Sir Henry Craik : Yes.

Shaikh Abdul Ghani : I would like to know and if it is so, I would withdraw. That is all what I have to say.

Mr. President : The new clause moved is :

“ But nothing herein contained will authorise the trial of one or more persons under the Act, to the exclusion of others, where several persons accused of the same offence are under arrest.”

Mr. S. L. Sale : Sir, all the Commissioners under this Bill will be governed by the Code of Criminal Procedure as stated in clause 8 of this Bill and although it is open to Government to withdraw cases against a number of accused and try only one. I cannot see what possible object the prosecution can have by doing such a thing as is suggested by the honourable mover. It is well known that there are certain provisions in the Evidence Act which render the prosecution of a criminal case for conspiracy easier than the prosecution of a single accused. The honourable mover seems to be afraid that we may take out one man from amongst nine or ten people under trial and place him on trial alone before the tribunal. If that were so, the prosecution would be debarred from the advantage—amongst others—of the provisions of the Evidence Act relating to conspiracy, section 10 and certainly of the provisions of section 30 of the Evidence Act which enables a statement of one accused to be admissible in evidence against his co-accused when there is a joint trial. Further, Sir, in these cases, there must be a mass of evidence which although not certainly incriminating one accused may be incriminating a large number of the other accused. The prosecution would definitely weaken their case if they selected one man and put him before the special commissioners and withdrew altogether the case against the others. I was referring to section 10 of the Evidence Act which allows certain evidence to be admissible in a conspiracy case which would not be admissible in a case against one person only, and the other was section 30. If you are going to try one man only, the provisions of section 30 of the Evidence Act would not apply. I think, therefore, the honourable mover may rest assured that this amendment is unnecessary as it presumes that the prosecution will not be alive to various advantages which accrue from trying a large number of persons together in one case ; and so far as I am aware, it is not the intention of the prosecution in cases before the special commission to try only one person when they can try, say ten. I would, therefore, suggest that the honourable mover may withdraw his amendment.

Mr. President : The question is that the proposed new clause be taken into consideration.

The Council divided : Ayes : 25, Noes : 44.

AYES.

Rai Bahadur Lala Mohan Lal.
Mr. Labh Singh.
Lala Mukand Lal Puri.
Lala Nihal Chand Aggarwal.
Thakur Pancham Chand.
Kanwar Mamraj Singh Chohan.
Mr. P. Mukerji.
Lala Jyoti Prasad.
Lala Chetan Anand.
Lala Ramji Das.
Chaudhri Nathwa Singh.
Lala Bhagat Ram.
Shaikh Faiz Muhammad.

Chaudhri Allah Dad Khan.
Sayad Mubarik Ali Shah.
Khan Bahadur Sardar Habibullah.
Khawaja Muhammad Eusoof.
Mian Nurullah.
Shaikh Abdul Ghani.
Rao Bahadur Chaudhri Chhotu Ram.
Pir Akbar Ali.
Shaikh Muhammad Sadiq.
Chaudhri Ram Sarup.
Chaudhri Muhammad Yasin Khan.
Sardar Buta Singh.

NOES.

Lieutenant-Colonel C. A. Gill.
Mr. H. Calvert.
Mr. C. A. H. Townsend.
Rai Bahadur Lala Rattan Chand.
Mr. E. Maya Dass.
Dr. (Mrs.) M. C. Shave.
Sardar Bahadur Captain Sardar Janmeja Singh.
The Honourable Dr. Gokul Chand Narang.
The Honourable Malik Firoz Khan Noon.
The Honourable Sardar Sir Jogendra Singh.
Mr. Alan Mitchell.
Sir George Anderson.
Mr. F. H. Puckle.
Mr. W. S. Dorman.
Mr. H. F. Ashton.
Mr. J. W. Hearn.
The Honourable Sir Henry Craik.
The Honourable Captain Sardar Sikandar Hyat Khan.
Mr. C. M. G. Ogilvie.
Mr. D. J. Boyd.
Khan Bahadur Nawab Muzaffar Khan.
Mr. S. L. Sale.
Rai Bahadur Lala Sewak Ram.

Chaudhri Kesar Singh.
Mian Ahmad Yar Khan, Daultana.
Maulvi Sir Rahim Bakhsh.
Khan Bahadur Malik Muhammad Amin Khan.
Mr. Owen Roberts.
Honourary Lieutenant Khan Sahib Malik Muzaffar Khan.
Khan Sahib Makhdum Shaikh Muhammad Hasan.
Khan Haibat Khan Daha.
Chaudhri Fakir Husain Khan.
Chaudhri Riasat Ali.
Makhdumzada Sayad Muhammad Raza Shah Gilani.
Rai Jagdev Khan, Kharal.
Maulvi Imam-ud-Din.
Sardar Harbakhsh Singh.
Mr. M. A. Ghani.
Sardar Mohindar Singh.
Khan Bahadur Chaudhri Fazl Ali.
Sardar Mohan Singh.
Honourary Lieutenant Sardar Ragbir Singh.
Sardar Bahadur Sardar Sheo Narain Singh.
Second-Lieutenant Sardar Ram Singh.

Shaikh Abdul Ghani [North-West Towns (Muhammadan), Urban]:
Sir, I beg to move—

“ That in clause 5, sub-clause (1), line 10, after the words ‘ by magistrates’ the following be added :—

‘ But in cases exclusively triable by the Court of Sessions under the Code, the Commissioners will not commence the enquiry into or trial of any offence cognizable by them until two days after the service of notice on the accused or his pleader if any, of the date, time and place of hearing, when the challan is put in or the necessary records have been received.’ ”

In moving this amendment I would draw the special attention of the House because as a lawyer of some experience and cognizant of the working of the courts so far as criminal justice is concerned, I am serious and in all earnest when I propose this amendment. It is our every day experience in the working of the courts in the mofussil. The police in serious cases also keep the challans with them and they are always on the look out to put in the papers only when the counsel is engaged and he cannot attend to papers, the challan or the files, that have to be gone into necessarily before he can be in a position to attend to the facts of the case. Suppose there is a serious case which is to go up before the tribunal and the accused is already in the lock-up. Nobody knows when the case is likely to be taken up. The police arrange among themselves that the case is to be taken up on a particular day. That day is never intimated to the accused, not even in very petty or ordinary cases; generally it is never. The police will arrange that the witnesses should turn up on a fixed day. The witnesses do turn up on that day. Now we cannot question the right of the police to summon witnesses in this way, but the result is that the accused and his counsel will have no access to the papers for that particular day on which the hearing is to commence. Supposing all this is so arranged that the accused has absolutely no information when his case is likely to be taken up and the accused all of a sudden finds at 10 o'clock on a particular morning that his case is to be taken up by the tribunal at the Lahore Central Jail, while he has himself either been confined there or in some mofussil jail. He is brought there hurriedly. The Commissioners sit in the district court for instance. Nobody knows. It is so arranged that the Commissioners are at once transported to the Lahore Jail. The witnesses arrive there exactly at 10 according to the pre-arranged method and without any intimation. Without the least information to the accused the Commissioners begin the trial. The accused has no opportunity of securing any legal advice. He cannot communicate with his friends or relatives. As a matter of fact he is non-plussed. The result is that the case is taken up. The witnesses are examined and so after an examination of two or three witnesses according to the Act as it now stands, the tribunal is pleased to frame a charge against the accused. Would you not, if you are here to legislate for the province, for your country, would you not make ample provision that no such injustice should be done to the accused? Would you not, who have been holding up the traditions and have rather translated British justice here in the Punjab, in this country India, would you not think it advisable that any such loophole should not remain in the procedure? This is one example which I just place before you. That is why I propose that in all such cases which are exclusively triable by the court of sessions, meaning thereby cases which are very serious, in almost all of which death sentence is

[Sh. Abdul Ghani.]

to be awarded at the option of the tribunal, in serious cases like this it should be necessary for the prosecution or for the prosecuting agency to tell two days beforehand, either to the accused himself or to his counsel that the case is to be taken up on such and such a date, and this date should be fixed after the challan and all other necessary papers are put in court, because it is no use telling the accused that his case is to be taken up on the 7th when as a matter of fact the papers are put up in court on the 7th. I need not take time over it. My amendment is quite explicit and quite clear. All those who love justice and who desire that this Bill should be a success should support this amendment. I trust that Government will kindly give full consideration to the amendment and will accept it.

Mr. President : The motion moved that in clause 5, sub-clause (1), line 10, after the words 'by magistrates' the following new clause be taken into consideration :

'But in cases exclusively triable by the Court of Sessions under the Code, the Commissioners will not commence the enquiry into or trial of any offence cognizable by them until two days after the service of notice on the accused or his pleader, if any, of the date, time and place of hearing, when the challan is put in or the necessary records have been received.'

The Honourable Sir Henry Craik (Finance Member) : Sir, I have no objection to the principle embodied in this amendment, namely, that the accused should have reasonable notice of the date and time and place of hearing, but I think one must leave these details to the court itself. The honourable member has spoken as if the police fixes the date and time and the place of hearing. I cannot understand exactly why any court of the standing of this special tribunal, comprising three officers of standing, or one officer of standing and two lawyers, or two officers of standing and one lawyer, why he thinks that a court of that sort should permit the police to arrogate to themselves the function of the court or should even accept without examination any suggestion that the prosecution may choose to put about the date.

Shaikh Abdul Ghani : What is there to prevent them from doing so ?

The Honourable Sir Henry Craik : Their commonsense, their experience of the law, their sense of justice and.....

Shaikh Abdul Ghani : I have seen section 30 magistrates obeying the police.

The Honourable Sir Henry Craik : This is a court of three sessions judges. Surely there is a distinction. Apart from it, is it likely that the Commissioners would be so prejudiced as to begin the trial without giving notice to the accused ? In the first place, I do not see how they could do so, and, in the second place, if they were so foolish and so completely lacking in commonsense, the honourable member may rest assured that the High Court would intervene or else Government would immediately dissolve the Court and appoint fresh Commissioners. Apart from that, there are certain words in this amendment which are so ambiguous that I could not possibly contemplate with equanimity their appearance in the Bill.

The clause starts by saying "that the Commissioners will not commence the enquiry into or trial....." The Commissioners will in no circumstances that I can see ever "enquire into" an offence. Secondly, the expression "challan" is used. It is not a legal expression at all. "Challan" is not to be found in the Criminal Procedure Code. I do not know whether there is any definition of it at all. It is only a word with a technical meaning of its own which should not appear in any enactment. Further the following words occur in the clause, namely "or the necessary records have been received." What record does the honourable member contemplate? And received by whom? I really fail to grasp the meaning of this last clause of the amendment. Again, it is said that "the Commissioners will not commence the trial of any offence cognizable by them until two days after the service of notice on the accused or his pleader." Are these two days to run from the date the challan is received or does it mean that the accused is to have notice of the receipt of the challan? The wording is so ambiguous that it really does not convey any meaning to me at all. I should like the honourable member to explain what he means by "necessary records." It seems to me that this amendment is so ambiguous in its language that it conveys really nothing at all.

Moreover, the substance of the amendment is, I submit, unnecessary. The honourable member must surely realise that a court of this standing will act with reasonable prudence, with reasonable commonsense and with reasonable regard for the elementary canons of justice.

Shaikh Abdul Ghani: I beg to withdraw the clause.

The clause was by leave withdrawn.

Mr. President: The Council will now proceed to consider the Bill clause by clause. The question is—

"That the preamble be the preamble of the Bill."

The motion was carried.

Clause 1.

Mr. President: The question is—

"That sub-clauses (1) to (3) of clause 1 stand part of the Bill."

The motion was carried.

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan), Urban], (Urdu): Sir, I beg to move—

"That in clause 1, sub-clause (4) for the word 'notification' the words 'a resolution of the Punjab Legislative Council' be substituted."

The Bill as it originally stood embodied a clause which provided that the Bill shall continue in force for five years from the date of commencement. But when it came back from the select committee it appeared that the Government had changed their mind and agreed that the enactment shall continue in force for two years provided that they may by notification extend it for a further period not exceeding three years. In my humble opinion this makes little or no difference at all. I for one would suggest that the Bill if passed into law may continue in force for two years and after that if it is necessary a resolution urging the extension of this enactment for another three years may be moved in the new Council that would be constituted under the future reforms. The Government might say that they

[Sh. Muhammad Sadiq.]

cannot rely on the new Council for the circumstances might change and the new members might not agree to the extension of this enactment for another period of three years. My answer is that we should not bind the new Council. But if the present Council goes on to sit, then, I assure the Government that their fear is unfounded inasmuch as the Council after two years would not be a different one from that which exists to-day. (*Interruption*) I thought that the Honourable Member for Finance was going to accept my suggestion. But I am sorry I was mistaken. The signs made by dumb people are dangerous for they often create misunderstanding. Sir, I again request the Government that because this House always supports the Government in all reasonable matters, they should not hesitate to accept my suggestion which is but reasonable. They should not adopt a die-hard attitude towards our most reasonable requests. With these words I resume my seat.

Mr. President : The amendment moved is—

“ That in clause 1, sub-clause (4) for the word ‘ notification ’ the words ‘ a resolution of the Punjab Legislative Council ’ be substituted.”

The Honourable Sir Henry Craik : I am sorry to disappoint the honourable member. I cannot accept the amendment. He desires that the clause should run—

“ Provided that the Local Government may by a resolution of the Legislative Council extend it for a further period not exceeding three years.”

How can the Local Government extend it? Which action would have the effect of extending or prolonging the life of the Act, a resolution of the Council or an order of the Government? The honourable member's intention is apparently that the decision should rest with the Legislative Council and that the actual instrument for giving a fresh term of life to the Act would be a resolution of the Council. That is what the honourable member intends. This simply means that the Act would come to an end automatically with the end of two years, because no court would ever accept a resolution of the Legislative Council as giving an Act validity or life.

Mr. Nanak Chand Pandit : Why not, if it forms part of the Bill?

The Honourable Sir Henry Craik : Because a resolution of the Council is merely a recommendation to Government.

Mr. Nanak Chand Pandit : But if it forms part of an Act?

The Honourable Sir Henry Craik : The Legislative Council cannot pass an effective resolution that a Bill should be extended any more than it can pass an effective resolution that the Bill should be repealed. I cannot on a point of constitutional law accept the proposition that a resolution of the Council could give fresh term of life to an Act. The relevant clause is that the Bill shall continue in force for two years. I feel no doubt whatever that no court would accept an Act as being in force for a longer term than two years if its continued existence depended merely on a resolution of this Council. Further, there is this point that as it seems to me, the responsibility for extending this Act should rest not on the Council, but on the executive government. Two years hence, let us hope,

the deplorable state of affairs which have made this Bill necessary may have come to an end. In that case Government will certainly not extend the life of the Bill.

On the other hand, the material on which it will be necessary to come to a decision whether it is desirable to extend the life of the Bill or not will be material which will be in the hands of Government, and will be possibly material, at that moment, of a highly secret nature whose disclosure might be disastrous. The suggestion that it would be necessary to publish that information in order to convince the Legislative Council of the necessity of extending the life of the Act is one which it is impossible for me to contemplate. The amendment moved in the select committee was accepted by me only on the understanding—I mean the amendment to shorten the life of the Bill from 5 years to 2—that the power must rest with Government, the responsibility must rest with Government for deciding whether after those two years it was necessary or was not necessary further to extend the life of the Act. I must therefore oppose the amendment.

Rai Bahadur Lala Mohan Lal [North-East Towns (Non-Muhammadan), Urban], (Urdu): Sir, I rise to support the motion now before the House. I see very little difference between the original clause and the clause as amended by the select committee. It is rather unnecessary on our part to visualise the future course of events. We cannot say with certainty what constitutional progress our country is going to make. But this much I am sure that the life of this Council will be 2 years. I am not at one with the honourable member from Amritsar when he says that the life of the present Council will be less than two years. In any case the Government may move a resolution urging the extension of this enactment for another period of three years just six months before the dissolution of the present Council. With these words I request the honourable members of the House to vote for the motion now under consideration.

The Council then adjourned till 2 P.M. on Friday, the 7th November 1930.

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PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Friday, the 7th November 1930.

The Council met at the Council Chamber at 2 P.M. of the clock. Mr. President in the Chair.

THE CRIMINAL PROCEDURE (PUNJAB AMENDMENT) BILL— (continued).

Clause 1—continued.

Mr. President : The Council will now resume discussion of the amendment which was moved yesterday by the honourable member from Amritsar (Shaikh Muhammad Sadiq).¹

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan), Urban] : Sir, when I moved my amendment I did not mean to quibble with it. If the Honourable the Finance Member thinks that there is a constitutional difficulty in the way of his accepting it, I shall suggest to him a solution. He can easily accept the amendment with slight alterations which I may make with your permission. The word "notification" may be allowed to remain there. But there should be a resolution passed by the Council approving the Government notification. I understood that the whole of the Honourable the Finance Member's speech was based upon the constitutional point that this Council could not seize the rights and functions of the Government. If that is the position I am not going to quarrel over it. There is no harm if the word "notification" were retained in the clause. My object in bringing the amendment is nothing obstructive. Far from it, I wish to help them in all ways. With your permission, therefore, I would now add after 'notification' the words "if approved by the Legislative Council."

The Honourable Sir Henry Craik : I rise to a point of order. The honourable member has already spoken on this amendment, and I have replied to it. Is the honourable member now making a second speech?

Mr. President : He is replying to the debate.

The Honourable Sir Henry Craik : Have I the right to reply again?

Mr. President : Yes, as the Member in charge of the Bill.

Shaikh Muhammad Sadiq : I am rather surprised that this point of order should be raised. The Government benches have never cared to follow the rulings of the Chair. The Chair has ruled many a time that the mover cannot do it as a matter of right but that he could take part in the discussion.

¹ That in clause 1, sub-clause (4), for the word "notification" the words "a resolution of the Punjab Legislative Council" be substituted.

The Honourable Captain Sardar Sikandar Hyat Khan : That ruling was in regard to new clauses. I think the honourable member is confused.

Shaikh Muhammad Sadiq : I think the confusion seems to be on the part of Honourable Members of Government. If the object of the Government is to defeat all amendments, good or bad, then I can understand the attitude of the Honourable the Finance Member. With the majority of members at their back they can turn down any proposal. But if their object is to compromise, to evolve a law which would be acceptable to the people, which is reasonable and just, it is but proper that reasonable amendments ought to meet with their acceptance. If only the Government have confidence in the House, after two years—that is a fairly sufficient period—and if the House thinks it in the interests of the province to accept the continuance of this measure, there will be no difficulty in extending its life. Judging the attitude of the Council they have absolutely no need for any apprehension. I see there will be no harm in accepting my amendment unless it be the object of the Government to oppose all amendments, in which case the constitutional point was not one of real significance. There are two years before the Government and what will happen thereafter? The maximum life of this Council is held to be two years or even less. We would be going out of the way if we were to suppose that in the beginning of the new era thereafter, the new recruits to the Government, with less experience than is possessed by Honourable Members of Government at present, when left with such a wide weapon as this law, will use it wisely. For the present, Sir Henry Craik at the head of affairs, a gentleman of experience as he is, can be trusted to use it well. But after 18 or 20 months a raw young recruit, armed with these wide powers, may err. I therefore suggest that my amendment in this changed form may be accepted. I move—

“ That in clause 1, sub-clause (4) after the word ‘ notification ’ the words ‘ previously approved by the Council ’ may be added.”

The Honourable Sir Henry Craik (Finance Member) : Sir, I am always in difficulty in dealing with the proposals of my honourable friend from Amritsar, because I find it—no doubt from my own imperfections, not on account of his—extraordinarily difficult to grasp exactly what he is saying. I stand, Sir, like a timid voyager by the rushing stream of his eloquence. I thrust out every now and then a tentative foot or ear, trying to grasp a twig flowing down the spate of the torrent, but I am extraordinarily unsuccessful in being able to grasp exactly what the honourable member does say and still more unsuccessful, I am afraid, in trying to grasp what he means to say. Because, I feel that occasionally the honourable member gets up meaning to say one thing but says quite a different thing. I have, Sir, already stated the objections which I have to this amendment and I need not repeat them. The honourable member has now suggested a change in the form of the amendment, in fact, two or three changes. I am not quite sure which of the various forms he prefers but they all seem to come to very much the same thing. It seems to me that whichever of these forms the honourable member desires to put forward, they all have one and the same result. That is to say, they would throw on the Legislative Council

a responsibility which ought to fall on the executive government and they would not in effect relieve the executive government of any real share *vis-a-vis* the general public of that responsibility. The honourable member has suggested that two years hence we may have—I am not sure whether it was to be a more experienced or a less experienced Government. Whichever it be, I would retort to him that if he is uncertain of the composition of this Government two years from now, we are equally uncertain of what the composition of this Council will be that day. I think it is asking rather a lot to expect us to decide now on a hypothetical set of circumstances arising two years hence that we will be prepared to shuffle off our responsibility and in the American phrase “hand the baby” to a council which is not yet in being and the composition of which it is practically beyond human ingenuity to foretell.

The amendment gives the Legislative Council power to extend the period of its application, a principle which I consider wrong on general grounds, and which so far as I am aware has never been embodied in a legislative enactment. It is for Government, the best judges, and who have all the facts in their possession, to decide whether the situation at the end of two years would justify them to allow this Bill to lapse or compel them to continue it. On that ground I would ask the House to reject the amendment. (*Hear, hear*).

Pir Akbar Ali [Ferozepore (Muhammadan) Rural]: Sir, I beg to move—

“That the question be now put.”

Mr. President: The amendment moved is—

“That in clause 1, sub-clause (4) for the word ‘notification’ the words ‘a resolution of the Punjab Legislative Council’ be substituted.”

Question is that the word “notification” in the original sub-clause stand part of the Bill.

The motion was carried.

Mr. Labh Singh [Rawalpindi Division and Lahore Division, North (Non-Muhammadan), Rural]: I beg to move—

“That the proviso to sub-clause (4) of clause 1 be deleted.”

The effect of this amendment if it is passed would be to reduce the operation of this law to two years and sub-clause (4) would simply read—

“(4) It shall continue in force for two years from the date of commencement.”

This measure has been described as an emergency measure and all that I submit is that it should be treated as such. It has been said from the other side that it is a necessary evil; we on this side say that it is an unnecessary evil. Both parties are agreed on the proposition that it is an evil and my submission is that it should be circumscribed not only in its intensive operation but also in the matter of the time during which it shall remain in force. Two years, I submit, is a long enough period to try the experiment. If this measure is really going to achieve the objects which it is intended to achieve, then two years would really be long enough to see what the results of this experiment are. During this interval those who claim that this Act would be efficacious in the direction in which it is now alleged it may turn out to be so efficacious will have time enough to tell the Council that they have succeeded and that their forecast was right. On the other

[Mr. Labh Singh.]

hand, those of us who believe that it is going to do no good except that it will undermine the sense of security of the people, will have time enough to demonstrate that this is so. It would be but just and fair and quite in consonance with the description of the measure as an emergency measure that the period of its operation should be limited to two years. As I entered the Council Chamber a few minutes ago I heard an argument that was being advanced, namely, that the responsibility of determining whether an emergency measure is necessary or not should rest with the executive alone and not with the Legislative Council. This is a proposition in which in its unqualified form I really cannot acquiesce. It is true that it is for the executive to say in the first instance that an emergency has arisen, but certainly it is for the Council to judge whether the allegation made by the executive is correct or not, and the Legislative Council which leaves the entire question solely in the hands of the executive is certainly a Council which would not be doing its duty and performing its proper functions. It is for the Council to find whether there is or is not an emergency and whether a particular measure would meet the needs of the case. In supporting this measure the Government has really been reduced to bad straits. Only the other day a good deal of emphasis was laid upon the strange argument that cross-examination for instance was an evil and therefore to give an opportunity to the accused twice for the purpose of cross-examining the evidence for the prosecution was undesirable, and was not in his best interests.

The Honourable Sir Henry Craik : May be undesirable.

Mr. Labh Singh : This is exactly what was said. On that score an argument was advanced that no great harm would be done if this opportunity of cross-examining the witnesses for the prosecution twice is abridged and only one opportunity remains. Now, Sir, this is the nature of the argument that is being seriously advanced and repeated in support of this measure. A measure which is supported by such arguments must really stand self-condemned. But the situation in this Council and the general situation in this province are such that we cannot hope with any degree of success to be able to oppose it. Things being as they are we have only to try to bring out both the inherent weaknesses of this measure as well as the inherent weaknesses of the argument by which the measure is being supported. It has not been shown what harm would be done if this measure is restricted in the first instance in its operation only to two years. After the lapse of two years if the Government thinks that the emergency continues and the Council concurs in that judgment then the Council would be in a position to re-enact this measure for a further period of two years or even more. There could be no difficulty then in extending the life of this measure by a resolution of the Council. But if a technical objection is taken to this mode of procedure then I would submit that the life of the Bill should be restricted in an unqualified way to two years in the first instance and then if the emergency continues and the Council finds that the emergency is real and that this measure has really achieved its object and is doing good, then the Bill can be re-introduced into the Council and then without much difficulty and discussion it could be re-enacted. But the only question for decision then would be as to whether there is or there is not an emer-

gency and also whether this Bill has done any good or not. I do not really see how it is open to the executive to say that the executive are the sole judges of determining whether an emergency has arisen or having arisen it continues. I emphatically differ from that opinion and I believe this is not a correct position for any one to take up and I hope that the Council will see to it that this point is not conceded in the way in which it has been presented to it by the executive. To say that this measure should be enacted either for an indefinite length of time or for two years in the first instance and then leave it open to the executive to extend its life to another 4 or 5 years, discloses, I would submit, a distrust of the Council. The executive are rather unnecessarily nervous about their position. Do they assume that they would be able to get this measure through somehow or other now because opposition at this stage is weak or non-existent and it may harden at a subsequent stage or opinion may even in this Council radically change in the course of the next two years? It is only for these reasons that they are attempting to get for their Bill as long a lease of life as possible. So I would submit both on this ground and on the other ground, namely, that we are all hoping that in a year's time or perhaps less than that the political situation will have fundamentally changed that the amendment should be accepted. The responsibility may then shift perhaps from the present shoulders to some other shoulders and those people who would come later on would be the best judges of the necessity or otherwise of a measure of this description. I would submit that the attitude towards this amendment is also a sort of touch stone, a sort of criterion for judging those who tell us that times are going radically to change and there would really come, if nothing better comes, at least complete provincial autonomy. If these things are really conceived in good faith and uttered in good faith, then the question before us would supply a test also of that good faith. With these remarks I would submit that the proviso to sub-clause (4) should be deleted.

Mr. President : The amendment moved is—

“ That the proviso to sub-clause (4) of clause 1 be deleted.”

Sardar Harbaksh Singh [Hoshiarpur and Kangra (Sikh) Rural] : Sir, I oppose this amendment for one simple reason. I think that the list of crimes that we had the other day is such a long one that even if half of these cases are traced and accused are brought to book and placed on their trials before the Commissioner, the trials would not be finished within two years, and it would be awful at the end of two years for the Commission to disperse leaving the accused in the dock and their trials ending in fiasco. Therefore, there must necessarily be some provision in the hands of the Government to extend the time. I, therefore, oppose this amendment.

Shaikh Faiz Muhammad : I rise to a point of order. The House has just now passed that the word “ notification ” shall stand part of the Bill. The present amendment, if passed, will go counter to what the House has just now passed. I want to know if this amendment is in order.

Mr. President : Every motion may be amended and after it is amended the House may decide whether it will pass or reject it. The proviso is an independent clause, but assuming it to be a part of sub-clause (4) of clause 1, the House may delete or retain the whole sub-clause.

The Honourable Sir Henry Craik (Finance Member): Sir, I am afraid I cannot accept this amendment. The honourable member has suggested that the proper course is to enact this Bill for a period of two years and then if we are convinced that it is necessary to extend it for a longer period, to introduce a new Bill, which he is good enough to promise will be passed without much discussion. I feel sceptical about that, but apart from that the honourable member has omitted to think of the interval that must elapse between the termination of one Act and the introduction and passing of another Bill. The honourable member has also expressed a hope, or an opinion, that in a year or two years from now the political situation will have changed. I share those hopes, but I fear that I cannot share the implication which I think was at the back of the honourable member's mind that with the change in the political situation terrorist and anarchical outrages will cease. I doubt very much whether any constitutional change will have any great effect in reducing the volume of these crimes. Everybody knows that we are on the eve of great constitutional changes. Within a few days from now a very important conference is to sit in London which will be opened by His Imperial Majesty to consider the form which those changes should take. That conference, Sir, has been much in the air and much discussed within the last few days. But in those same few days we have had, I think I am right in saying that since we began the discussion of this Bill in this House, we have had at least six crimes of a revolutionary and terrorist character actually committed or in some cases prevented, in the Punjab and Delhi. That, Sir, seems to me a striking consideration.

Now, Sir, the honourable member has further suggested that by retaining in its own hands the power of extending the life of this Bill the Government is showing distrust of the Legislative Council. That, Sir, is a charge which I desire to repudiate. I must say I am surprised that it should come from the honourable member from Gujranwala, as what has struck me most about his attitude towards the Bill is his profound distrust of everybody. He distrusts me; he will not accept my assurances that such and such a rule will be made or such and such a supplementary measure will be passed. He distrusts naturally *a priori* and *ex hypothesi* the police; he distrusts the sessions judge, whether that sessions judge is serving or has retired. The magistracy he profoundly distrusts, and of witnesses he is equally distrustful. And then he accuses me of distrusting the judgment of this Council! There are two ways in which it will be open to this Council to influence the Government in its action. At any moment it is open to any member to move a resolution that the Bill should be repealed. It is equally open to any member to bring in a repealing Bill. Both those methods are open whenever the Council is in session. But no case seems to me to have been made out for deciding here and now that at the end of two years there will be no longer any necessity of this Bill, and in my opinion—and I naturally speak with considerably deeper knowledge than is available to most members of this House regarding the nature of the organisations which this Bill is designed to combat—in my opinion the honourable member's optimism stands on very slender foundations. If these outrages die out, a thing which, as I have said already, will be entirely disconnected with any political or constitutional changes, then the House may take it that Government will gladly allow the Bill to lapse. But if it is necessary, if these

outrages are still going on at the end of two years, Government would be making a grave mistake if they deprive themselves even for the short period which it would take to pass the second Bill, of this method of dealing with persons accused of such crimes. Experience in Bengal may be cited in support of what I say. The Bengal Act on which this Act is modelled, was introduced and became law for the first time in 1925. One provision of it was that the Act was to remain in force for five years. At the end of five years the Bengal Government found it necessary to ask the Bengal Legislative Council, for reasons which no doubt are well-known to all members of this House, on account of the number of recent terrorist outrages in Bengal, to extend the life of the Act, and that the Bengal Council did. We are asked by this amendment not to let the Act remain in force for five years at the outset. We are asked to reduce its working life to a term of two years and I fear that is a proposal which it is impossible for us to accept.

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhammadan), Rural]: Sir, I support the motion of the honourable member from Gujranwala. The select committee has thought it fit to pass the Act for two years and all emergency measures will be strictly limited in duration. I do not think after two years there will be an occasion to use this Bill. The political situation is bound to improve after the Round Table Conference but supposing there is any need for it then the next Council which will succeed this Council, will be the best judge of the circumstances. The Honourable Member for Finance has stated that the next Council can bring in a repealing Bill. Instead of tying the hands of that Council and putting it to the trouble of bringing in a new Bill, why should we not restrict it to two years and if there is agitation then, that Council can very easily enforce it for three years more, in fact for any number of years. It is a safe principle to have a legislation of this type for as short a period as possible. The Finance Member told us that since we have been discussing this Bill there have been other cases of violence. That is possibly a proof that the Bill is not going to affect such people. If it had any force to inspire awe in the minds of the public those people who are given to violence should have resisted from their crime, because they knew that the Bill was coming on their own head like the sword of Democles. But instead of that, they have increased their activities and I fear that when the Bill is passed they will be still more exasperated. The exact thing that we should aim at is to prevent the recurrence of these diabolical crimes, but this Bill is no remedy for that, for you can punish a man only if he is caught and is brought before the Court. What will be the result of the passing of this Bill? The result will be that those people will know that after this Bill has been passed it will be difficult even for the innocent to escape. They will carry on their nefarious work with great secrecy and greater cunning and that will defeat the very ends the Bill has in view. Making it operative for two years will at least be something in the nature of satisfaction to the people who are not given to these diabolical crimes. If the Act is only for two years we can perhaps persuade people, but if the Bill is going to be operative for five years, I think they might lose hope and be disappointed. In my opinion the Honourable the Finance Member ought gladly to accept this amendment as it is not doing any harm to the Bill, on the other hand, it will be useful and advantageous. With these remarks I support this motion.

The Honourable Captain Sardar Sikandar Hyat Khan : I beg to move—

“That the question be now put.”

The motion was carried.

Mr. President : The question is—

“That the proviso to sub-clause (4) of clause 1 stand part of the sub-clause.”

The motion was carried.

Mr. President : The question is—

“That sub-clause (4) of clause 1 stand part of the Bill.”

The motion was carried.

Clause 2.

Mr. President : The question is—

“That clause 2 stand part of the Bill.”

The motion was carried.

Clause 3.

Mr. President : The question is—

“That clause 3 stand part of the Bill.”

The motion was carried.

Clause 4.

Mr. Labh Singh [Rawalpindi Division and Lahore Division, North (Non-Muhammadan), Rural] : Sir, I beg to move—

“That in sub-clause (1) of clause 4, for the words ‘local Government’ the words ‘the High Court of Judicature at Lahore’ be substituted.”

The meaning of this amendment is perfectly plain and I shall not therefore take long to expatiate on it. It is evident that the cases which are going to be tried in accordance with the special procedure provided by this Bill are not going to be cases between subject and subject. They are going to be cases to which Government is a party in a very special and real sense. They are cases between the subjects on the one hand and the Government on the other. It is extremely necessary therefore that the special tribunals to be appointed under this measure should be such as would inspire confidence. This amendment is designed to attain that end. It is a very wholesome and absolutely necessary principle of law that no man can be a judge in his own cause. Now, if it is true that no man can be a judge in his own cause, it should be equally true that no one party to a dispute should make its own representative or its own deputy or its own nominee as a judge in that dispute. If that is done, the very elementary conditions that are necessary to inspire a sense of confidence, a sense of fairness would be lacking. The obvious retort to the argument which I am advancing may be that it may be said that practically every magistrate without exception is appointed by the Government, nay, even the sessions judges are so appointed. But my submission is that this retort is wide of the mark. The cases which the magistrates who are appointed by the Government have to decide are mainly cases between subject and subject. The Govern-

ment is no doubt a party to them but that is only in a formal and technical sense. But these tribunals are being set up for the specific purpose of settling disputes or adjudicating on matters which arise between the subjects on the one side and the Government on the other. Therefore the analogy really is not on all fours and has no relevance.

Moreover, it is also plain that in the case of the ordinary stipendiary magistrates and sessions judges, their tenure of office is perfectly safe. They are not dependent on the Government for the continuity of their service. All that they depend on Government for is the special preferments and special promotions. These permanent magistrates and persons occupying permanent positions as officers can well afford not to seek any special favours and preferments and they may continue to enjoy the full term of their office. They will not, therefore, be in any sense dependent on the Government. But this will not be so in the case of officers who will preside over the special tribunals which are going to be set up *ad hoc*. My submission, therefore, is that if we adopt this amendment and entrust to the High Court at Lahore the duty of selecting officers for these tribunals, we will be doing something which will be to the interest of the Government and the Government should, therefore, in its own interest readily accept this amendment. They should remember that if they do not do so, they will be simply shutting their eyes to the realities of the situation. The faith of the people in the administration of justice, by which, of course, we mean the administration of criminal justice, just at present stands shattered and if anything can be done to restore that confidence, that trust, that faith, or if anything can be done to retain what little remains of that trust or confidence, I think we will be doing what is absolutely necessary under the circumstances of the case should be done. As things are at present it is obvious that all things are really making for the disappearance of this confidence and of this trust. It was said and rightly said that the strength of the British Empire does not depend so much on the strength of the army at its disposal or upon any other apparatus of that kind as on the moral hold that it has on the masses of the people. That moral hold has well nigh vanished and what remains of it is rapidly vanishing and if we do anything which would bring that back or retain what little remains of it, I think we will be acting in the best interests of the Government. It is but an elementary truism of jurisprudence that it is not so important that justice should be done as that the public should feel that justice is being done. It is in order to gain this end and it is from this point of view that I am insistently urging upon the attention of the House that this amendment should be accepted. No harm will be done if it is accepted. On the contrary it would do an immense amount of good.

Mr. President : Clause under consideration, the amendment moved is—

“That in sub-clause (1) of clause 4, for the words ‘local Government,’ the words ‘the High Court of Judicature at Lahore’ be substituted.”

The Honourable Sir Henry Craik : The honourable member can hardly expect me to accept this amendment.

Mr. Labh Singh : I do expect.

The Honourable Sir Henry Craik : Without going into all the arguments put forward by the honourable member, I would only allude to the fact that if the High Court were consulted in regard to this amendment, or rather this suggestion, I feel quite certain that the High Court would be very unwilling indeed to assume the duty which the honourable member proposes to thrust upon it. Secondly, if the High Court selects and appoints the persons who are to compose the tribunal, it will place that court in a position of considerable difficulty in dealing with appeals from the persons whom they have themselves selected and appointed. These two arguments seem to me to be conclusive against the amendment. I do not think it is necessary for me to labour the point.

Shaikh Faiz Muhammad [Dera Ghazi Khan (Muhammadan), Rural] : Sir, I also oppose the amendment under discussion. The strongest argument that has been advanced in favour of this amendment is that the tribunal appointed by the High Court will command confidence, whereas if the members of that tribunal are appointed by the local Government it will not command confidence. We have to see how far this proposition is correct, in the light of the past experience. Not long ago we had a tribunal constituted under the Ordinance issued by His Excellency the Viceroy for the trial of the Lahore Conspiracy Case and on that tribunal were placed three judges from among the Honourable Judges of the High Court. Now we have to see whether these three Honourable Judges of the High Court commanded the confidence of the public or even the confidence of the accused who were tried by that tribunal. If those three Honourable Judges for no fault of theirs did not command the confidence of the public nor even the confidence of the accused there is no justification for suggesting that the tribunal constituted under this Act on the recommendation of or by the High Court will command confidence.

The other argument that has been advanced is that the cases in this tribunal will be as between the Government or the Crown on the one hand and the accused on the other, while ordinarily the cases are between one private individual and another. With regard to that my submission is that all criminal cases are supposed to be between the Crown and the individuals (*A Voice* : Supposed). In all criminal cases the Crown figures as the complainant. Therefore his argument on this head also does not hold good.

Then it has been suggested that if the members of the tribunal are appointed by the local Government, they will not command confidence. I submit that for that assertion there is absolutely no justification. My learned friend has himself pointed out that the magistrates of all classes and the sessions judges are appointed by the local Government without even the consultation of the High Court. Heretofore no objection has been raised on this account and it has never been said that the magistrate appointed by the local Government or the sessions judge appointed by the local Government did not command the confidence of the people or of the accused. For all these reasons I oppose this amendment.

There is another ground on which the members sitting on this side of the House would wish to oppose the amendment. Heretofore the magistrates and sessions judges have been appointed by the local Government.

and if this amendment is allowed to pass, it is plain that it will be treated as the thin end of the wedge and some time hence an attempt will be made to transfer the power of appointment of sessions judges and magistrates to the High Court. This part of the House is not prepared to go to that length. For these reasons, I oppose the amendment.

Mr. President : The question is—

“ That in lines 3 and 4, of sub-clause (1) of clause 4 the words ‘ local Government ’ stand part of the sub-clause.”

The motion was carried.

Mr. Nanak Chand Pandit : I move—

“ At the end of clause 4, sub-clause (1), the following words be added :

‘ On the recommendation of the High Court of Judicature at Lahore.’”

I would very strongly urge upon this House to accept the amendment which I am moving because the criticism that has been levelled against the amendment of my honourable friend, Mr. Labh Singh, does not apply to the amendment which I have moved. What is the effect of this amendment? I submit it merely gives a statutory sanction to the already existing practice. The High Court at present does recommend sessions judges and they are consulted when sessions judges are appointed. The final authority is the Government no doubt, but consultation with the High Court Judges no doubt takes place in the appointment of sessions judges and other officers who are interested in the administration of justice. Therefore I submit that so far as this part of my amendment goes it should meet with the acceptance of the House and should be accepted by Government as well without any demur. There is another reason why this amendment should be accepted. It meets with the objection raised on both sides, by those who want that the appointment should be in the hands of the High Court and those who would leave it in the hands of Government entirely. Both these parties have reason to feel satisfied with this amendment. For example, the Honourable the Finance Member stated that the High Court could be consulted, but asked that if the High Court did not suggest any names, what would happen. The appointment will then rest with the Government. (*The Honourable Sir Henry Craik :* That would be illegal). It is open to the High Court not to recommend names. There would be nothing illegal about it.

The other argument brought about by the Honourable Finance Member, so far as I have been able to follow it is that if the High Court makes the appointment, the High Court cannot sit in judgment in appeals from these Commissioners. I cannot follow this argument because we are aware that when Government makes an appointment and whenever that official is dismissed or punished in any way, there is an appeal to the higher officials. There is absolutely no difficulty in that. The High Court, by appointing the Commissioners, does not put the seal of sanction on the judgments that they may deliver. That argument of the Honourable the Finance Member leads to this inference that the moment the High Court takes part in the appointment of the Commissioners they are debarred or estopped from listening to the appeals from them. Such an inference does not follow from the mere fact that the High Court takes part in the appointment. The

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Government ought to realise that this is a special measure and that the Government should therefore carry the people with them to as great an extent as they can, and this will serve as a stroke of statesmanship and will inspire confidence in the tribunal appointed by an outside authority or in the appointment of which an outside authority had got a hand.

I cannot follow the argument of my learned friend, Shaikh Faiz Muhammad, when he said that there had been no confidence in the judges appointed by the High Court. I submit that on this point opinions differ. He says that the public at large had no confidence in the three High Court Judges who were to decide the case. It should be his own individual opinion, but certainly three judges carry the greatest weight of authority in deciding a case. I submit he was speaking only for himself when he said that the people at large were not satisfied. The people were not satisfied with the taking away of the right of appeal from the judges. That was where the trouble arose, not from the fact that there were honourable Judges of the High Court sitting on this tribunal. But, as I submitted, the Government should try to put statutory sanction on the practice which is already prevalent. For, we were told definitely that in all such matters, the High Court was being consulted. With these words, I put before the House the amendment which stands in my name.

Mr. President : Clause under consideration, amendment moved :

" At the end of clause 4, sub-clause (1) the following words be added :

' On the recommendation of the High Court of Judicature at Lahore."

As amendment No. 6¹ on the paper raises only a different aspect of the same question, the debate upon this amendment shall cover that amendment also. Of course when that amendment is reached, it will not be discussed but put to the vote of the House.

Sardar Harbakhsh Singh [Hoshiarpur and Kangra (Sikh), Rural] : Sir, I oppose the amendment. My reason is this, that my honourable friend the mover himself admits that the practice is already there but that he wants statutory sanction for it. That simply means distrust—the old theme of which the Honourable Finance Member spoke just now in connection with another amendment. We do not want to support any measure which is simply based on distrust. We believe that the Government will, following the old procedure, consult the High Court in making the appointments and it is, therefore, absolutely unnecessary to provide for it in the Bill.

The Honourable Sir Henry Craik : Sir, I oppose this amendment not because I am not prepared to consult the High Court regarding the appointment of these commissioners, the High Court naturally would be, according to the present practice, consulted— but because the amendment as drafted might result in an absolute deadlock, which should make the whole Act drop to the ground. The honourable member has himself suggested the possibility of the High Court saying : We have no recommendation to make. But he desires that this sub-clause shall read :

' The Commissioners under this Act shall be appointed by the local Government on the recommendation of the High Court.'

¹ Khawaja Muhammad Eusof : In clause 4, sub-clause (1), the following be added at the end :

" Out of the names (at least six) recommended by the High Court of Judicature at Lahore."

Suppose the High Court is asked and says : " We have no recommendation to make." The local Government, it follows, cannot make any appointment. That is the inevitable consequence. The pitfalls that lie in the path of the amateur draftsman are many, and this is a good example of one of the first size, into which the honourable member has tumbled head over heels and from which there is no way of escape. Without that recommendation no appointment could be made or any appointment that was made would be challenged and found to be irregular. There is no way out of that difficulty. I repeat that I have no intention of ignoring the advice of the High Court in regard to these appointments.

Mr. Nanak Chand Pandit : On that assurance, I beg leave to withdraw the amendment.

The amendment was by leave withdrawn.

Mr. President : The question is—

" That clause 4 stand part of the Bill."

The motion was carried.

Clause 5.

Mr. Labh Singh : Sir, before I get up I am being urged by the Honourable the Leader of the House not to move this amendment of mine to clause 5 on the ground that it will be a sheer waste of time to move it. I am sorry I cannot take it like that, although I would be as brief as I can in moving the amendment. I beg to move—

" That in clause 5, sub-clause (1) after the word ' magistrates ' the words ' but the trial of offences punishable with death shall be held with the aid of assessors ' be added."

Mr. President : I am inclined to think that the honourable member's amendment goes beyond the sub-clause under consideration, but I have no objection to his moving it as a new clause. It ought to have been included in the list of new clauses, but by an oversight it has been entered as an amendment to a clause.

Mr. Labh Singh : I shall move it as a new clause now. I shall make only two remarks in support of this clause. In the first place, it would be readily conceded that it is a valuable privilege for a man to be tried by his own peers. The result of this is that such course leads to substantial justice as distinguished from technical justice. This is really the *raison d'être* of the old institution and it is a very safe, salutary and healthy institution. If we can preserve it here, so much the better for all concerned. It is said that the assessors and jurors bring to bear upon the decision of the case commonsense, but on the other hand some one would say that commonsense is so called because it is really very uncommon. I grant the justice of that remark. But what I would like to add is that there is something in bringing to bear upon the decision of cases a layman's sense as distinguished from the purely technical legal sense of a judge. Two objections, Sir, would be taken to the trial of those cases with the aid of assessors. One would be that assessors are generally weak persons and secondly, that the judge is at liberty under the law as it is at present to ignore even a unanimous verdict of the assessors. Now none of these arguments I would

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say with your permission would hold water if properly scrutinized. That assessors are generally weak persons is not really the fault of the assessors. It is the fault of the agency which prepares the list of those assessors. To be an assessor is looked upon as a sort of Government office and people hanker after being included in the list (*laughter*). This is exactly what takes place before our eyes every day in the villages and if that thing is put an end to and really competent persons are appointed as assessors and not persons who would go about from door to door begging for the favour of being included in the list of assessors, then I think the institution will become healthier and a lot of these objections would at any rate disappear. The other is, as I have submitted, that the judges are not bound to accept the verdict of the assessors. Be that as it may, it cannot be again said that the verdict of the assessors has considerable importance. Even if a trial judge differs from the verdict of the assessors he has got to assign reasons for laying that verdict aside and the appellate court would apply its mind to the verdict of the assessors as well as to the findings of the judge. With these few remarks I would beg to urge that this new clause be added to the Bill.

Mr. President : The new clause proposed is—

“But the trial of offences punishable with death shall be held with the aid of assessors.”

The Honourable Sir Henry Craik : On a point of order, Sir. Is the question before the House that the new clause be taken into consideration or that it be added ?

Mr. President : The question is that the new clause be taken into consideration.

The motion was lost.

Mr. Labh Singh [Rawalpindi Division and Lahore Division, North (Non-Muhammadan), Rural] : Sir, I beg to move—

“That in clause 5, sub-clause (3) for the words, ‘punishable with death’ the words ‘triable by the court of sessions’ be substituted.

This amendment covers a ground which has already been trodden more than once by this House during the discussion on this Bill. The clause, as it stands, reads :—

“In the trial of offences punishable with death the prosecution shall not be entitled to lead further evidence after the charge has been framed.”

The acceptance of my amendment would have this effect that in all cases which are ordinarily under the Code of Criminal Procedure triable by the court of sessions, in all such cases and trials the entire evidence for the prosecution will have to be recorded before the charge is framed and no further evidence it would be open to the prosecution to produce after the charge is framed. The necessity and usefulness of this amendment was conceded yesterday even by the honourable members sitting on the benches opposite. They accepted the principle that in all important cases, *i.e.*, in cases triable by the court of sessions the entire evidence for the prosecution should be led before the charge is framed. The importance of this provision was discussed at length and all of us are familiar now with the arguments that were advanced in support of it. Suffice it to say that no argument was urged on the other side. All that was said on the other side was that we

cannot give to the accused more rights and more extended privileges than he now enjoys under the present procedure. Their speeches boiled down came to this that no amendment which has the effect of giving to the accused more extended right for defence or more extended privileges to exculpate himself or to show his innocence than he has at present under the existing procedure of warrant trial cases would be accepted. Now, if that be so I would submit that the position is illogical and fallacious. Even assuming that this is reasonable it proves too much and works obviously a lot of injustice. We are out to abridge the committal stage and all the facilities and the privileges and the amenities and all the usefulness which that stage possesses for the accused now would disappear, and what are we going to give to the accused instead? We take away all these things, all these privileges, all these rights which were incidental to the committal stage and when the question comes of giving some facility in lieu thereof then we are met by the Government with the argument, no, we are not going to give him anything which he cannot get if he were to be tried under the procedure of a warrant case. Now, this on the face of it is obviously fallacious. You take away a lot, you take away from him vested rights belonging to him and of that you make no mention. But when there comes the question of extending to him some facilities in place of those which you are taking away from him you say, no, we are not giving him anything at all. I would respectfully submit that this is neither fair nor just. We should be more fair than we are just at present. We should give the accused some *quid pro quo*. We have got to remember that the accused has got to be distinguished from the convict so long as the accused is really an accused. He may turn out to be an innocent person or he may turn out to be the detestable being which you assume that he is. That may be so, but that will depend on the result of the trial. We have no right to heap upon the accused bad names, because the accused person may turn out to be innocent, as was pointed out by my honourable friend from Amritsar the other day, with reference to his friend from Gujranwala. The purport therefore of this amendment is that you should not take the accused by surprise, you should allow him reasonable facilities and my mode of putting the argument is this, that in lieu of the large number of facilities which you are taking away from him, give him this ordinary facility namely that he would hear the entire evidence before he is called upon to cross-examine his witnesses. This will be some slight compensation for what you are depriving him of. I was just alluding to the remarks that have been made by the learned Legal Remembrancer on the dangerousness of cross-examination and upon the information, that he vouchsafed to the House that in many cases which came up for trial before him conviction was registered because there was excess of cross-examination or bad cross-examination, or that there had been a double opportunity for cross-examination of the witnesses and had not the lacuna in these cases been filled by inexpert, excessive or repeated cross-examination directed against the witnesses by some junior counsel, the result would have been acquittal. We are really very much in sympathy with those persons who suffered because of the result of bad cross-examination but that I submit is wholly beside the question, and proves nothing.

The Honourable Captain Sardar Sikandar Hyat Khan : Victims of lawyers.

Mr. Labh Singh : Yes, this is quite proverbial. But I repeat, to say the least, this is beside the point. The only point is whether cross-examination in itself is dangerous or whether it leads to the elucidation of evidence, whether it leads to the clearing of further material which was being withheld by the prosecution or whether it leads the magistrate or the trying judge to see whether the witness who had made a deposition before him was, or was not worthy of credence, what are his antecedents, his animus, his motives, and how far his statement is consistent with those of his fellow witnesses. All this is made possible by means of and with the aid of cross-examination. To say that cross-examination is dangerous and a second opportunity for cross-examination should be withheld on that score is really saying something which proves too much and should not have been advanced by a learned member of the learned profession. With these remarks, I would submit that this amendment be considered and accepted by the House.

The other argument that, in some cases under the Code of Criminal Procedure when trial takes place before magistrates who are invested with enhanced powers under sections 30 and 34 of the Code, charges are framed before all evidence is recorded, is also beside the point, because I would repeat again that as a matter of fact it is not in the case of trials of graver and more serious offences but only in cases triable before first class or second class magistrates that it may some time happen that charge is framed before the entire evidence for the prosecution has been recorded. So leaving aside all these cases which are triable by first class magistrates or second class magistrates and confining our attention only to such cases as are exclusively triable by the court of sessions.

The Honourable Sir Henry Craik : Exclusively triable or triable ?

Mr. Labh Singh : I beg your pardon, I mean triable. It was only a slip of the tongue.

The Honourable Sir Henry Craik : It is a very important slip.

Mr. Labh Singh : It is a very important slip no doubt, but only a slip all the same. My amendment refers only to such cases as under the Code of Criminal Procedure are scheduled as offences triable by the court of sessions. With these remarks I commend this amendment to the acceptance of the House.

Mr. President : The amendment moved is—

“That in clause 5 sub-clause (3) for the words ‘punishable with death’ the words ‘triable by the court of sessions’ be substituted.”

Mr. S. L. Sale (Legal Remembrancer) : Sir, I oppose this amendment simply and solely on the ground that there is no point in giving the accused who may be brought before this special tribunal facilities and concessions which ordinary accused in the ordinary courts do not enjoy. It has been emphasised by the honourable member who moved this amendment that he does not mean to cover only cases *exclusively* triable by the court of session, but cases triable by the court of session. I take at random two examples of the practical effects of this amendment. One is section 148, Indian Penal Code, which is included in the schedule and contains the offence of rioting armed with a deadly weapon. It is triable by a court of session and the maximum punishment is five years only. Why should the accused who is placed on trial of an offence for which the maximum punishment is five

years only get this concession? But there is even a better example of the inexpediency of this amendment. Section 385 which deals with the offence of putting or attempting to put in fear of injury, in order to commit extortion is triable by a court of session as well as by a magistrate of the second class. The maximum punishment for the offence is two years. I think, there can be no point whatsoever in giving a man who cannot be convicted for more than two years a concession of this nature. I would submit, Sir, that the only result of this amendment would be to cause unnecessary delay in the trial, and, I consider that it should be opposed.

Mr. Nanak Chand Pandit [Hoshiarpur (Non-Muhammadian), Rural] (Urdu): Sir, the amendment moved by my honourable friend Mr. Labh Singh is one which is very important and which, therefore, requires very careful consideration by the Council. The honourable members of the House will remember that I moved an amendment the other day which was equally important. It was opposed from the official benches by Mr. Sale, Sir Henry Craik and Sardar Sikandar Hyat Khan. The arguments which were advanced by all these three gentlemen seemed to me to be very strange and I very much liked that I could reply to them. But the rules did not permit me to do so. Those reasons and arguments apply *mutatis mutandis* to the present motion and I take this opportunity to reply to them.

Mr. Sale as well as the other two gentlemen argued on that day that they opposed my motion on the ground that my amendment, if accepted, would give rights and privileges to the accused which he does not enjoy under the ordinary law and therefore, Government could not see its way to accept my proposal. In forwarding this argument one thing is overlooked. This fact is lost sight of that we are seeking to make this provision as a substitute for the right of the accused which is being taken away from him by the proposed measure. Under the present procedure in all sessions cases a preliminary, or I should say the commitment stage, precedes the actual trial before the sessions judge and at that stage all the evidence that is to be led against the accused is brought on record and consequently the accused comes to know beforehand what material will be placed against him at the later stage. But that stage is now being done away with. According to this measure, all such cases will come up for trial before the Commissioners, directly and, thus the accused will not be in a position to know beforehand what evidence will be produced against him. Under the circumstances, can Mr. Sale and, as a matter of fact, Government contend, with any show of reason, that no disabilities are being placed on the accused? I think that Mr. Sale cannot defend his position that he has taken up in this respect. If the Government admits, as it has admitted, that it does not want to deprive the accused of his rights under the existing law, it should not hesitate to accept the proposal now before the House. Admitted that no new rights or privileges should be granted to the accused by this measure, it is equally true that he should not be deprived of his rights that he now enjoys. Even the framers of the Bill do not express it anywhere that it was their intention to handicap the accused in any way so far as the question of his defence is concerned. It is rather strange that the Government has accepted this principle so far as the offences punishable with death are concerned but it is not prepared to accept in regard to other offences triable by the sessions judges. That some of the sessions cases are also triable by section 30 magis-

[Mr. Nanak Chand Pandit.]

trates should not be put forward as an excuse for rejecting this motion because this is only provided under one of the exceptions in the Criminal Procedure Code.

Another funny argument advanced by Mr. Sale while opposing the motion was that sometimes cross-examination proves fatal to the interests of the accused. If he sincerely thinks so, he would do well to move the Government to disallow, by an enactment, cross-examination of the witnesses in future. That would make it very easy for the prosecution to secure the convictions of any persons and as many persons as pleased its fancy. In that case it will suffice to lead the prosecution evidence and to base the conviction on that evidence (*Mr. Sale* : That was not my intention). I know that it was not his intention and, as a member of the legal profession, it cannot be his intention, but that is the only logical inference that can be drawn from his words. This right of cross-examining the witness was granted to the accused in England after an experience of many centuries. A large number of books have since been written on the subject and it is one of the primary things that a student of law has to learn. No doubt there was a time in England when the accused had to pass through burning fires and other such ordeal to prove his innocence, but that practice has been abandoned long ago and the accused now enjoys the right of cross-examining the witnesses produced against him all over the world. If, in some cases, accused suffers from the existence of this right, it is not because the cross-examining of witnesses is in itself bad, but it is because the counsel conducting the case happens to be inexperienced. But that is no reason why this right should be withheld from the accused. It is rather a reason in his favour and it points out that Government, in serious cases, engages better counsels for the accused so that no innocent persons may be punished and particularly so because the whole machinery of the Government is set in motion against these unfortunate persons. Some of the members have urged that even in England such concessions are not given to the accused. Quite so, but they should have also known that in England all criminal cases are tried with the help of a jury consisting of 12 persons and no accused is convicted unless all of these 12 persons pronounce a verdict that a particular accused has been proved to be guilty of the offence with which he is charged. Here in India we cannot even think of such things. Here we are not permitted to have a provision inserted in the Bill by which the Commissioners should conduct the trials with the help of assessors. Hence it is no use comparing the conditions of England with those obtaining here. This and such other views should not influence us with regard to the motion that is now before the House. Through you, Sir, I shall request the Government not to ride rough shod over this important matter simply because they are sure of their ground and feel that with the help of 20 votes of their own and 20 or 25 voters on this side of the House they can carry through any proposal they like.

The Honourable Sir Henry Craik : I rise to a point of order. I submit, Sir, that the whole of this amendment is out of order. This amendment relates to a part of the Bill on which the House has already made up its mind. A new clause was discussed and rejected when we were discussing new clauses. I refer to the amendment moved by Pandit Nanak Chand —

“That in clause 5, the following be substituted for sub-clause (3) :

‘In all trials under this Act the prosecution shall not be entitled to lead further evidence after the charge has been framed.’ ”

The present amendment seeks to insert the words "all trials of offences triable by the court of session." My point is this that every single offence triable under this Bill is triable by a court of session. So the effect on the Bill would be exactly the same as if the new clause proposed by Mr. Nanak Chand had been accepted. That clause was considered and rejected by the House, and the House is in effect now being asked to revise its own decision. I, therefore, submit that the amendment is entirely out of order. The point has only just come to my notice that every offence mentioned in the schedule is triable by the court of session.

Mr. President : If every offence mentioned in the schedule is triable by the court of sessions, then the amendment is out of order. But if it is otherwise, the amendment is regular.

Mr. Labh Singh : There is section 506, the last number in the schedule, which refers to an offence triable by a presidency magistrate or a magistrate of the first or second class.

The Honourable Sir Henry Craik : Look further below.

Mr. President : Even if one offence, specified in the schedule is not triable by a court of sessions, the amendment is in order.

Mr. Labh Singh : Then we have got offences under the Arms Act and sundry other cases.

Mr. Nanak Chand Pandit (Urdu) : After requesting the Government I would similarly request my zamindar friends to kindly consider this matter very carefully. If the accused is to be deprived of a right which he now enjoys under the Criminal Procedure Code, he should be given a right in its place to enable him to prepare fully for his defence. If we fail to prevail upon the Government or I should say if we do not compel the Government to make such a provision in the Bill, the coming generations will surely blame us for the neglect of our duty. My honourable friend, Sardar Sikaandar Hyat Khan, was pleased to say that Government was not prepared to give any concessions to the accused in such cases because they are bomb throwers and because they are out to take the lives of the innocent people. But, Sir, who advocates the cause of such persons who are actually committing such outrages? None of us has ever said even one word in their favour. They may be punished, we do not mind. We want this facility for the accused so that no innocent person may be convicted. It has been argued that the Bill and every clause in it was carefully considered by the select committee and that it was not considered worth while to incorporate this provision in the Bill. If that is the test, then my amendment which I moved the other day and which was also presented before the select committee ought to have been accepted, because out of eight non-official members in the committee five were in favour of that amendment. And that amendment, I need hardly say, goes very much beyond the one that is under consideration. I have, therefore, every hope that my zamindar friends will think twice before voting against it. I can assure them that no harm will come by the acceptance of that motion. We have made it very clear that we have no sympathy with the revolutionaries but we must insist that the accused should not be treated as revolutionaries unless it is proved that they are really guilty of the offence with which they are charged. By all means give facilities to the prosecution to prove the case filed by them, but let the accused also have proper facilities.

[Mr. Nanak Chand, Pandit.]

to prove his innocence. That will surely produce a very healthy atmosphere and the public will come to respect and love the Government. It will go a long way in creating confidence in the minds of the public with regard to the administration of justice. But if these facilities are denied to the accused, the people will think and very rightly too, that it is out of the spirit of vindictiveness that the Government is doing so.

Mr. President : Order, order. When an amendment is proposed, the debate should strictly be relevant to that amendment and should not refer to other amendments.

Mr. Nanak Chand Pandit : The Honourable Revenue Member tried to make the zamindar members believe that if this Bill were not passed into law a serious disaster will overtake the country. That is not the case and I hope that my zamindar friends will not be carried away by this imaginary fear.

The Honourable Captain Sardar Sikandar Hyat Khan : If this speech is to go on record I shall submit that I never said anything of the sort.

Mr. Nanak Chand Pandit : I will not give way to the honourable member (*laughter*). If he is anxious to clear his position, he can do so after I have finished my speech.

Mr. President : Will the honourable member please speak to the amendment now before the House ?

Mr. Nanak Chand Pandit : I am speaking to the amendment. I am saying.....

Mr. President : Order, order. I would request the honourable member to confine his speech to the amendment, namely, that for the words "punishable with death" the words "triable by the court of session" be substituted.

Mr. Nanak Chand, Pandit : I am dealing with that only. I say that the Government benches are opposing this amendment assuming that everybody who is caught hold of by the police will be convicted. I am asking that full opportunities of defence and cross-examination should be given. The Government benches merely oppose this motion on the pure assumption that because a person has been got hold of by the police, therefore, he must be a bomb thrower or that he must be a person who wishes to take the life of somebody else. This assumption is wrong and it should not mislead my friends. With these words I hope that my zamindar friends will, one and all, vote for this amendment.

The Honourable Captain Sardar Sikandar Hyat Khan (Revenue Member), (Urdu) : A word of personal explanation, Sir. I do not wish to convey that the honourable member has deliberately misrepresented me, but he is surely labouring under a misunderstanding. What I actually said was that there is no reason why those who throw bombs on police officials and other innocent persons, should be given greater facilities than those afforded to ordinary criminals. I never said that under this Act the accused should not be given facilities which are ordinarily enjoyed by the accused persons in ordinary criminal trials.

The Honourable Sir Henry Craik : I must apologise to you, Sir, for the mistake I made about these sections. I admit that there is one offence punishable under the Indian Penal Code which is not triable by a court of sessions, the offence of intimidation in its milder forms. That offence in its worse forms is triable by a court of sessions. But in substance, my point, I think, had considerable force, because the effect of this amendment is to make every single offence triable under this Bill, with the single exception of the milder form of intimidation, come under the purview of the sub-clause. So, the House is being asked in substance, save on one very minor and unimportant point, to reverse its decision of two days ago. It is not being asked to prevent us, as I understand the last speaker tried to make out, from taking away from the accused person any right whatever that he possesses at present, but it is being asked to confer on accused persons, because they are charged with committing certain heinous offences as members of an organised gang, certain rights which other accused persons do not and cannot enjoy under the present law.

As for the last speaker, I began to suspect him directly he began to speak in Urdu and, as he went on I found that my misgiving was well-founded. He tried to represent the attitude of Government in regard to this Bill as one founded on the assumption that the moment any person is arrested and charged with one of these offences, he is necessarily guilty. Nothing conveying any such implication has fallen from my lips in the course of these debates. (*Mr. Nana' Chand, Pandit :* I was not referring to the Honourable the Finance Member when I made the remark, but I was speaking of Government). No member of Government said anything that could be twisted into any statement of the kind, and so far as I am aware, no member sitting on these benches said anything of the kind that I have heard, and I have sat right through all these debates. In fact, the honourable member's speech in support of this Bill was almost as much a misrepresentation as the amendment itself is a misrepresentation, that is to say, except on one small point, it was misleading to the House. I ask the House to re-affirm the decision, the verdict at which it had arrived after long debate two days ago and not to reverse that decision even in respect of the milder forms of intimidation.

Mr. President : The question is—

“ That in clause 5, sub-clause (3), the words ‘ punishable with death ’ stand part of the sub-clause.”

Council divided : Ayes 50, Noes 18.

AYES.

Lieutenant-Colonel C. A. Gill.
Mr. H. Calvert.
Mr. C. A. H. Townsend.
Rai Bahadur Lala Rattan Chand.
Mr. E. Maya Das.
Dr. (Mrs.) M. C. Shave.
Sardar Bahadur Captain Sardar
Janmeja Singh.

The Honourable Dr. Gokul Chand,
Narang.
The Honourable Malik Firoz
Khan, Noon.
The Honourable Sardar Sir Jo-
gendra Singh.
Mr. Alan Mitchell.
Sir George Anderson.

AYES :—concluded.

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| Mr. F. H. Puckle. | Khan Bahadur Sardar Habib-ullah. |
| Mr. W. S. Dorman. | Khawaja Muhammad Eusoof. |
| Mr. H. F. Ashton. | Chaudhri Fakir Husain Khan. |
| Mr. J. W. Hearn. | Chaudhri Riasat Ali. |
| The Honourable Sir Henry Craik. | Makhdumzada Sayad Muhammad Raza Shah, Gilani. |
| The Honourable Captain Sardar Sikandar Hyat Khan. | Rai Jagdev Khan, Kharal. |
| Mr. C. M. G. Ogilvie. | Maulvi Imam-ud-Din. |
| Mr. D. J. Boyd. | Raja Muhammad Sarfaraz Ali Khan. |
| Khan Bahadur Nawab Muzaffar Khan. | Mian Nurullah. |
| Mr. S. L. Sale. | Rai Bahadur Chaudhri Chhotu Ram. |
| Mian Ahmad Yar Khan, Daultana. | Pir Akbar Ali. |
| Shaikh Faiz Muhammad. | Sardar Harbakhsh Singh. |
| Maulvi Sir Rabim Bakhsh. | Mr. M. A. Ghani. |
| Khan Bahadur Malik Muhammad Amin Khan. | Khan Sahib Chaudhri Fazl Ali. |
| Mr. Owen Roberts. | Chaudhri Muhammad Yasin Khan. |
| Hony. Lieutenant Khan Sahib Malik Muzaffar Khan. | Sardar Gurbachan Singh. |
| Khan Sahib Makhdum Shaikh Muhammad Hasan. | Hony. Lieutenant Sardar Raghbir Singh. |
| Khan Haibat Khan, Daha. | Sardar Bahadur Sardar Sheo-Narain Singh. |
| Sayad Mubarik Ali Shah. | Guru Jaswant Singh. |

NOES.

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| Rai Bahadur Lala Mohan Lal. | Mr. P. Mukerji. |
| Mr. Labh Singh. | Lala Jyoti Parshad. |
| Rai Bahadur Lala Sewak Ram. | Lala Ramji Das. |
| Lala Mukand Lal, Puri. | Chaudhri Nathwa Singh. |
| Mr. Nanak Chand Pandit. | Lala Bhagat Ram. |
| Lala Nihal Chand, Aggarwal. | Chaudhri Allah Dad Khan. |
| Thakur Pancham Chand. | Shaikh Muhammad Sadiq. |
| Kanwar Mamraj Singh, Chohan. | Chaudhri Ram Sarup. |
| Chaudhri Shah Muhammad. | Sardar Jawahar Singh, Dhillon. |

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan), Urban]
(Urdu): Sir, I beg to move—

"That in clause 5, sub-clause (3), after the word 'death' the words 'or transportation for life' be added."

In view of the fate that all the important amendments have met with to-day one hardly feels inclined to move any more amendments to this Bill. But the importance of this measure urges me to take the risk. (*Interruption*). I

have often heard the official members complain that they find it difficult to follow me. But this interruption at the very outset shows that they have now begun to understand me. It appears that they are trying to be witty. I am glad to find them in such a mood because I like wit and witty persons. Now, Sir, as I have said very important amendments have been moved, discussed and rejected to-day, but my poor amendment can claim some importance too. I call it my poor amendment, because so many big landlords are arrayed against any improvement in the Bill which the Government does not approve of. My object in moving this amendment is to ensure that not only the persons accused of crimes punishable with death but also those accused of offences punishable with transportation for life may get an opportunity to recross-examine the prosecution witnesses if they care to do so. I want to add these words to the sub-clause because in all provinces excepting the Punjab sessions cases are tried by the sessions courts only, but here in the Punjab, where the people are so very anxious to prove themselves friendly and loyal to the Government and to support it through thick and thin, a magistrate with powers under section 30 is considered to be quite competent to try such cases.

There is no doubt that the cases will be tried by three persons, but may I ask those enamoured of this point whether, if they were entangled in such a case, they would prefer to be tried by three magistrates or possess the right to recross-examine the prosecution witnesses. I hold, Sir, that every accused person should get an opportunity to recross-examine the prosecution witnesses and thus point out any discrepancy in the evidence led by the prosecution. My honourable friend the Legal Remembrancer is trying to make laws for the High Court. But let me remind him and the House that he would not have been able to do so in any other province, for instance, in the United Provinces.

The Government have accepted the principle of this demand in the case of offences punishable with death. Then, where is the harm in extending this right to the persons who may be accused of offences punishable with transportation for life? Those of my honourable friends who are bent upon helping the Government in passing this Bill and rejecting every amendment that is not acceptable to the Government must remember that a time may come when they may stand in need of the help of other non-official members and that then, the other benches may assume the same attitude. I would also request them to bear in mind the English maxim that it is better that ten guilty persons escape punishment than that a single innocent person be punished along with the guilty ones. I also want to ask, whether the Government is determined to reject every amendment with the help of a certain section of the House simply because it has enticed that section to its side.

Khan Bahadur Nawab Muzaffar Khan : The honourable member is insulting the House.

Shaikh Muhammad Sadiq : My request is that the Government should consider every amendment on its merits and should not oppose each one of them simply because they have been moved by the honourable member from Hoshiarpur or the member from Amritsar. As regards my honourable friends sitting on the non-official benches, I can only appeal to them to do

[Shaikh Muhammad Sadiq.]

their duty. I do not want that any guilty person should escape the punishment provided by the law of the land. My only object is to ensure proper opportunity to the accused person to prove his innocence if he can. Therefore, I request my honourable friend to consider this amendment carefully and dispassionately, and not simply say ditto to whatever may fall from the lips of an official member.

Mr. President : The amendment moved is—

“ That in clause 5, sub-clause (3) after the word ‘ death ’ the words ‘ or transportation for life ’ be added.”

The Honourable Sir Henry Craik : Sir, I spoke just now of standing timidly beside the stream of the honourable member’s eloquence. This time I have fallen right into the stream and have been carried away. I have no option but to accept his amendment. (*Hear, hear*).

Mr. President : The amendment moved is—

“ That in clause 5, sub-clause (3) after the word ‘ death ’ the words ‘ or transportation for life ’ be added.”

The question is that that amendment be adopted.

The motion was carried.

Lala Mukand Lal Puri [Punjab Industries] : Sir, the amendment I am going to move is again one of those amendments which I hope may be as fortunate as the one that was moved by the honourable member from Amritsar just now and which has been accepted by Government without any observation. The amendment which stands in my name is—

“ That in clause 5, sub-clause (4) for the words ‘ for at least three days ’ the words ‘ for at least a week ’ be substituted.”

Clause 5, sub-clause (4) runs as follows :—

“ If the accused when questioned under the provisions of sub-section (1) of section 256 of the Code states that he wishes to cross-examine all or any of the witnesses for the prosecution whose evidence has been taken, the Commissioners shall, if so requested by the accused adjourn the case for at least three days before the cross-examination of the witnesses named by the accused is recorded.”

I propose a week instead of three days.

The Honourable Sir Henry Craik : Make it six days.

Lala Mukand Lal Puri : I understand that if I make it six days instead of a week the Government will accept it. I therefore, make it six days. The select committee unanimously recognized the necessity of giving an adjournment of some time at least to the accused before he is called upon to cross-examine prosecution witnesses after the charge. That is before he enters upon his defence or before he is going to stand his trial. The only question is whether three days are enough. I propose at least six days should be given and I hope that the tribunal in ordinary course will give much longer time, but I am anxious that there should be a statutory obligation on the tribunal to give at least six days. Now, when we look at the sessions cases after the commitment stage there is an interval of six to eight weeks. I submit that that interval should not be reduced to three days. There should be at least six days.

The Honourable Sir Henry Craik : I am prepared to accept six days, that is, as far as I can go.

Mr. President : The amendment moved is—

“ That in clause 5, sub-clause (4) for the words ‘for at least three days’ the words ‘for at least six days’ be substituted”.

The question is that that amendment be adopted.

The motion was carried.

Mr. President : The question is—

“ That clause 5 as amended stand part of the Bill.”

The motion was carried.

Clause 6.

(*Shaikh Muhammad Sadiq rose to move his amendments Nos. 2, 3 and 4 on the list of amendments*).

Mr. President : May I point out to the honourable member that even if all his amendments are carried they will not really effect any change in the substance of the original clause ?

Shaikh Muhammad Sadiq : Sir, my object is simply this, that there are certain sections where before prosecution under them is launched the sanction of the Governor is necessary and if a case is started without such sanction having been obtained first, the prosecution will be illegal. It is only to remind the Government that cases may occur where the tribunal is asked to try them and later on, it may be found that the sanction of the Governor has not been received. It was only to remind the Government of such case that I gave notice of these amendments.

Mr. President : Then I take it that the honourable member does not wish to move his amendments.

Shaikh Muhammad Sadiq : No, Sir, I do not move them.

Mr. President : The question is—

“ That clause 6 stand part of the Bill.”

The motion was carried.

Clause 7.

(*Shaikh Muhammad Sadiq rose to say something*).

Mr. President : An Amendments to a clause of a Bill can be moved only by the honourable member in whose name it stands.

Shaikh Muhammad Sadiq : They can come in a second. They are having their tea.

Mr. President : The question is—

“ That clause 7 stand part of the Bill.”

The motion was carried.

¹By Shaikh Muhammad Sadiq : That in clause 6, sub-clause (2), the words ‘ whether such offence is or is ’ be omitted.

By Shaikh Muhammad Sadiq : That in clause 6, sub-clause (2), the words ‘ an offence ’ be omitted.

By Shaikh Muhammad Sadiq : That in clause 6, sub-clause (2) after the words ‘ Commissioners may, ’ the words ‘ subject to the provision of any law for the time being in force ’ be added.

Clause 8.

Mr. President : The question is—

“ That clause 8 stand part of the Bill.”

The motion was carried.

Clause 9.

Mr. President : The question is—

“ That clause 9 stand part of the Bill.”

The motion was carried.

Clause 10.

Mr. President : The question is—

“ That clause 10 stand part of the Bill ”

The motion was carried.

Clause 11.

Mr. President : The question is—

“ That clause 11 stand part of the Bill ”

The motion was carried.

Schedule.

Kanwar Mamraj Singh, Chohan [Ambala-cum-Simla (Non-Muham-
madan), Rural] (Urdu) : Sir, I beg to move—

“ That in the schedule, after paragraph (a), the following new paragraphs be added, and the existing paragraphs (b), (c) and (d) be re-numbered as (c), (d) and (e), respectively :—

‘ (b) any offence punishable under section 401, Indian Penal Code, when the theft or robbery is of the property owned and possessed by the Government and any offence punishable under sections 454, 455, 457, 458, 459, 460, Indian Penal Code, when the trespass is committed in a house or building owned and possessed by the Government or in the possession of any public servant, or any offence punishable under section 506, Indian Penal Code, when the person intimidated is a public servant.’ ”

With respect to the amendment I wish to draw the attention of the House to the schedule appended to the Bill. It says—

“ Any of the following offences, if in the opinion of the Local Government there are reasonable grounds for believing that such offence has been committed by a member or a person controlled or instigated by a member of any association of which the objects or methods include the commission of any of such offences, namely,” etc., etc.

Now in the above passage “ the opinion of the Local Government ” is too wide a phrase. You cannot confine it to a judicial opinion. In fact it may mean anything from the report of an ordinary constable to the findings of the highest official. Therefore, it cannot be said to carry any sense with it. Similarly, the term “ Association ” has not been defined clearly. In the present form of the Bill even if two persons join with the intention of committing theft they can be hauled up before the Commissioners. Now I would request the honourable members just to imagine how many thefts take place every day in various parts of the province. If all the cases of theft taking place between the Indus and the Jumna are to be tried by the Commissioners what will be the plight of the accused as well as of the court ?

Then, Sir, the object of the Bill is said to be to do away with the double hearing and protracted trial involved in the existing commitment procedure with respect to certain crimes and thus to obviate the resulting delay in obtaining the final decision. But what are the crimes with respect to which the Government is anxious to obtain the final decision without any avoidable delay? The very first sentence in the Statement of Objects and Reasons says that there are murderous outrages and conspiracies to commit crimes of violence. Now, I beg to submit that none of the offences mentioned in my amendment falls under these categories. For instance, section 401, Indian Penal Code, deals with person or persons belonging to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits. Similarly, the offences dealt with by sections 454 to 460 have no connection with the crimes mentioned in the Statement of Objects and Reasons.

It may be said that the Government, in view of the expenditure on witnesses, will not bring such cases before the Commissioners. But we must remember that there are at least two temptations for the Government for bringing such cases before the Commissioners. Firstly, whenever the Commissioners have no case pending in their court the Government will certainly drag some of the above mentioned cases into their court in order to keep them busy. Secondly, Sir, the young men employed in political activities have incurred the displeasure of the Government at a very great risk. The police people are always after them and, therefore, whoever appears to be inconvenient to the police will be dragged before the Commissioners so that the defence will have to face much extra trouble and various other disadvantages.

Besides that, I must submit that the people for whom this measure is designed do not commit thefts. They consider it below their dignity. In fact they would prefer death to living the life of thieves. Therefore, there is no necessity of keeping these sections in the schedule in the form proposed by the Government. Moreover, I have drafted my amendment in such a way that if at any time the Government finds that thefts are being committed on their property or on the property of some public servants they will have no difficulty in bringing such cases before the Commissioners. But this is simply to remove any misconception lurking in the mind of some official members. Otherwise, I am firmly of opinion that these young men do not commit such crimes. On the other hand my submission is that to include these sections in the schedule is a lamentable display of weakness on the part of so powerful a Government. This means that the Government wants to punish under this extraordinary measure a crime which has its origin in the poverty of the people and not in any other motive on their part. With these remarks, Sir, I commend my amendment to the House.

Mr. President : The new clause moved is—

"That in the schedule, after paragraph (a), the following new paragraph be added and the existing paragraphs (b), (c) and (d) be renumbered as (c), (d) and (e), respectively:—

(b) any offence punishable under section 401, Indian Penal Code, when the theft or robbery is of the property owned and possessed by the Government and any offence punishable under sections 454, 455, 457, 458, 459, 460, Indian Penal Code, when the trespass is committed in a house or building owned and possessed by the Government or in the possession of any public servant, or any offence punishable under section 506, Indian Penal Code, when the person intimidated is a public servant."

Sardar Harbakhsh Singh [Hoshiarpur and Kangra (Sikh) Rural]: Sir, I have only risen to refute the argument of the learned mover. He says that the revolutionaries do not commit thefts, burglaries or dacoities in private houses, and therefore, he says, these offences should be excluded. From what we know it is clear that in several cases in the past, to provide funds to carry on their revolutionary propaganda and activities, they have committed thefts, &c. in private houses. Therefore the honourable member is entirely wrong. On other grounds too there is no reason why only those persons who are in the employ of Government, that is, the police and others, should be protected. It is the duty of Government to protect everyone who is law-abiding. Therefore I oppose the amendment.

Lala Mukand Lal Puri (Punjab Industries): Sir, I think the amendment proposed by my friend, Kanwar Mainraj Singh, which stands as number 1 (Schedule—New Clauses) in his name should be read with amendment number 2 (Schedule—Amendments). I understand from him that he wanted that amendment to be considered first and the one that has now been moved should be considered after the fate of that amendment had been decided. He asks for the omission of certain offences from the schedule. If that motion were accepted, then he wanted to include in the schedule those offences which have been committed against particular individuals and under particular circumstances. If the amendment as now moved were accepted and sub-clause (a) allowed to stand, that would be merely redundant. Therefore I suggest that we ought to take number 2 first and number 1 afterwards.

Mr. President: I must take the new clause first.

The Honourable Sir Henry Craik (Finance Member): Sir, I only want to say one word in amplification of the remarks that fell from Sardar Harbakhsh Singh. I quite agree with what Mr. Mukand Lal Puri has stated that the amendment is only intended to be supplementary to the second amendment standing in the name of Kanwar Mamraj Singh, but assuming that that is the intention, as it clearly is, I still oppose this amendment. The effect of the amendment would be to make persons accused of certain offences, comprising burglary in various forms and theft, triable by the special procedure, only if the offence with which they are charged is committed on Government property or on property in the possession of a public servant. In other words, the protection or benefit, such as is conferred by this Bill is to be conferred only on Government property and the property of Government servants. Why should we make this invidious distinction? Why should not private persons who may happen to be the victims of one of these outrages be given the same measure of protection as Government servants or Government property? The honourable member may retort that these outrages are invariably directed against Government servants or against Government property. To that I would reply that that is not correct. Far from it. In the Punjab we have had in the past a number of outrages committed on private persons and on their property by members of gangs which would have, had this Bill been in force, been triable under this Act. In other provinces, notably in Bengal, there was a whole series of burglaries committed on private property, the victims being rich bankers and so on, with the express purpose of gaining funds for the objects of

the revolutionary gang, that is to say for the purchase of arms and explosives. Here in the Punjab it will be within the recollection of the House that a gang known as the Babbar Akalis committed many outrages in private persons' houses, not only, I regret to say, burglary and theft, but even more serious offences. It will also be within the recollection of the House that it came out in the trial of the Lahore Conspiracy case that a burglary was planned on the Punjab National Bank within a few hundred yards of this building, and it was only by mischance that the burglary was not actually committed. There is no reason that I can see to differentiate between property of private persons and property owned by Government and its servants in this respect.

Mr. President : The question is—

“ That the following new clause be taken into consideration :—

“ That in the schedule, after paragraph (a) the following new paragraph be added and the existing paragraphs (b), (c) and (d) be renumbered as (c), (d) and (e), respectively :—

“ (b) any offence punishable under section 401, Indian Penal Code, when the theft or robbery is of the property owned and possessed by the Government and any offence punishable under Sections 454, 455, 457, 458, 459, 460, Indian Penal Code, when the trespass is committed in a house or building owned and possessed by the Government or in the possession of any public servant, or any offence punishable under Section 506, Indian Penal Code, when the person intimidated is a public servant.”

The motion was lost.

Mr. President : The question is—

“ That the schedule stand part of the Bill.”

The motion was carried.

Mr. President : Does any honourable member wish that I may appoint a committee under paragraph 94 of our Business Manual to examine the Bill and report what amendments, if any, of a formal or consequential character should be made in the Bill as a matter of drafting ?

The Honourable Sir Henry Craik : Such a committee is unnecessary.

Sir, I beg to move—

“ That the Criminal Procedure (Punjab Amendment) Bill be passed.”

Mr. President : The motion is—

“ That the Criminal Procedure (Punjab Amendment) Bill be passed.”

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhammadan), Rural] : Sir, the Bill is now before us in its final form and is shortly going out of this House to become the law of the land. Therefore, it is proper that we must take a calm view of this Bill. In my opinion the Bill has been a little improved by the select committee and afterwards by the amendments that have been carried in the House. But the general effect of the Bill remains as before and in my opinion such a Bill cannot be allowed to become the law of the land. The defects of the Bill are many. I cannot take them all, but I will take only a few of them. For instance, there is

[Chaudhri Allah Dad Khan.]

no provision for the transfer of cases. It will be pointed out, as was done when an amendment on this point was under discussion, that the Criminal Procedure Code already has such a provision which will apply to this Bill under clause 8 of the Bill. But I want to point out that the provision is merely illusory so far as this new Bill is concerned.

Mr. President : The honourable member is not in order in discussing any special provisions of the Bill at this stage. He may discuss the Bill as a whole.

Chaudhri Allah Dad Khan : I am taking the Bill as a whole. I am pointing out defects in it. I am not discussing any clause or sub-clause in it. I am discussing the general principle that has been embodied in the Bill. I am saying that the Bill should be condemned root and branch. It has been said that it will be objected and perhaps the honourable member who will reply will say that there is this provision already. But I say there is no such provision. If the accused applies for transfer of his case and if the High Court accepts the application, where will the case be transferred to ?

Mr. President : Order, order. This matter has been discussed at great length and I cannot allow a repetition of arguments which have been advanced more than once on the floor of this House.

Chaudhri Allah Dad Khan : I am not repeating arguments, but I am only referring to the defects in the Bill.

Mr. President : If the honourable member persists in repeating the arguments already given, I will have to request him to resume his seat after calling the attention of the House to his conduct.

Chaudhri Allah Dad Khan : The want of a provision in the Bill for the transfer of cases is one defect in the Bill and therefore, as such, it deserves to be condemned.

The composition of the tribunal under the Act remains as before unsatisfactory and the tendency of the tribunal will be towards conviction rather than acquittal. That is another unsatisfactory feature in the Bill. As I said before, there will be three sessions judges, two of whom will be from outside. When an amendment was put in to ensure that no special allowance will be given to them it was unfortunately thrown out. The fact that these men will be unconsciously influenced towards conviction remains as before and that is a very unsatisfactory feature of the Bill.

The next point is that we have taken away the assessors, which has been a time-honoured custom of the land. As I said before, this custom dates from very early period and in practice has been of a good deal of advantage to the accused. There is a proverb among the Indians which says—

پانچ آدمی وہاں تو ہمیشہ

that is, where there are five men, there you have the presence of God, and the decision arrived at there is a most sane one. That provision has altogether been taken away from this Bill. It has been said that the presence of assessors does not carry any weight with it, inasmuch as that cannot

influence the sessions judge. That may be in practice, but that is not the fault of the law. The law has made provision for assessors, and if they are intelligent men they can influence the judge a great deal.

Another advantage of having assessors is that as these men are local people generally, they will know the character and habits of witnesses and when a witness tells a lie they can find it out much better than the judge who is not acquainted with the locality. In that way their presence influences a good deal. It has been said that even if the assessors declare an accused not guilty, the sessions judge is not influenced thereby. I say that when they declare that a man is not guilty, it carries a good deal of influence with it and the sessions judge is generally bound to write in his judgment why he differs from their view. Generally, the assessors know the truth about a case. That is another advantage. There is no provision in this new Bill which can compensate for those advantages which have been lost by making no provision for assessors. That is another unsatisfactory feature of the Bill.

Another disadvantage is the want of commitment proceedings. They have been taken away and nothing substantial has been given in return for them. Everybody knows what useful and valuable part the commitment proceedings served in giving the accused an opportunity of knowing the whole case beforehand and in very serious crimes like those for which a man is either sentenced to transportation for life or to death, this provision is most necessary. I suppose that it was only with this object that the provision was insisted upon, that the accused may know his case beforehand and in serious offences in which he may lose his life, some attempt might be made to find out that the man was innocent. But under the present Bill, as I said before, it will be very difficult for the man to prove his innocence if he is really innocent. It is the experience of every day work of the courts and of the doings of the police that sometimes quite innocent people are brought before the court. If innocent people are brought before a court, there is nothing in the Act which can be of as much value as the provision in the Criminal Procedure Code which gives them a good deal of time in which they can find out the false prosecution witnesses and also prepare their defence. Where a serious offence is involved where the punishment is one of transportation for life or death sentence, it is only proper that all facilities should be given to the accused. It must in no way be incompatible with the measures taken for suppressing political unrest in the country. If you want to hang a man, what matters it if you hang him ten days later, or twenty days later or even a month later? The man will be hanged all the same and the law is there from which he cannot escape. But what is the use of hanging him in a hurry? Suppose you find after hanging him that the man was quite innocent. What will be the result? No amount of expedition in the disposal of cases under this Bill will be equal to the loss which the accused will suffer under it.

These are some of the defects in the Bill which is now before the House in its final form. I appeal to honourable members to realize that this is the worst of all the laws in India which have been enacted. Such a legislation was not resorted to even during the worst days of Sinn Feinism in Ireland. Such an Act was never

[Chaudhri Allah Dad Khan.]

contemplated in India either, after the troublesome days of the mutiny. No one can say that the condition in the country is much worse than it was in those days of the mutiny or a little after it. But such a measure is being enacted now and presented to the province which has stood by the Empire in her hour of need. If there is a good deal of unrest in the Punjab, many people are, on the other hand, with the Government and people resorting to violence are so few and far between that their number could be counted. And for the sake of these few it is unwise to displease the many. Sure it is that a hue and cry will be raised all over the province when this measure becomes the law of the land. Once it is allowed to find its way to the statute book there is no safeguard to the innocent. I have pointed out over and over again the risk to the innocent from this measure. I may be considered to be a little bit exaggerating the severity of the Act, but the result of the circumstances attending the measure will afterwards show that I was but too true. What will be the result, I ask. You can stop your friends, brothers, sons, uncles and other relations from resorting to violence or from taking part in unlawful political unrest, but what is the guarantee that the police will not haul up some of your sons, brothers, uncles or near relatives before the courts? Will posterity then bless the memory of this Council which has just at its very first session given to the electors a piece of law, very unsatisfactory in my opinion from the points of view which I have detailed before.

With these words I appeal to the elected members that they should rise to the occasion and reject this Bill root and branch.

Mr. Labh Singh [Rawalpindi Division and Lahore Division North (Non-Muhammadan), Rural]: Sir, the tyrant's plea of necessity has prevailed or is about to prevail. A measure which is obviously a most repressive one is going to be enacted. All attempts to modify its rigours or to bring it approximately to the standards of established procedure have more or less completely failed. It is a trite saying that repression has never been a paying proposition. All history proclaims that and we can only but expect that this repressive measure would also serve to illustrate the same truth and would turn out to be far from satisfying the purpose intended by its framers. In so far as we in this Council have voted for this measure from stage to stage my own humble submission is that we have not acted in a representative capacity. My honourable friend from Gujranwala the other day was lecturing to the House telling honourable members that they would be failing in their duty as representatives of the masses outside if they did not vote for the Bill and support all the clauses almost indiscriminately. I had no time then to make a reply to that speech of his, but I would take this opportunity now to say that we have not acted in a representative capacity in so far as we have supported this measure. The only test of our having acted in a representative capacity would be this, either that we should have the courage to call even a single public meeting in our respective constituencies and then ask our voters to declare their opinion for or against this measure—that would be one way of doing it—or if we had the courage let any one from amongst ourselves resign his seat in the Council and go back to his constituency and ask its verdict. I am perfectly confident that tried by any of these two standards one would fail. My honourable friend will not be able to elicit any verdict in favour of this Bill if he were

to hold a meeting in any part of his constituency. Similarly if he had the courage to resign his seat he will find that he will not be returned. These are the only two tests which could be applied to the claim that we had been acting in a representative capacity when we had to support this measure. Judged by both these tests, we would soon be convinced that we had not so acted when we had indiscriminately supported this measure. This measure, as I have been pointing out at the various stages of the discussion that has taken place with reference to it, is an embodiment of principles to which we cannot really subscribe. Amongst other things, it is a wholesome thing, it is a merciful thing that a convict should be led to the gallows blind-fold. But this particular measure before us really embodies the principle under which we are practically trying to take an accused person blind-fold into the court room. I think to some extent we have succeeded in getting a few paltry concessions, seven days respite in one case, and a provision for the supply of copies of statements and depositions to the accused six days before the trial commences in the other. To that extent there is some little glimmer of light; for the rest we have only, but darkness visible, and the Bill, as I have submitted, simply embodies the principle of taking the accused person into the court room blind-fold on the merciful analogy of a convict being led blind-fold to the gallows. It is an extremely drastic measure. I would have expected under ordinary circumstances that a properly constituted Council would have opposed it and opposed it with success or at any rate amended it beyond recognition. But as I pointed out at the very commencement of this session, the difficulty before us is that the Council has no Opposition at all. We had to witness the saddest of all spectacles, namely that gentlemen who were occupying prominent places on the opposite benches, were the warmest supporters of this measure. This is a scene which only the Punjab perhaps can show. It is not a thing to be proud of. Far from it, it is a thing to feel ashamed of that the Government have so managed things, so arranged things that they have successfully dragooned a large majority of the members of this House into voting for the measure. It does not speak in favour of those who are responsible for it, on the contrary it speaks volumes against them and shows that they have brought about a condition of things in the province under which for the landed classes independent thinking is well-nigh impracticable.

With these few words I conclude my last say on the Bill.

Khan Sahib Lieutenant Malik Muzaffar Khan [Mianwali (Muhamadar), Rural], (Urdu): Sir, I think that the Bill under consideration has been fully discussed and it is now too late to raise the same controversy over again inasmuch as we have already accepted the principle of this Bill. We have seen that various amendments were moved, discussed and lost. It is, therefore, useless to oppose the passage of the Bill on untenable grounds. Sir, we have to see why Government is so very anxious for the passage of this Bill into law. During the last eighty years they never felt the necessity of such an enactment. Why? Only because the political unrest in the country was never so great as it is to-day. As you know Sir, a very strong revolutionary party has come into existence in the country which has taken to terrorise the Government and their officials. They have thrown bombs and made murderous attacks on various Government officials, and members

[K. S. Lt. Malik Muzaffar Khan.]

of the public. The law-abiding public have also suffered a great deal at their hands. When such is the state of affairs. I wonder with what show of reason the honourable members on the other side of the House, are urging upon the Government the necessity of affording certain facilities to persons accused of such heinous crimes. Sir, I am not a lawyer nor do I care to be one. (*Laughter*). But honourable members on the other side of the House are not at all justified in saying that the members on this side of the House are supporting the Government in season and out of season and it is due to their help that Government always succeeds in its attempts. With regard to this I would submit that each person acts according to his own lights and not as desired by others. The honourable members on the other side of the House might have been thinking that just as Chaudhri Sahib, on their instigation, gets up and acts like a parrot, we.....

Chaudhri Allah Dad Khan : On a point of order, Sir. The honourable member has used an offensive expression.

Mr. President : The honourable member will please not make any personal reference with regard to another honourable member of the House.

Khan Sahib Lieutenant Malik Muzaffar Khan : I withdraw the reference, Sir. In my opinion the Bill is necessary and may be passed into law.

Shaikh Muhammad Sadiq [Amritsar City (Muhammadan), Urban] (Urdu) : Sir, my honourable friend who has just preceded me is a military man and as such he must know that a brave army fights till the last in the hope of hoisting its victorious flag over an enemy territory. And even if the army is defeated, its power of resistance is not broken as long as one single combatant is alive. Military spirit will not allow the surviving man to run off from the battle field. He would rather prefer to die than to show his back to the enemy. Similarly, we the warriors of the nation have, so far as this Bill is concerned, determined to offer strong resistance to the Government at every step. It does not matter if our strength is not sufficient. Our resistance to Government will continue till the last moment.

Mr. President : I would request the honourable member to confine his remarks to the Bill.

Shaikh Muhammad Sadiq : I am showing that even with this strength we are opposing it. You have seen, Sir, the fate of the amendments which were moved by us. We are not at all disheartened by such defeats. My honourable friend has observed that during the last eighty years the Government has never felt the necessity for such an enactment. That is true. But do you know why Government is so anxious to enact this law? Only because it is afraid of the general political awakening of the youth in the country. The Government has resorted to unspeakable repression. The honourable members on the other side of the House should remember that if this Bill is passed into law it would not bring them a good name. Sir,

the statement made by my honourable friend from Gujranwala that the Bill has not been opposed by the members occupying the opposition benches, is not true. I think the honourable member has not forgotten that at least I was one who, from these benches, vehemently opposed the Bill at every stage. In fact, this Bill is not needed at all. The Government has introduced this Bill in order to vindicate its policy of repression, which it has persistently followed during the last few years. But it would leave a bad scar on the good name of the British administration. The name of Judge Geoffrey is remembered even to this day. I am sorry that the Government could not see eye to eye with us and did not accept the very reasonable and sound amendments which we wanted to make in the Bill. The passage of the Bill would rather aggravate the situation than suppress the revolutionary tendencies of the young blood. I have already referred to the history of Turkey, Ireland, America and Russia and it abundantly proves that repression has never succeeded. If our Government wants to run an orderly administration it will have to mend its ways. I have made it clear more than once that we have no sympathy with those who have taken to violence. We will not object if such persons are even burnt alive or boiled. But we shall not keep silence so far as the question of providing facilities to the accused for proving their innocence is concerned. As a lawyer I cannot agree to the Bill. The Government should not, in view of the political emergencies, lose sight of the sanctity of human life, but on the other hand it should try to hold the scales of justice even at such critical times between all classes of people whether they are black men or white or whether they are Muhammadans, Hindus, Sikhs, Christians or Jews. Sir, the Government has indiscriminately rejected the amendments which we proposed in the Bill. I am sure that if this Bill is passed into law, it would create disaffection and hatred against the Government. I would have liked that the Bill had been rejected by the House. But I do not see any chance of my desires being fulfilled. However, if this Bill is passed into law I would request the Honourable Finance Member to see that the provisions of the Bill are carefully applied to the cases which would come up before the tribunal. It is a pity that the honourable members who spend a lot of money to occupy these seats and begin flattering the voters for a long time before the elections and smoke *hukkas* with those with whom they would not like to sit otherwise, forget their duties when they actually occupy these seats. At times they clamour against the administration being top-heavy and expensive, but when the time comes for them to protest against waste of public money, they keep quiet. According to this Bill three sessions judges are going to be appointed on special salaries which this poor province cannot afford to pay, but my friends do not care to take notice of this burden which would fall on this province. The Government is feeling exultant over the fact that the Bill is going to be passed and that it is going to win after all. But that does not augur well for the province. If this is the attitude of the Government, it will not be far wrong to guess that in the next Council another Bill of a more drastic nature will be brought forward which will give powers to the police to doom a person on mere suspicion. Before I sit down I again express this hope that this Bill will be carefully applied. I cannot but thank the Honourable Member for Finance for his kindly accepting the two amendments which were moved by me. With these words I strongly oppose the Bill being passed into law.

Chaudhri Bansi Lal [Lahore City (Non-Muhammadan), Urban], (Punjabi) : Sir, the Government enacts strange laws as the present one and to cover its own mistakes, it has to commit two or three more mistakes. Such laws will not help to stop or check revolutionary tendencies. In our municipal committee too such absurd laws are to be found. We are fined Rs. 2 for a thing which costs only two pice. If such martial laws as the one before the House are passed I shall be the first man to oppose them.

Chaudhri Shah Muhammad [Sheikhupura (Muhammadan), Rural] (Urdu) : Sir, the Bill has reached its final stage notwithstanding the fact that it has been severely criticised and opposed from the very beginning. There is no doubt that it will soon be passed into law but I am not prepared to lend my support to it. Sir, in these days of enlightenment and civil progress we should not try to deprive the accused of those privileges which they have been enjoying for the last 80 years. There is every possibility of innocent persons being involved in trouble by mistake of fact, through the instrumentality of approvers who want to escape punishment and by the tactics employed by the police. We have seen many cases in which such things have happened. I am at a loss to understand with what show of reason the lawyer members of the House have supported this Bill which on the face of it is a repressive measure. They have ignored the fact that commitment proceedings and *de novo* trials were both important privileges which have been taken away from the accused without being provided with any other facility in lieu thereof. If this Bill had been circulated for eliciting public opinion thereon, I am sure it would have met with general condemnation. Sir, in fact this Bill is very drastic in its nature. I therefore strongly oppose its being passed into law.

Mr. Nanak Chand Pandit [Hoshiarpur (Non-Muhammadan), Rural] : Sir, I had no intention of speaking at the last stage of the Bill, but certain references made by the Honourable Finance Member have obliged me to open my lips even at the last hour. Before I proceed actually to say a few words with regard to the merits of this measure I would like to pay my tribute to the three official members who sat on the select committee. They tried to understand the point of view of the opposition and gave us every latitude and concession and deliberated very calmly over this measure, and, if I am not giving my support to this measure at this last stage, it is on account of this, that the Bill has not been looked at purely from the point of view of the accused. The Government benches and those who have supported the Government have tried to import into the consideration of this Bill certain considerations which they ought not to have brought in, namely, the considerations of law and order. The whole point which they ought to have kept before themselves should have been what would be the attitude of a person who is charged with some of the serious offences which are given in the schedule. You will be pleased to remember, Sir, that in my opening speech when I supported the motion of my honourable friend, Shaikh Muhammad Sadiq, for circulation of the Bill for eliciting public opinion thereon, I said that honourable members should not be influenced either by the consideration of maintaining law and order or by the consideration of the so-called "nationalist" or popular opinion in the country. The sole point from which the Bill should have been looked at in this House should have been the point of view of the accused, whether, when they are charged with offences which are given in the schedule, you give them facilities to defend themselves in place of the curtailment of commitment proceedings, but

unfortunately, in spite of the best efforts put forward by me and by my other friends Government has not been pleased to accept the very moderate amendments which we proposed with regard to the safeguarding of the rights of the accused, such as the right of cross-examination, the right of preparing themselves for defence and the right of having a fair and full opportunity for vindicating their innocence before the tribunal of commissioners. I made no secret in my opening speech of one or two clauses of this Bill which will meet with the approval of the majority of the public outside, also, namely the trial by three commissioners instead of one. But that single good point in the Bill does not make the Bill good at all, when we have limited the right of the accused to have a full and fair opportunity for cross-examining witnesses and for preparing his defence. That I consider a very grave and a very serious defect in this law, and therefore I must condemn it with all the force that is at my command.

Chaudhri Muhammad Abdul Rahman Khan [Jullundur (Muhammadan) Rural], (Urdu) : Sir, after ascertaining the views of the public outside this House, I cannot but strongly oppose this Bill. So far, the recognized principle of jurisprudence has been that out of 100 accused 99 guilty persons may escape punishment but that no innocent person should be convicted. I do not see any reason why a departure should be made from that long accepted principle and why such measures should be enacted as would give little opportunity to the accused to prepare for his defence. Then the Government, in introducing this Bill, has not been able to prove that the existing law has proved insufficient to secure the conviction of those who were really guilty of such offences as have been included in the schedule appended to this Bill. In all cases filed against the conspirators so far, condign punishment has been awarded to those who were proved to be guilty of the offence with which they were charged. This Bill was, therefore, not needed at all. As the Punjabi proverb goes, if the fisherman were to see as much as the net can see there will be no fish left in the water. Similarly, if the Government could see the number of irregularities that are committed by its officers as well as the public, it will find no place to hide its face out of shame. The police officers commit so many irregularities that they cannot be trusted with further powers.

The Honourable Captain Sardar Sikandar Hyat Khan : Sir, is the honourable member in order in discussing the police in this connection ?

Chaudhri Muhammad Abdul Rahman Khan : The history of all the countries shows that only those Governments can rule for any length of time whose administrations are based on justice and fairness and these are the only factors which go to strengthen any Government. Even the history of India proves that as soon as the Rajas and Maharajas took to the policy of repression, they had to make room for better rulers. God gives power to those only who can and are prepared to safeguard the interests of the people under their rule. Therefore, I request the Government that it should abandon its policy of repression and should not embitter the feelings of the public by enacting such measures. With these words I very strongly oppose this Bill.

Khan Haibat Khan Daha [Multan East (Muhammadan), Rural], (Urdu) : It has taken about a week to consider this Bill and every item therein. The honourable members on the opposite benches miss no opportunity

[Khan Haibat Khan Daha.]

to oppose any measure that the Government brings forward for the welfare of its people. They know by this time that the consensus of opinion is in favour of the Bill and that it is no use wasting the time of the Council. I wonder that these honourable members in one breath say that they have no sympathy with the revolutionaries and then in the same breath they oppose a measure which is intended to put a check on their activities. I think no time should be lost in enacting the proposed measure. With these words I heartily support the Bill.

The Honourable Sir Henry Craik (Finance Member): Sir, I only wish to make one or two brief observations on the motion for the passage of the Bill. I hardly think I need defend myself from the charge of having rushed this Bill through the House. I have never attempted in the course of debates in this House to do anything to stifle discussion and I think the House will concede that on all important clauses and on all important amendments we have had very full discussion on the merits, and that every member who wished to speak has had his opportunity of speaking. I would remind the House that this Bill has now been debated at length in this House. I think this is the fourth day of the debate. Apart from that it was discussed in the select committee for a period of time equivalent to rather more than one full day's debate in this House, and the opposition, I would like to assure the House, was fully represented on the select committee, as also was the legal talent which is available in this House. The Bill, as I have said, was carefully scrutinized by the select committee and it emerged from that committee with at least four changes of real substance. There have been made other changes in the debate which has taken place yesterday and to-day and it does appear to me that the genuine, what I may call, the thick and thin opposition to this Bill is, so far as I have been able to judge from the debates, confined only to one or two members. The honourable member from Hoshiarpur has been a keen and vigilant critic but he admitted in the beginning that the Bill has many good points and was capable of further improvement. That improvement, Sir, I submit has to a considerable extent been made. Sir, there is a legal maxim of which I make a present to my lawyer friends in this House. I have no doubt they know it well. It is "when you have a bad case abuse the plaintiff's attorney." That was rather the line taken by the principal opponents of this Bill. He suggested that because the measure has received considerable support from those benches opposite, that fact showed that they were incapable of independent thinking and that the true Punjab was united in its opposition to the Bill. It is not for me to pronounce any verdict on that allegation. It is for the public, to which so many references have been made, to judge what the true feeling of the province as a whole on this Bill is. That feeling will, I hope, be shown in a few moments by those who are the elected representatives of the people of this province, whom, however unrepresentative they may appear to the honourable member from Gujranwala, I, for one, am prepared to accept as reflecting truly the feelings and verdicts of their constituencies. (*Hear, hear*).

Mr. President: The question is—

"That the Criminal Procedure (Punjab Amendment) Bill be passed."

The motion was carried.

The Council then adjourned till 1-30 p.m., on Saturday, the 8th November, 1930.

PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Saturday, the 8th November 1930.

THE Council met at the Council Chamber at 1-30 P.M. of the clock. Mr. S. L. Sale in the chair.

ELECTION OF STANDING COMMITTEES AND THE PUBLIC ACCOUNTS COMMITTEE.

Mr. Chairman : I have to inform the Council that the number of candidates nominated for the twelve standing committees and the Public Accounts Committee exceeds the number of vacancies to be filled. The Council will therefore now proceed to an election.

There will now be distributed to members thirteen ballot papers, one of each committee, for which members have to be elected. The name of each committee is written on the top of each paper. Members should take each paper in turn and then put opposite to each name in the empty column the number of their choice, the first choice first, the second choice second and the third, third, and so on, until the names are exhausted. Each paper should be treated separately. Members are warned that the writing of anything but the number against the names of the candidates in the blank column will render the ballot paper invalid. If any member wishes to ask for any information relating to the election I shall be glad to furnish that information or the Secretary will do so. After filling up the ballot papers members should fold them and drop them in the ballot box provided for the purpose. The results cannot naturally be announced to-day. As soon as they are known they will be notified to honourable members.

(After voting for the various committees was over, Mr. President occupied the chair).

THE CRIMINAL PROCEDURE (PUNJAB AMENDMENT) BILL.

Mr. President : I have to announce that I have received the following message from His Excellency the Governor for the honourable members of this Council :—

“ I return this Bill to the Punjab Legislative Council for reconsideration as regards sub-clause (6) of clause 5 with the recommendation that in substitution for sub-clause (5) of clause 5 the following amendment be adopted :

- ‘ (5) Every accused shall be supplied by the Commissioners with a list of prosecution witnesses together with a brief summary of their evidence and of their statements, if any, recorded under section 164 of the Code at least seven days before the evidence of any of the witnesses cited in the list is to be recorded by the Commissioners :

Provided that nothing in this section shall be deemed to limit the discretion of the Commissioners to allow the prosecution to produce any witness not mentioned in the list.’ ”

[Mr. President.]

The covering letter of to-day's date with which His Excellency's message has been received runs as follows :—

2 P. M.

" With reference to your endorsement of yesterday's date on the Criminal Procedure (Punjab Amendment) Bill, I observe that sub-clause (5) of clause 5 gives the accused certain privileges at the commencement of a trial before the date on which the evidence of witnesses cited by the prosecution begins to be recorded. These privileges are not given by the existing law regulating criminal procedure. Though the provisions of the sub-clause substantially supplement and add to the latter, it is only in one respect that they appear open to serious objection. The point on which they seem to me clearly to be open to exception is that they would appear, though the words are somewhat ambiguous in this respect, to entitle the defence to receive copies of confessional statements recorded under section 164, Criminal Procedure Code, other than those of an approver and of statements recorded in the course of the investigation of persons who are not being produced by the prosecution as witnesses. This goes beyond the reasonable additional facilities which may properly be given to the defence and unduly prejudices the prosecution. I am accordingly returning the Bill to the Legislative Council for reconsideration as regards sub-clause (5) of clause 5, and in the endorsement on the Bill I am recommending that an amendment be adopted to sub-clause (5) of clause 5 to make it clear that, while the accused would be entitled to be furnished with a summary of the statement, if any, recorded under section 164, Criminal Procedure Code, of an approver, who, although originally an accused, has become a witness and is included in the list of prosecution witnesses and of other prosecution witnesses, the accused will not be entitled to copies of confessional statements of an accused recorded under section 164, Criminal Procedure Code, who has not received a promise of pardon and is not included in the list of prosecution witnesses, or of any other person, whose statement has been recorded by the Police or a Magistrate in the course of the investigation, but whom the prosecution has not cited as a witness in the case. Opportunity has at the same time been taken to recast the sub-clause in a form which makes it clear that the Commissioners are responsible for supplying the list of prosecution witnesses and the summary of their evidence and of their statements, if any, recorded under Section 164, Criminal Procedure Code."

As laid down in paragraph 100 of our Business Manual I propose to put from the chair the clause which His Excellency the Governor desires should take the place of the existing sub-clause (5) of clause 5.

Mr. Nanak Chand Pandit : Will we be given some time to think over this clause in order to understand its implication ?

Mr. President : After it is proposed by the chair the honourable member may have his say. The new sub-clause is—

" (5) Every accused shall be supplied by the Commissioners with a list of prosecution witnesses together with a brief summary of their evidence and of their statements, if any, recorded under section 164 of the Code at least seven days before the evidence of any of the witnesses cited in the list is to be recorded by the Commissioners :

Provided that nothing in this section shall be deemed to limit the discretion of the Commissioners to allow the prosecution to produce any witness not mentioned in the list."

Mr. Nanak Chand Pandit : I would request you to give us some time to think over this clause which has just been read out by you, so that we may be able to make up our minds as to whether it should be accepted or not.

Mr. Labh Singh : In addition to what the honourable member who just preceded me had to say, I wish to suggest that you will treat this as a

new and separate clause to be taken into consideration. If it is so treated we shall have an opportunity to send in our amendments if necessary.

Mr. President : I have put the clause with a view to collect the sense of the House whether it is prepared to take it into consideration or not. If the House decides to take it into consideration, the honourable members may offer amendments to it.

Chaudhri Allah Dad Khan : We have not received a copy of the amendment and we have not been able to understand the amendment by simply listening to you. It would, therefore, be convenient if you will kindly give us a copy of the new sub-clause and also some time to think over it. Otherwise we may not be able to say anything about it.

The Honourable Sir Henry Craik : Sir, I would suggest that the amendment recommended by His Excellency the Governor is of so simple a nature and the changes made in the existing sub-clause are so few that the House should take the amendment into consideration immediately. I regret that it has not been possible to supply all members with a copy of the amendment recommended by His Excellency. But it has been twice read from the chair and it is open to any member to take it down and to compare it with the existing sub-clause. I will, however, if you permit me, make one or two observations explaining the object of the changes that are suggested. The sub-clause as it now exists in the Bill begins by saying that every accused shall be supplied with a list of prosecution witnesses. But it does not say on whom the responsibility will lie for supplying the list to the accused. The amendment recommended by His Excellency says, "Every accused shall be supplied by the Commissioners." He places the responsibility on the Commissioners. I think no one can possibly differ from that. (Honourable Members: No). That is one change.

The original clause went on, "along with a brief resumé of their evidence." The present amendment recommended by His Excellency states "together with a brief summary of their evidence"; that is to say, His Excellency has merely suggested the change of the word "resumé," which I may say does not appear in any dictionary of the English language, into "summary." I think everybody will agree that there is no objection to that. Again for the words "along with" His Excellency suggests the words "together with." Then going further into the sub-clause it reads, "and the statements, if any, recorded under section 164, Criminal Procedure Code." In the first place the words "Criminal Procedure Code" are unnecessary. The word "Code" is defined in the definition clause of the Bill and it is enough to retain that word only. Secondly, the words in the original sub-clause contain a very serious ambiguity. Do they mean "a resumé of the evidence and of the statements" or "a resumé of evidence and copies of the statements"? That is a very serious ambiguity. His Excellency recommends "a brief summary of their evidence and of their statements recorded under section 164 of the Code"; that is to say, both should be summaries.

Then, the words used in the original sub-clause are "a week before the commencement of the hearing before the tribunal." This again contains an ambiguity. For "a week" it is now suggested to substitute "at least seven days." I think honourable members will agree that that is an improvement. Then again we have the words "commencement of the hearing before the

[Sir Henry Craik.]

tribunal." In the first place the correct expression is not "the tribunal," but "the Commissioners." The word "tribunal" is nowhere used in the Bill. Again, "before the commencement of the hearing" is a vague expression which might give rise to trouble. What the honourable member meant, I understand, was "before the commencement of the recording of evidence for the prosecution."

The new sub-clause makes that clear. It runs :—

"At least seven days before the evidence of any of the witnesses cited in the list is to be recorded by the Commissioners."

The words "commencement of the hearing" are a little ambiguous, because it might be held that the hearing commenced when the accused was first brought before the court, which might be on a question of bail or remand. "Hearing" is an ambiguous expression and I do not think it is an expression which is used in the Code. So, to that extent I think it will be generally agreed that the new sub-clause is an improvement on the old.

Next, I come to the proviso, which is left in all essentials exactly as it stood in the old sub-clause. In the old sub-clause it ran—

"Provided that nothing in this section will interfere with the discretion of the court to allow the prosecution to produce any witness not mentioned in the list."

It is now recommended to run—

"Provided that nothing in this section shall be deemed to limit the discretion of the Commissioners."

"The Commissioners" is a more exact expression than "the court."

"To allow the prosecution to produce any witness not mentioned in the list,"

these last words have not changed. That is to say, that in the proviso instead of the expression "will interfere with the discretion" it is proposed to say "shall be deemed to limit the discretion" and instead of the expression "court" it is proposed to say "the Commissioners." These do not in any way affect the sense of the proviso, which in all essentials remains exactly where it did.

The recommended sub-clause thus clears up four or five not altogether negligible ambiguities of language and so far is certainly, it must be admitted, an improvement to the Bill in that respect. Next, Sir, it clears up an ambiguity in the clause of which I am not quite certain what the intention was. As the clause stands at present it entitles the accused, as I pointed out in opposing it, to be supplied with copies of statements of persons recorded under section 164, whether these statements are or are not eventually found to be admissible in evidence and whether those statements are or are not eventually used in evidence. The House will understand that occasionally in the course of investigations statements are made to the police, and are at the instance of the police recorded by magistrates under section 164, which on investigation turn out to be entirely false. The police may pursue the line of investigation suggested in such a statement and may find it to be altogether false and may consequently decide not to put the person who made that statement in the witness box. The accused would under the sub-clause as it stands be entitled to a summary or copy of the statement, but it would be most unfair to the prosecution to allow any

such statement to be supplied to the accused merely because it had been recorded by a magistrate. That would place the accused in a position of unfair advantage and would prejudice the prosecution to that extent. By the sub-clause as recommended the statements to which the accused are entitled are limited to the statements of persons who will eventually be produced as prosecution witnesses, and I think this is what the honourable mover really intended. He could not have intended that statements which turn out to be inadmissible in evidence owing to some flaw or other statements of persons who are not intended to be produced as witnesses should be supplied to the accused. I think I have said enough to show that the recommended sub-clause is of so simple a character and so manifestly an improvement on the existing clause that there is no ground on which objection can be taken to its being taken into consideration (*Hear, hear*).

Sardar Harbakhsh Singh [Hoshiarpur and Kangra (Sikh), Rural]: Sir, I think that the amendment suggested simply removes certain defects and makes certain improvements, and it is absolutely necessary that it should be considered at once and accepted. There is no use wasting time over this Bill as we have already spent so many days, and there is absolutely no necessity for any procrastination.

Mr. President: The question is—

“That the proposed new clause be taken into consideration.”

Lala Mukand Lal Puri (Punjab Industries): Sir, the Honourable Finance Member has given in detail reasons to improve the phraseology of the new clause which this Council passed, on my motion, in spite of official opposition. I am not quite sure whether that improvement in phraseology was at all necessary, but so far as that improvement has been made I have absolutely no objection and I welcome the phraseology which the Government has suggested in place of certain words in the clause which I introduced in this House. I have no objection to the word ‘summary’ being used in place of ‘resumé’ or the word ‘Commissioners’ being substituted for the word ‘tribunal’ or such other minor changes, although I consider that the language of the clause as originally framed was sufficiently clear and there was no necessity for removal of any alleged ambiguity. But as I have said, so far as that portion of the speech of the Honourable Finance Member is concerned I have no fault to find with it. But I entirely disagree with what has been suggested by Sardar Harbakhsh Singh, that this new amended clause removes merely certain formal defects. That is not so. I have read now the clause very carefully, and it is fair to the Council that the Council should realise as to what has been omitted from the clause as it was passed by the Council and what the Council is now being asked to agree to. The object of the clause which was passed by this Council was two-fold. First, that a list of witnesses with a brief summary of their evidence should be given to the accused a week before the commencement of the hearing. That right is still there. But further the Council also agreed that statements, if any, recorded under section 164 should also be supplied. When I proposed that clause, I distinctly contended and I maintain that the language of the clause as passed by the Council indicates that the statements under section 164 were to be given in their entirety and not merely a brief summary was to be given.

The Honourable Sir Henry Craik : The sub-clause does not say so.

Lala Mukand Lal Puri : The introduction of the words ' of their,' the only two new words which are introduced in this clause makes two distinctions. First, it lays an obligation upon the prosecution or upon the Commissioners to give a brief summary only of the statements recorded under section 164 and not the complete statements. I am merely explaining for the benefit of the Council in view of the fact that the members of the Council have not got the draft of the original clause nor the copy of the amendment and it may be difficult for them to follow as to what changes are now intended by the Government. The intention of the original clause was that complete statements under section 164 should be given.

The Honourable Sir Henry Craik : No, I deny that. That was not the intention nor the effect.

Lala Mukand Lal Puri : The Honourable the Finance Member may be justified in stating that that was not the *effect* of the amendment, but as to what the *intention* of the mover of the clause or of those who supported him was, it is for them to say and not for the Honourable Finance Member. If there is any ambiguity as to the intention of the legislature, the legislature is still sitting and it is up to the legislature to make it quite clear. But as far as I am concerned I must make it plain that I intended that a copy of the complete statement recorded under section 164 should be given.

The Honourable Sir Henry Craik : Why did you not say so ?

Lala Mukand Lal Puri : That is what I intended and that is what I understand, and most of the honourable members understood. Anyhow if the language is ambiguous on that point it is open to the House to accept one interpretation or the other as it pleases and to correct it accordingly. The second point on which this amendment differs from the old is that it excludes the supplying of confessions to the accused. You will remember that the Honourable the Legal Remembrancer when making a speech criticised it on the ground that the clause as proposed by me would also allow the accused confessional statements, but, in spite of his speech, this Council was pleased to accept the clause as I proposed it. Now the objection has been raised that if you allow the accused persons a copy of the confessions made during the course of the investigation, that might lead to supplying the accused with certain irrelevant matters. It was never the intention of this House, and I contend that the clause as originally drafted and passed by the House does not imply that any statement recorded under section 164, whether relating to the case against the accused or not or whether recorded in the course of investigation of the case in question or any other case should be so supplied. The intention and the effect of the clause was that statements recorded under section 164 which are connected with the case and which have to be proved in the case were the only ones to be covered by the sub-clause. It is well-known to the lawyer members of the House that the confession of a co-accused is a relevant piece of evidence against persons jointly tried, and it is very necessary, in fact as necessary as the supplying of an approver's statement, that the confession of a co-accused which is intended to be put in evidence should also be supplied. I think the

Government is showing unnecessary nervousness on this point. The clause as originally drafted would never have entitled the accused to claim statements recorded under section 164 whether they had any relevancy against him or not. It would only have entitled him to obtain statements recorded under section 164 if that happened to be a statement of an approver or of a witness who had to be called in the court against him or any statement confessional though it might be of persons who were jointly tried with him and whose confession would under the Indian Evidence Act be proper evidence against the accused. That was all that was intended, and I maintain, in spite of the hasty manner in which the non-official members had to draft their amendments, in the particular circumstances connected with the introduction and consideration of this Bill, that it was not intended to entitle the accused to claim anything more than the statements of approvers recorded under section 164, and statements and confessions of persons jointly tried with the accused. I cannot see any valid ground why the prosecution should feel the least hesitation in supplying those copies. I submit that on these two points the clause with the amendment suggested would differ from the clause as it originally stood. In the first place, it now allows to the accused only a brief summary of statements under section 164, while the original clause was at any rate intended by its supporters to entitle him to a complete statement. After all there is no material difference except this that you are putting an unnecessary burden upon the prosecution to make a summary of the relevant portions. Instead of that, why should not the whole statement be given? If I were in any way concerned with the prosecution I will have no hesitation in giving the whole statement rather than a summary thereof. In the second place, the confessions of co-accused are relevant evidence, and if you intend to rely upon them, their copies should in fairness be given to the accused in the same way as copies of approvers' statements.

Shaikh Muhammad Sadiq [Amritsar City, (Muhammadan), Urban] (Urdu): Sir, only yesterday some of the honourable members on this side of the House were saying that this Bill had been discussed for about eight days and that it required no further discussion by the Council. But His Excellency the Governor has returned the Bill in spite of the best advice of his friends for reconsideration of that very clause in regard to which the Government suffered a defeat and which was considered and debated upon for many hours. At that time the best brains of the Government had put forward all the arguments that they could advance against the new clause proposed by a non-official member, but they could not convince the House of the soundness of their view point. This clause has already been considered very calmly, and it took a very long time to come to the decision at which the Council arrived the other day. We ought to show respect to the wishes of His Excellency and we are prepared to do so, but this legislature being an independent body, we are not bound to submit to his wishes. We shall, therefore, have to discuss this question over again before we decide as to whether we can accept the amendment proposed by His Excellency or not. And if each of the members who would like to take part in this discussion were to speak for an hour or two, as is likely that they would be able to speak on such a controversial matter, it will take a lot of the time of the Council. It is now already about 8 o'clock and it will, therefore, be better if the

[Shaikh Muhammad Sadiq.]

House is adjourned for an hour or so. Every member of the Council is not a lawyer and cannot understand the various minute points that may be raised during the discussion of the matter. Besides some of the members possess quick intellect while others take time to understand a thing. Another reason why I wish that the Council should be adjourned for some time is that it is just possible that in an informal discussion the difference of opinion between the Government and some of the non-official members may be narrowed down and that the opposing parties might come to a satisfactory compromise.

The Honourable Sir Henry Craik : The honourable member suggests a short adjournment, and I think that will facilitate discussion. But the House should first decide that it will take the amendment into consideration. I have no objection to the adjournment for a short time.

Mr. Labh Singh : Either the House should be adjourned for a day or we should proceed with the discussion because no useful purpose will be served by adjourning for half an hour.

Shaikh Muhammad Sadiq : No doubt it would be much better if one day is allowed. But if that is not possible, the Council should be adjourned for at least one hour. I would have even suggested an adjournment for a shorter period, say, for 28 or 30 minutes, but it is just possible that we may take some ten or twelve minutes more in the informal discussion. If that discussion is finished earlier, we can inform the President that the Council may resume discussion as soon as we have settled the difference of opinion. I hope this very moderate request will be acceded to by the Government and by you.

3 P. M.

Mr. President : The question is—

“ That the proposed new clause be taken into consideration.”

The motion was carried.

The Council then adjourned for an hour.

The Council re-assembled at 4 P.M.

Mr. President : The Council will now proceed to take the new clause into consideration.

Lala Mukand Lal Puri : Sir, during the interval you have been pleased to allow us to discuss the new clause, we have had time to consider it from various points of view. We have thought it necessary that the summary of confessions which are intended to be used against the accused under section 30.....

Mr. President : Does the honourable member wish to move an amendment? If so, he will please hand it over to me in writing.

Lala Mukand Lal Puri : I am going to move an amendment.

Mr. President : Will the honourable member please read out his amendment and pass it on to me?

Lala Mukand Lal Puri : I will write it now and send it to you.

The Honourable Sir Henry Craik : Sir, I beg to move—

“That for the word ‘section’ in the first line of the proviso the word ‘sub-section’ be substituted.”

The motion was carried.

Lala Mukand Lal Puri : Sir, I beg to move....

Mr. President : The honourable member wishes to make an amendment in line 3 ; while an amendment in line 7 has already been carried by the House. So, his amendment is out of time. The business of the Council was interrupted for an hour mainly with the object of enabling the honourable members to send in their amendments.

Lala Mukand Lal Puri : My amendment was handed over to the Secretary before the amendment in line 7 was moved.

Mr. President : The amendment of the honourable Member in charge of the Bill was placed before me as soon as I took the chair on resumption of business after an hour's break.

Lala Mukand Lal Puri : You were pleased to ask me to read out the amendment, but before I did so the Honourable Finance Member was asked to move his amendment.

Mr. President : When the honourable member was called to pass on his amendment to the chair, he said that he wanted time to write it out, but he had full one hour to do the needful, if he had cared to do it.

Mr. Nanak Chand Pandit : But the interval was given for coming to terms and not for the actual proposing of amendments.

Mr. President : The interval was given for informal discussion and also for tabling amendments.

Lala Mukand Lal Puri : Sir, I have already given notice of the amendment. It has been already handed over to the Secretary. It is an amendment on which both sections of the House have agreed.

Mr. President : The honourable member in charge of the Bill moved his amendment in line 7. It was put to the House and carried. If the honourable member intended to move an amendment in line 3, he should have objected to the amendment in the latter part of the clause being moved before an opportunity was given for moving an amendment in the earlier part of the clause.

Lala Mukand Lal Puri : I think it will be highly unjust—I speak with due deference—to rule out an important amendment like mine merely on the ground of technical procedure. You were pleased to interrupt my speech and call upon the Honourable Finance Member to put in a purely formal amendment.

Mr. Labh Singh : The amendment moved by the Finance Member was no amendment at all. It was merely a clerical error that could have been set right by the sub-committee at the end.

Mr. President : I have not received up till now the amendment of the honourable member for Industries.

Lala Mukand Lal Puri : I have given it to the Secretary.

Mr. President : Is this amendment in order on its own merits ?

Lala Mukand Lal Puri : That is for the chair to decide.

Mr. President : What is the object of the honourable member in moving his amendment ? Does he wish to go back to his new clause, which was adopted by the House ?

Lala Mukand Lal Puri : No. There is a considerable difference between the amendment to the clause as now proposed and the old clause.

Mr. President : Will the honourable member please read the clause inserting his amendment in it ?

Lala Mukand Lal Puri : The clause with the amendment will read thus :—

“(5) Every accused shall be supplied by the Commissioners with a list of prosecution witnesses together with a brief summary of their evidence and statements, if any, recorded.....”

Mr. President : It is clear that the honourable member wishes to retain his own clause.

Lala Mukand Lal Puri : But there is a difference. I beg to submit. . .

Mr. President : Does not the honourable member's amendment go beyond the new clause now under consideration ?

Mr. Labh Singh : Not at all, Sir. I just want to explain what was in the minds of those who were supporting this amendment. In the first place, Mr. Puri made it clear that the original section was that copies of complete statements will be supplied. But now what is wanted is that a brief abstract should be given. A statement, confessional or otherwise is one thing and a brief resumé of a statement is another thing. There is a world of difference between the two. Complete copies, complete statements may serve one purpose while a brief abstract of the evidence or the statement may not do that. Therefore I submit that the proposed amendment is in no way inconsistent with the proposal made by His Excellency.

Lala Mukand Lal Puri : May I point out that His Excellency the Governor was pleased to point out to the House several defects which he thought existed in the clause as it was passed by the Legislative Council. It is open to this Council to accept the view of His Excellency on four points and not to accept the fifth. This is exactly what my amendment does. I accept the view put forward by His Excellency the Governor on four or five points, but I wish that this Council should stick to their view on one particular point. I submit that that is the only object of the amendment, that we accept the views of His Excellency the Governor on certain points and we do not.....

Mr. President : I think the honourable member's amendment does not only go beyond the proposed new clause, but is also inconsistent with it.

Lala Mukand Lal Puri : The amendment does not go beyond the scope of the clause.

Mr. President : It clearly goes beyond the scope of the clause inasmuch as it refers to the statements of accused persons and it is inconsistent with the clause, inasmuch as it proposes to include confessional statements which the clause expressly intend to exclude.

Lala Mukand Lal Puri : Let us for a moment consider that there are no confessions at all. In the original clause as it stood all statements whatever recorded under section 164 were to be supplied to the accused. His Excellency the Governor wanted that statements of witnesses only should be supplied.

Mr. President : And not of the accused as they were clearly intended to be excluded by the new clause.

Lala Mukand Lal Puri : What my amendment says is that in addition to what is proposed to be included in the clause by His Excellency, the statements of the accused should also be supplied.

Mr. President : Whether they amount to confessions or not ?

Lala Mukand Lal Puri : It may or may not.

Mr. President : Then at least so far as they amount to confessions they would go beyond the purview of the clause.

Lala Mukand Lal Puri : No. This clause does not contain the reasons of His Excellency. I submit that this clause does not deal with confessions.

Mr. President : Does the clause expressly embrace confessions ?

Lala Mukand Lal Puri : No.

Mr. President : Then the honourable member intends to include confessional statements.

Lala Mukand Lal Puri : This clause only refers to certain statements recorded under section 164 and not to all the statements recorded under section 164. What I want is that certain other statements also in addition to those prescribed in this clause should be inserted in this clause.

Mr. President : May I refer the honourable member to paragraph 65 of the Business Manual ? An amendment should not go beyond the scope of the motion to which it is proposed.

Lala Mukand Lal Puri : Paragraph 65 of the rules reads : An amendment must be relevant to, and within the scope of, the motion to which it is proposed.

Mr. President : The clause which was moved by the honourable member and adopted by the House clearly included confessional statements ; while the new clause, the principle of which has been affirmed by the House and which is now under consideration, excludes such statements. Therefore, his amendment which aims at including again such statements clearly goes beyond the scope of the new clause under consideration and is consequently out of order.

Mr. Labh Singh : I shall only mention one fact, I shall express no opinion on your ruling. I shall state one fact which may help you to revise your ruling.

Mr. President : I do not propose to revise my ruling.

Mr. Labh Singh : I bow to your decision, Sir, but I want to mention one thing, which I trust, would help you in revising your tentative opinion.

Mr. President : I do not wish to gag the mouth of the honourable member. So he is welcome to have his say.

Mr. Labh Singh : I want to say nothing to controvert your ruling. I am only mentioning the fact that this new clause is only an amendment to the original clause in the Bill, and therefore the original clause is also before the House.

Mr. President : The honourable member is not right. May I point out to him that a clause which is proposed to be substituted for another is to all intents and purposes a new clause and should, therefore, be treated as such. The only clause now before the House is the one suggested by His Excellency the Governor.

Mr. Labh Singh : Then, will not an occasion arise to delete the existing clause? I suppose you will ask us to delete the original clause in the Bill.

Mr. President : If the clause now under consideration is not carried, the original clause will stand as it is; otherwise the new clause will take its place.

Shaikh Muhammad Sadiq (Urdu) : May I say just a few words, Sir? You were pleased to allow us one hour to informally consider the clause as recommended by His Excellency the Governor, and....

Mr. President : Is the honourable member moving an amendment? What has he got to say?

Shaikh Muhammad Sadiq : I hope, Sir, you will allow me to draw your attention to one point before giving your final ruling. I think it was just two minutes before the Council reassembled that we drafted an amendment and the Chief Secretary gave the assurance that the Government would accept it, and then it was decided that the clause as amended would be passed by the House.

Mr. President : Order, order. The Chair has no knowledge of the arrangement referred to by the honourable member and will not take cognizance of any verbal arrangement.

Shaikh Muhammad Sadiq : I simply want to know, Sir, whether the Government is prepared to abide by that decision and to accept the amendment.

Mr. President : What amendment?

Shaikh Muhammad Sadiq : The one that was moved just now.

Mr. President : But that amendment has already been ruled as out of order.

Mr. Labh Singh : I did not quite catch you, Sir, when you gave the number of the Article in our Manual which says that the substitution of a new clause for an existing clause is not an amendment but a new clause.

Mr. President : Our rules provide for amendments only. They contain no express provision relating to new clauses.

Mr. Labh Singh : Paragraph 65 only relates to amendments. Will you please mention the authority which covers the procedure you have been adopting in connection with substitution of clauses?

Mr. President : The honourable member is referred to page 407 of Sir Erskine May's Parliamentary Practice. It is stated there that a clause proposed to be substituted for a clause agreed to by a select committee is a new clause in its nature.

Mr. Labh Singh : This will, then, take us back to the old controversy whether we are governed by our rules or by the practice of Parliament. I should like to know whether, when our rules are clearly expressed, we are governed by those rules or by May's Parliamentary Practice.

Mr. President : Where our rules are clear and express, I follow them, but where they are silent and Parliamentary Practice on a matter is not inconsistent with them, I follow it.

Lala Mukand Lal Puri : I have got two amendments which I have handed over to the Secretary, namely, the omission of the words 'of their' in line 3 of the new clause.

Mr. President : The words 'of their' occur twice in the proposed clause. Which pair of words 'of their' does the honourable member refer to?

Lala Mukand Lal Puri : I mean the words before the word 'statement' in line 3. The other amendment is that the word 'their' before the word 'statement' in line 3 be omitted.

Mr. President : This amendment goes beyond the scope of the clause, and is, therefore, ruled out of order.

Lala Mukand Lal Puri : What about my other amendment to omit the word 'their' before the word 'statement'?

Mr. President : That also is out of order.

Chaudhri Allah Dad Khan [Ambala division north-east (Muhamadan) Rural] : Sir, I beg to move—

"That for the words 'the evidence of any of the witnesses cited in the list is to be recorded by the Commissioners,' the words 'the commencement of the hearing' may be substituted."

This is a necessary amendment. When a chalan is presented before the magistrate, a date is given for producing evidence, and my amendment proposes to give more time to the accused to think of his case and of his defence. With the seven days already there before the chalan is put before the magistrate, this interval before the recording of evidence by the magistrate will help to give the accused, say, a fortnight or three weeks' time. In this way the time that is lost to the accused by the omission of commitment proceedings will be made good. As I have made it clear during the discussion on the Bill, the object of delaying the commencement of hearing is to give the witnesses that are to be put up before the magistrate time to recover from the pressure exercised upon them by the police. This amendment will thus serve two purposes. It will give the accused sufficient time, not merely a week but perhaps 15 or 17 days to think out his case. It will be an advantage to him and there is no reason why we should take away this advantage which has already been conferred upon him by the House. This question was discussed the other day threadbare and at great length, and a large number of honourable members took part in the discussion. Members of Government opposed it as much as they could. But the motion was carried. And now it is being amended. I say that the original time which was given

[Ch. Allah Dad Khan.]

in the amended clause should not be curtailed. We are already curtailing here a good deal of time the accused would be getting under the Criminal Procedure Code, and it is but proper that we must make up for it as much as possible. This amendment does not interfere in any way with the intention or the principle of the Bill. It is a moderate amendment and I hope it will be cheerfully accepted by the Government.

Mr. President : Amendment moved—

“ That for the words ‘ the evidence of any of the witnesses cited in the list is to be recorded by the Commissioners,’ the words ‘ the commencement of the hearing ’ may be substituted.”

Mr. Labh Singh : I rise to support the amendment. It is a minor amendment and my reason in support is very simple. The sole objection taken to the use of the word ‘ hearing ’ is that it is not a technical term known to Criminal Procedure. If I remember aright this word occurs perhaps more than once in the text of the Criminal Procedure Code. I am certain section 526 makes use of it. There has been some change in the phraseology of the section by the amending Act, but both in the original section and in the amended section of the Code, we find the word used. The term therefore is not outlandish so far as the Criminal Procedure law phraseology goes. This ground of objection therefore disappears. And in so far as it is only a verbal amendment, as the Honourable the Legal Remembrancer calls it, I do not think that Government benches would seriously oppose the verbal concession. It has of course the obvious advantages which the honourable member responsible for the amendment has detailed before the House. In addition to supporting this minor amendment, I would like to say just a few words against the new proposed clause. I think I shall be in order in opposing the whole clause.

Mr. President : After a motion or an amendment is proposed from the Chair, that motion or amendment alone is before the House and all speeches should be relevant and strictly confined to it.

Pir Akbar Ali [Ferozepore (Muhammadan) Rural] (Urdu) : Sir, I have stood up to oppose this amendment. I request the honourable members not to make this clause worthless by moving different amendments to it. Although it is possible that further discussion may help us in finding some flaw in its phraseology, at present I find it absolutely useless to modify it. I abstain from entering into lengthy discussion of its details. But anyhow I for one submit that even if this amendment is accepted it would serve no purpose. I therefore oppose the amendment under consideration.

Mr. President : The question is—

“ That for the words ‘ the evidence of any of the witnesses cited in the list is to be recorded by the Commissioners,’ the words ‘ the commencement of the hearing ’ may be substituted.”

The motion was lost.

Mr. President : The question is—

“ That the new clause be adopted.”

The motion was carried.

ELECTION OF DEPUTY PRESIDENT.

Mr. President : I call upon the honourable members to hand over to me nominations for the election of Deputy President in conformity with paragraph 50 of our Business Manual.

(After receiving the nomination papers.)

Mr. President : The following gentlemen have been nominated for the office of the Deputy President :—

1. Sardar Harbakhsh Singh :—

Proposed by M. Imam Din and seconded by Kh. Muhammad Eusoot.

Proposed by Makhdoom Muhammad Husain and seconded by M. Nur Muhammad Khan ;

Proposed by Rao Bahadur Chaudhri Chhotu Ram and seconded by Khan Bahadur Chaudhri Fazl Ali ;

Proposed by Kh. Muhammad Eusoot and seconded by Lieutenant Ram Singh.

This last nomination paper I rule out of order. The same gentleman has put his signatures to two nominations.

2. Sardar Mohindar Singh :—

Proposed by Lieutenant Sardar Raghbir Singh and seconded by Captain Sardar Bahadur Sardar Janmeja Singh ;

Proposed by Mr. E. Maya Das and seconded by Sardar Bahadur Sardar Sheo Narayan Singh ;

Proposed by Sardar Gurbachan Singh and seconded by Lieutenant Ram Singh ;

Proposed by Raja Muhammad Sarfaraz Ali Khan and seconded by Rai Jagdev Khan Kharal ;

Proposed by Mr. M. A. Ghani and seconded by Pir Akbar Ali.

3. Rai Bahadur Lala Mohan Lal :—

Proposed by Mr. Labh Singh and seconded by Kanwar Mamraj Singh Chohan ;

Proposed by Lala Chetnanand and seconded by Lala Bhagat Ram.

Rai Bahadur Lala Mohan Lal : Sir, I am advised by my party to withdraw my name from the election. On their advice I withdraw my candidature.

Lala Mukand Lal Puri : May I ask if the honourable members occupying Government benches are going to vote ?

Mr. President : Has the honourable member any right to know whether any gentleman is going to vote or not ?

Lala Mukand Lal Puri : I just wanted to know a piece of information.

Mr. President : The honourable member will please study the Business Rules. Every member has a right of vote.

Lala Mukand Lal Puri : I just wanted to know what their convention was ?

Mr. President : That is not a question which the Chair will allow to be put.

Lala Mukand Lal Puri : I wanted to know whether any convention has been established on this point?

Mr. President : There can be no question of convention on a point which is regulated by express rules. As already stated every member of this Council has a right of vote and he may exercise it according to his discretion.

Lala Mukand Lal Puri : The question of legality is slightly different from that of propriety.

Mr. President : What is legal is proper. Rai Bahadur Lala Mohan Lal withdraws. Therefore, there remain only two candidates, Sardar Harbakhsh Singh and Sardar Mohindar Singh. Blank cards will now be distributed to the members and each member will write on the card he receives the name of the candidate for whom he desires to vote. The cards will be collected by the Secretary and the Assistant Secretary, who will count the votes and I will announce the result.

Mr. President : The result of voting is as follows : for Sardar Harbakhsh Singh, 41 votes, for Sardar Mohindar Singh, 34. Sardar Harbakhsh Singh is declared elected, and his name will be submitted to His Excellency the Governor for approval.

5 P. M.

COURT OF THE INDIAN INSTITUTE OF SCIENCE BANGALORE—ELECTION.

Mr. President : The next item is the election of a member for the Court of Indian Institute of Science, Bangalore. Three gentlemen have been nominated :

Sardar Habib Ullah ;
Mr. Labh Singh, and
Sardar Jawahar Singh Dhillon.

Cards will be distributed as before and each honourable member will please write down on the card delivered to him the name of the candidate for whom he wishes to vote.

Sardar Jawahar Singh Dhillon : Sir, as advised by my party I withdraw my candidature.

Mr. President : The election will now be confined only to the two remaining candidates.

Mr. President : For Khan Bahadur Sardar Habib Ullah, 84 ; for Mr. Labh Singh 31. Sardar Habib Ullah is declared elected.

RESOLUTION.

RE RELIEF TO AGRICULTURISTS.

Khan Bahadur Sardar Habib Ullah [Lahore, (Muhammadan) Rural] (Urdu): Sir, I beg to move that:—

“This Council recommends to the Government that in view of the unprecedented fall in the prices of agricultural produce and the prospects of a disappointing *kharif* in some parts of the province relief may be afforded to the agriculturists of the province.”

Sir, before I proceed to give my reasons which have actuated me to move this resolution I consider it my duty to express my gratefulness to the Government for permitting me to move it, because otherwise it would not have been possible for me to ventilate the grievances, the very genuine grievances, of the zamindars of the province to-day. Sir, the grievances of the zamindars are very old. Their sorrows, their sufferings and their troubles are of very long standing and they have been given expression in a much more lucid manner from this part or rather from this very seat which I have the honour to occupy to-day, by another member of the House who is not present amongst us to-day. I do not claim to possess the same lucid manner of my friend from Montgomery and a veteran advocate of the zamindars. However, Sir, I shall try, in my own humble way, to place before the House and the Government the real situation in the villages and the pitiable lot of the zamindars.

Sir, you will remember that in the last session of the last Council the honourable member from Lyallpur had proposed that because the prices of agricultural produce had gone down to a level unknown in the history of last so many years and because the crops had failed on account of the failure of the monsoons, the land revenue should be reduced at least by 25 per cent. He had then made it very clear that the zamindars required the proposed relief very badly. The condition of the zamindars that he depicted at that time has not improved. It has rather become worse, and Government now should not lose a minute in giving the zamindars the much-needed relief. At this time not only the zamindars but the whole population of the province is in the grip of evil times. It has always been the practice of Government to liberally afford relief to the famine-stricken areas extending over a few miles and affecting only eight or ten per cent. of the population. But now the whole population of the province including the shopkeepers and traders is affected by the misfortune which has overtaken the zamindars. The Government too whose prosperity depends more or less on the prosperity of the zamindars has not escaped and has been equally affected by this misfortune. The buying power of the province as a whole has very much decreased. It is, therefore, essential that Government should rise to the occasion and come to the rescue of the zamindars. It may be said that the misfortune of the zamindars is due to the political unrest and agitation that we see in the country to-day. But I do not believe that the political movement has much to do with it. It may be that this movement is to some extent responsible for the present conditions, but there are other factors which have combined to bring about the present *impasse*. You can say, with some show of reason, that because we lack organisation and co-operation, therefore we are suffering so much. To give a concrete example of the present day conditions I may say that an agriculturist who

[K. B. Sardar Habib Ullah.]

possesses ten acres of land is incurring a loss of about Rs. 28 every year. Let us suppose that he has a pair of oxen and one plough to till ten acres of land and this is generally the case in the whole of the province. Now it is necessary that he should set apart two acres of his land for growing fodder to feed the animals. Out of the remaining 8 acres of land he reserves 4 acres for *rabi* crops and 4 for *kharif* crops. Now according to the prices prevailing in the market to-day, he cannot hope to realise more than Rs. 48 out of the four acres reserved for *rabi* crops because an acre of land yields only eight maunds of wheat and a maund of wheat does not fetch more than Rs. 1½ as its price in the villages. Out of the remaining four acres which he has reserved for *kharif* crops and which will yield him about sixteen maunds of cotton, he will be able to realise Rs. 64 at present when the cotton is selling at Rs. 4 per maund in the villages. Now the total income that he will get from ten acres of his land comes to about Rs. 112. Let us now see how much expense he has to bear in the form of Government dues. He pays Rs. 12 for one acre as *abiana*, revenue and other cesses. Besides that, he has to incur an expenditure of Rs. 2 more for one acre as *nazrana* to the patwari and zilladar so that the total cost of production comes to about Rs. 164. It is, therefore, clear that at present an agriculturist who possesses only ten acres of land is clearly incurring a loss of about Rs. 28 per year. The House should remember that I have not included in my calculation the expenses that such a zamindar has, of course, to bear to maintain himself, his wife and his children. Now I leave it to the House to guess what hardships and troubles an agriculturist must be bearing in these days. Please remember one thing more and that is, that this is the condition of the zamindars of the canal areas. The condition of the zamindars of *barani* area is still worse. I happen to possess some land in one such area in the Hissar district, and I know that many of the agriculturists have either already left or are leaving for towns to work as labourers. I need not explain their condition. The Financial Commissioner knows it very well. The agriculturists of other *barani* areas such as Gurgaon, Mianwali and Muzaffargarh are similarly in great distress and I fail to find words to draw the very gloomy picture of these unfortunate people. I am, however, sure that Government already knows it full well. It is very satisfactory that in spite of the very distressing conditions the zamindars have paid all Government dues due from them with regard to the last harvest. At least the zamindars of my district have no arrears worth the name to pay to Government. But let the Government know that the conditions have since materially changed. If they had been able to pay for the last harvest it is because some of them had with them savings of the previous years and the *sahukars* were also ready to help them. But now, as I have said, the conditions are different. Because the *sahukars* have not been repaid what they advanced at the time of the last harvest, they are not prepared to give more loans to the agriculturists. And they are not to blame as well. They have not got heaps of money to continue giving loans without getting back anything. The resources of the agriculturists, as we know, are already scanty. They have not got much to spare or to sell, and if some of them have got something, it does not find ready market. Nobody in these hard times, when the money market is also very tight, is prepared

to purchase their animals also. The position has, therefore, become very critical. I am afraid that if these conditions continue for any length of time, these agriculturists are likely to be easily persuaded by the agitators to refuse payment of *abiana*, and revenue and other Government dues. These agitators are sure to take advantage of the inability of the agriculturists to pay land revenue and they will not hesitate to make capital out of it. It will appear quite plausible for them to say that neither the Government nor their representatives in the Council care for the zamindars and, therefore, the latter should join the Congress movement. In that case, I fear, that the political condition will become all the more worse. Therefore I request the Government to pay its particular attention to this matter.

Now it may be very well asked what remedies do I suggest for removing this distress and for allaying the sufferings of the agriculturists? As to that I shall suggest, in the first place, that an able and a sympathetic officer, one who has real sympathy and is interested in the welfare of the agriculturists, should be appointed to make a thorough enquiry into the matter. It should be remembered that the officer so appointed should exclusively devote his attention to this. It will not do to appoint one who should attend to this work in addition to his own duties. That officer should have nothing else to do, so that he may submit the result of his enquiry in a very short time and not take two years or three years to submit his report as it happens with other enquiries. The matter is very urgent and it requires immediate disposal. And fortunately for us, both the Financial Commissioners now occupying that exalted position are very able and very sympathetic too. Government may appoint any of them for this enquiry, and, if it considers desirable, it may also appoint an advisory committee consisting of a few members of this Council which may be consulted from time to time by the officer detained for this duty. In the second place, I should suggest, although I know that this suggestion will not sound well to the ears of the gentlemen occupying Government benches, that an announcement should be made at once that both *abiana* and land revenue will be reduced by 25 per cent. so far as the next harvest is concerned. I have said both *abiana* and land revenue, because I know that reduction in the rate of only the one or the other will not alleviate the present conditions. It may also be noted that I have asked for this reduction only so far as the next harvest is concerned and not for ever as was suggested by another honourable member in the last session of the last Council. My third proposal is that Government should so arrange as to take into its possession the agricultural produce of the zamindars which either does not find a ready market at present or which, if sold, will not bring good price and advance loans to the zamindars on the security of the goods so possessed to be repaid when the conditions improve and such goods can fetch a good price. A similar step has been taken by the Bengal Government in the case of producers of jute because nobody is prepared to purchase jute at present as it brings very low price now. Again, the Government will do well to advance *taqavi* loans on a much more liberal scale. There is yet another proposal which is worth the consideration of the Government. With regard to it the Government of India will have to be approached. The proposal is that Government should find out ways and means by which it should become possible to increase the export of agricultural produce and other things of this province and of this

[K. B. Sardar Habib Ullah.]

country. Further, the import of foreign grain should be stopped. These are some of the proposals which can be considered by the Government and acted upon with great advantage.

Now I shall address a few words to my zamindar colleagues. I shall, in the first place, request them to cut down their expenses. They should help themselves before they can hope to get help from others. They should know that administration is also to be run and that Government will not close down its departments to help them as much as they would like to be helped. Then they should work harder to make their lands yield more produce to them. I am sure that if they do things in a business-like way, they will not be so badly off as they are at present. The zamindars should also be considerate towards their tenants. They must also be feeling the pinch as much as we do. For my part I have not insisted on the repayment of the loans that were due to me this year from them and I am not charging any interest for the same. Besides that I have charged no price for the fodder used by them for feeding their oxen. I hope that my zamindar friends will follow suit.

The main question is whence the money will come to give effect to all these proposals or to afford relief to the zamindars and at the same time to run the administration efficiently. That is no doubt a very serious question because money is an all important thing and without it nothing can be achieved. To provide money Government should first of all reduce its expenditure by at least 15 per cent. Mr. Lloyd George has suggested that in the next budget the British Government should show a reduction in the expenditure by at least ten per cent. to reduce unemployment. If ten per cent. reduction can be effected there I am sure that it will not be difficult for our Government to reduce its expenditure by 15 per cent. Then the Government should borrow money to overcome the present difficulties. It can repay the same when conditions improve. As I have already said the political agitation in the country is partially responsible for the present conditions (*hear, hear*), and I hope that Government will also take steps very soon to bring to an end this agitation. I trust that my friends who occupy the opposite benches and who for some reasons are not classed with the agriculturists, will sink their differences and support my resolution. I may remind them that on the last occasion Raja Narendra Nath, their accredited leader, was pleased to say that he would gladly support such a proposal as would seek to afford relief to the zamindars provided the conditions remained as they were then. The conditions have not only remained the same, but they have become much worse. At that time Pandit Nanak Chand also promised that if it had been proposed to give temporary relief to the zamindars he would certainly have supported the resolution then moved. He will now see that I ask for relief only for the next harvest and I hope he will not forget his promise. In that session of the Council the Honourable the Revenue Member also promised to give relief to the zamindars if the conditions warranted that relief should be given. I shall quote his exact words :—

" We are as much concerned as the zamindars themselves by the trend of present downward prices in this province and elsewhere. I can assure them that Government is watching the situation closely and anxiously, and if and when relief is indicated, the zamindars will not find the Government wanting in giving relief to those who deserve it."

I hope that this time a mere verbal promise will not be made as was made then and which has not materialised so far. I am sure that this time he will do something definite so that when we go back to our constituencies we may be able to say to the zamindars that Government has been pleased to do this or that thing for you, and that it has the interest of the zamindars at heart.

With these words I commend my resolution for the acceptance of the House.

Mr. President :

"This Council recommends to the Government that in view of the unprecedented fall in the prices of agricultural produce and the prospects of a disappointing *kharrif* in most parts of the province relief may be afforded to the agriculturists of the province."

Mr. C. A. H. Townsend (Financial Commissioner) : Sir, Government has very great sympathy with the trouble in which the fall in prices of many articles of agricultural produce has involved the zamindars of the province. It is impossible for any Government in India, and least of all, the Government of the Punjab in which agriculture is of such extreme importance and virile and manly agriculturists form so important a proportion of the people, to be in any way indifferent to these troubles. The matter which the honourable mover dealt with so eloquently is even before our thoughts. "High officials," as they are termed, are giving this matter their deepest consideration, and I can say for myself that I spend sleepless nights, at any rate, portions of nights, in pondering over the problem. We are making detailed enquiries from Deputy Commissioners on it : when we have all the facts they will all be considered by the Government.

I wish however, to make a few remarks on the subject generally. It is a great mistake to think that this trouble is confined to the Punjab or even to India. This trouble of low prices is in evidence all over the world. I was talking only the other day to a gentleman who has just been in Iraq. He said that the peasants there are in deep distress owing to the low prices they are getting for dates and barley, their principal export commodities, and I recently heard from a nephew of mine who is farming in Australia that he was much agitated by the low price his excellent wheat crop would fetch. The same remarks apply indeed to all agricultural countries. The smaller agricultural countries of eastern Europe, which came into existence after the war, in particular, are the gravest distressed for the same reason.

The causes of the depression are many. Perhaps the most important is what may be briefly called over-production. Another is lack of purchasing power. It is obvious that if a cultivator is getting perhaps only half of what he got last year for his wheat, he has much less money to spend on the purchase of cotton goods. So the demand for them falls and the price of cotton also. And so on, in a sort of vicious circle. There are other economic factors which many people consider have much to do with this problem, but I am not sufficiently skilled to discuss them. I will leave them to my friend, Mr. Calvert, to deal with. But I wish again to emphasize that this is an all-world problem, and to say that, however sympathetic Government may be, it can do extremely little, if anything, in the matter.

6 P. M.

[Mr. C. A. H. Townsend.]

To turn now more particularly to the Punjab, our difficulties really began with last *rabi*. The wheat harvest generally in the province was good, in some places it was extremely good. Though the price of wheat at harvest time fell considerably, the increase in outturn to some extent compensated for the drop in prices.

The honourable member in moving his resolution substituted the words "some of the province" for "most of the province," as having had a disappointing *kharif*: in doing so he showed moderation and wisdom. It would be wrong to say that the *kharif* crop was disappointing in most of the province: it was good in parts, disappointing in parts, but on the whole I should say quite average. The mover said that things in Hissar were very bad: well, the district is large, and the crop may be bad in places but quite recently I had a letter from a friend there, and resident of a poor unirrigated village who said their crops were good. Where crops are bad the ordinary rules of suspension and remission will be applied.

Then my friend mentioned Muzaffargarh. He said that the crops there were bad. I have just had a letter from the Commissioner, saying that crops in that district are poor in some places, in some places average, and in some places good.

The honourable member said that the important cotton crop in particular is poor. I have heard complaints from some places about *desi* cotton and sugarcane. Owing to damage caused by locusts, cotton had in some places to be resown, but only this morning a Muhammadan friend came to see me from the Lower Bari Doab colony and said that "*kapas achhi utri hai*". He added that it would probably be better than it was last year. He was talking of American cotton; he grows no *desi* cotton.

The monsoon, generally speaking, at the beginning was very satisfactory; at the end it was disappointing; it is a great pity we did not get more rain in August. This factor has affected our *barani rabi* sowings, but the *kharif* were generally far from bad. We have recently had a little rain in Gurgaon—a distinctly poor district. Though too late for the *kharif*, it will help the *rabi*.

One of the difficulties which the honourable member referred to is the slack demand for wheat. It is quite true that the demand for wheat for export has been very poor, and the internal demand also is so far, disappointing. I have here figures taken from the Indian Trade Journal showing the exports and imports between India and foreign countries. The total exports of wheat from India to such countries between 1st April and 1st November 1929 was 188,955 tons; last year during the same period the corresponding figure was 15,567 tons. Again the amount of wheat imported from foreign countries into India during the same months in 1930 was 55,962 tons; in 1929 it was over 286,000 tons. These figures are not absolutely bad, but they might of course be infinitely better. Some Australian wheat is now coming to Bombay and Calcutta. I agree that the question whether such import should be prohibited is worth consideration. We are looking closely into it.

In turning to gram, the position is not quite as unsatisfactory. Its price is about a rupee above that of wheat, and it has been a fairly profitable crop.

As for cotton, it is difficult to say anything except that it is of course very much cheaper than it was during the most of the last decade. But during the last fortnight a distinctly upward tendency in price has shown itself. I do not of course attach too much weight to this: the real harvest price is not yet fully established. But so far as it goes, the movement is satisfactory.

Turning now to rice, I recently made enquiries on the matter in Gujranwala, and I have had also a long report from Amritsar. Its price is very much lower than last year. But the Amritsar report says that the exports of rice from the Punjab are about 25 per cent. above normal. The crop is apparently generally good; the fall in its price is largely due to the fall in the price of wheat, of which grain more of course is produced in the province than any other. Some people who used to eat rice are now, I am told, eating wheat.

The honourable member mentioned the civil disobedience movement. That factor has undoubtedly affected the cotton market. Some people think that we may find salvation in marketing boards, and other methods of interference by Government in this economic question. Such methods have been tried in some countries. Experience in them all has shown that the less Government interferes in the matter, the better.

Another factor is Russia, a country which before the War exported very large quantities of wheat. It has recently started doing so again, and has thus seriously affected our exports.

I have a good deal more to say, but time is short. I wish again to assure the House that Government has every reasonable sympathy with the agriculturists in this matter and will make every reasonable effort in its power to help them.

Sardar Buta Singh [Multan Division and Sheikhpura (Sikh), Rural], (Urdu): Sir, what the honourable the Financial Commissioner has been pleased to say cannot satisfy the zamindars. It is no use saying that the present depression is a world-wide problem and that the United States of America and all the countries in the Eastern Europe are face to face with the same situation. This enlightening statement cannot do any good to the zamindars of the Punjab. Then with regard to every point urged by the honourable mover of the resolution he informed us that the Government are making enquiries. That again, Sir, is not a satisfactory reply to the demand made in the resolution. One by one he took all the points and dismissed them with the same assurance. But I say, Sir, that—

تا تریاق از تریاق اور زده شود مار گزیده مرده شود

By the time you finish these enquiries and come to any decision on their basis we shall be undone. Now, Sir, no lengthy speech is necessary from me with regard to this resolution. My honourable friend, Khan Bahadur Sardar Habib Ullah, has thrown sufficient light on every aspect of the situation. I have only to say that his demand is very reasonable and moderate.

Rao Bahadur Chaudhri Chhotu Ram : It is over-moderate.

Sardar Buta Singh : My honourable friend Rao Bahadur Chaudhri Chhotu Ram says that it is over-moderate, and I quite agree with him. In any case my submission is that this time the zamindars have, somehow or other paid the land revenue but they will not be able to pay it in future, if the present state of affairs is allowed to continue. I come from a district where nearly two hundred persons have been jailed under the Ordinance on account of their inability to pay land revenue. It may be said that this non-payment of land revenue was due to the agitation that is going on in the country. But I assure you, Sir, that those poor people had nothing to do with politics or any agitation. And how could they, when according to the Punjabi saying

پہو جن کے سانسہ برے دھن کی کسی اُس

Now, Sir, my honourable friend discussed the sad plight of the zamindars in the *barani* areas, and I, with your permission, wish to draw the attention of the House to the conditions obtaining in the canal irrigated areas. In the Simla session of the Council the Financial Commissioner was pleased to remark that although the zamindars in the *barani ilaqas* had to face certain hardship, those in the canal areas had no cause to grumble. But I submit that in the *barani* areas even if the crops are poor, the zamindars can pay the land revenue because they have to pay only nine rupees per half a square of land, but it is not the same with the canal areas. There, in a canal irrigated area of the same dimensions if, for example, the paddy or any other such crop fails, the poor zamindars are undone because they have to pay something like Rs. 150. I am prepared to admit that the zamindars in the canal areas were in a comparatively better condition sometime ago, but we are not dealing with the past now. Let us see what their present plight is. I repeat, Sir, that it is with the greatest difficulty that they have paid the land revenue this year.

When recently the Honourable the Revenue Member paid a visit to our district he was pleased to remark that he himself had to face some difficulty in paying the land revenue. Now may I ask, Sir, what would have been the case with poor zamindars when the Honourable the Revenue Member himself was not able to pay the land revenue without some difficulty? Therefore, I request the Government to do their utmost to help the zamindars. They are always described as the backbone of the Government. They have always helped the Government to the utmost of their capacity. Therefore, it is the duty of the Government to come to their help in their present distress. The honourable mover has advised the Government to reduce the expenditure on administration by 15 per cent, but I would ask them to reduce it by 25 per cent, and spend the money thus saved to ameliorate the condition of zamindars.

The honourable members, Sir, must have received a notice to the effect that the canal roads have been closed to the public. I asked a canal officer the reason for taking that step and he furnished me with the best of reasons. This step, he told me, was taken to effect economy in the department. He was also good enough to inform me that the services of most of the *khalasis* thus relieved were dispensed with and that the pay of those who were still

retained was reduced from Rs. 19 to Rs. 11-8-0 per mensem. At that I asked him whether these praiseworthy efforts to effect economy were confined to *khala-sis* only or would they be put into operation with regard to the salaries of high officials as well. (*Laughter*). I submit, Sir, that the Government should reduce the huge salaries of higher officials if they really want to effect economy. I offer this proposal simply in view of the sad plight of the zamindars and the urgent need for economy in various departments of the Government, and I assure the Government that there is no other reason at its bottom. The zamindars simply cannot pay the land revenue. With regard to my district, at least, I can say so without any fear of contradiction. I have attended many *divans* and everywhere I heard the same cry. Let it be remembered that they are perfectly willing to pay the land revenue if they can. I have always opposed the non-payment of land revenue. (*Hear, hear*). Only the other day I myself moved a resolution to that effect at Nankana Sahib. The Government should not think for a moment that these are mere empty words. We are really in a sad plight. Therefore, I request the Government to help us. But it should not be mere lip sympathy as the saying goes:—

اندر جگہ تنگ ہے باجو کو د مزارا
آؤ پیارے سچ منوں آہو ہار تہارا

In the end, Sir, I hope that in view of these circumstances the Government will just now make an announcement in the House that they are going to reduce the salaries of officers and other expenditure on administration by 25 per cent. and the money thus saved will be spent to give relief to the zamindars. With these remarks I strongly support the resolution.

The Honourable Sir Henry Craik (Finance Member): Sir, I do not propose to detain the House very long at this late hour, but there are one or two observations which, as the member in charge of the finances of the province, I must put forward. I should like to preface my remarks by saying that I have the profoundest sympathy with the difficulties of the agriculturists at the present time. As the Financial Commissioner pointed out, this is not peculiarly a Punjab or even an Indian problem, but a world problem. I should like to enforce that by saying that the economic depression prevalent all over the world hits not only the agriculturists but every man in every walk of life. (*Hear, hear*). (*A voice*: Even lawyers). Yes, even lawyers. It is a curious thing, an almost terrifying thing that there seems to be absolutely no bottom to which the prices of things which are absolute necessities of life cannot fall. We have wheat which is a necessity of life and its price is falling down and down and down. Cotton looks as if it might go the same way. But those are not the only commodities. Rubber has dropped enormously, so have jute, timber, oil, metals; there does not seem to be any reaction that can stop the drop of those prices. Government interference—I am not talking of local Government or even of the Government of India—Government interference, all over the world, has been proved to be quite helpless. In fact, it may be said that experience shows that where Government tries to interfere with the workings of natural economic laws and to counteract artificially a genuine fall in prices, such interference definitely does more harm than good. (*Hear, hear*).

[Sir Henry Craik.]

I have said I have every sympathy with the agriculturists of the Punjab in their difficulties. I know that in the last harvest they paid up the revenue, and if I may say so, they paid it up extremely well. But they did so with great difficulty. I am quite certain that in many humble homes the payment of revenue was a matter that meant much self-denial in respect of some of the necessities of life. Government recognise that to the full. And the thing is more tragic in some ways, because the high prices that have prevailed for the last few years, say, roughly ten or fifteen years, have led the zamindars very naturally to adopt a somewhat higher standard of living than they had before, and it is extremely difficult, once you have become accustomed to a higher standard of living, to adjust yourself to the general fall in prices. In fact, I may remind the House that everybody, including the zamindar members, shared the general expectation that prices would, for many years to come, remain at their former high level. In proof of that I would remind the House that only a year or two ago, in passing the Land Revenue Amendment Bill, there was a very strong feeling in this Council in favour of the prolongation of the period of settlement, which assumes, of course, roughly certain level of prices—to as long a term as forty years. The sudden and catastrophic fall that has come about during the last twelve months has been to everybody, to Government as much as to the agriculturists, and to the trader and the business man almost as much as to the agriculturists, a very great shock. Government is exploring and will continue to explore every possible expedient, both financial and otherwise to mitigate that charge; and any suggestions from any quarter of the House are welcome, any suggestions that would help us to meet this extremely grave situation. But there is one point that I do wish to impress on the House, and that is that the Government suffers equally with the zamindars from the fall in prices. In fact, in some ways the fall in prices has a worse effect on the Government than it has on the zamindars, because Government suffers not only directly from the loss in revenue from land—I am not talking only of land revenue or even *abiana*, but also of the fall in our sales of land—but also from other sources of revenue, such as excise, stamps and so on, because people have not the money to spend on the luxuries which the excise and stamp revenues represent.

Now, Sir, I have some rather startling figures here to show the way in which Government has been suffering from the abnormal circumstances—I am not speaking of the drop in prices, but other abnormal circumstances—during the last two years, flood, famine and so forth. The expenditure on floods incurred during 1929-30, that is to say, on repairing the headworks and canals damaged, repairing the roads and bridges and so on washed away by floods, was no less than 73 lakhs of rupees. The effect on the land revenue and irrigation revenue, that is to say *abiana*, in the two years was that our realisations fell short of our expectations by no less than—on these two heads alone I am speaking—158 lakhs of rupees. About 40 lakhs of that represents direct remission on account of the partial failure of the *rabi* crop of 1928. Another 22 lakhs of that gross sum represents a similar remission on account of the failure of the *kharij* crop of the same year, that is the cotton crop of 1928. The balance of roughly a crore of rupees represents mainly losses due to the famine and floods. During the

four years before 1929-30, the average amount yearly remitted of fixed land revenue—I am not taking into account fluctuating land revenue amounted to 2½ lakhs. In 1929-30, we had to remit 7½ lakhs. That is to say the percentage of the total demand remitted of those districts which are under fixed land revenue, generally speaking the better and more prosperous districts of the province, rose from just over 1 per cent. to 4½ per cent. In 1924-25, that is six years ago, we had to remit *abiana* on 5 million acres. In 1928-29, the disastrous year I am speaking of, we had to remit on 9 million acres. The effect on provincial finances of these two disastrous years is shown by the fact that whereas in our provincial loans account in 1926-27 we had an adverse balance of Rs. 88 lakhs, at the end of the current year that balance will have risen to a sum of no less than 188 lakhs of rupees, that is to say, our position will be about one crore of rupees worse at the end of the current year than it was at the corresponding period four years ago. I am talking of the position as it stands at present, and I am not calculating at the moment the possible effect of any measures of alleviation which we may have to take to relieve the existing situation caused by the drop in prices. I will not trouble the House with details of losses under such heads as excise and stamps. But another very serious thing is the way our extraordinary receipts, that is to say, mostly receipts from the sale of Government waste lands, have fallen off. That is of course directly due to the drop in prices as people have less money to invest in land and that of course tends to lower the average price at which land can be sold. In 1928-29, the very bad year of which I have spoken, our extraordinary receipts fell short of our expectations by no less than Rs. 80 lakhs. In 1929-30, a rather better year, it fell short of our expectations by Rs. 32 lakhs. In the present year it will fall short of our expectations, so far as we can calculate, by about Rs. 30 lakhs. During the three years beginning with this disastrous year 1928-29, that is to say, up to the end of the current financial year, we have had to borrow, 540 lakhs of rupees as against 385 lakhs during the period of no less than 7 years previously. Of course, that means a corresponding rise in interest charges, which in 1928-29 came to 87 lakhs but which at the end of the current financial year will be no less than 126 lakhs.

Summarising this position, it is safe to say that taking all this extra expenditure actually incurred in the way of repairing results of floods, famine and the losses from land revenue, irrigation and falling off in the extraordinary receipts, the province at the present moment is no less than 3 crores worse off than it would have been had these two years been years of normal prosperity. That is a state of affairs which may well cause the House to reflect before it urges on Government to sacrifice any great part of their remaining revenue.

The subject of retrenchment has been touched upon. I wish to assure the House that that is ever present in the minds of Government. We have explored during the last two months various avenues of retrenchment and have, I hope, been able to effect some substantial curtailment in our expenditure during what remains of the current year and I hope the retrenchments during the next financial year may be even larger. But I admit that what we have done is not enough and my colleagues bear me out when I say that I have by no means abandoned hope of cutting down expenditure considerably more than we have been able to do. But as the budget stands

{ Sir Henry Craik. }

at present we must expect during the current year to be about Rs. 44 lakhs bad on our revenue account, excluding extraordinary receipts. That is, it is probable that we shall end this year with a deficit balance on the revenue account of about Rs. 44 lakhs. The probability is that we shall be forced to incur a further loan from the Government of India. But there are limits to the amount which the Government of India is prepared to lend us and we have already got pretty near to that limit.

These, Sir, are the considerations I wish to put before the House. But before I sit down I wish to emphasise again the fact which has been brought out by Mr. Townsend that the difficulties of agriculturists created by the present catastrophic fall in prices are Government's main and principal pre-occupation at the moment. In fact, the situation is never out of our minds and as I said before, we are exploring and shall continue to explore every avenue by which we might give some relief. I do not want the House to think that because I have mentioned our own difficulties I am not prepared to do anything. That is far from being the case. I only mentioned them to show that our resources are not so boundless as it is sometimes assumed they are. The truth of the matter is that Government itself is in a very serious financial position. But in spite of that I can assure the honourable mover of this motion, it will do all it can to show in practical form its sympathy with the difficulties under which zamindars are labouring.

Lala Bhagat Ram [Jullundur-cum-Ludhiana (Non-Muhammadian), Rural], (Urdu): Sir, I rise to support the resolution under consideration. When the rates of land revenue were enhanced it was said that as the prices of the agricultural produce had abnormally increased, the zamindars, because they would get more, should pay more to the Government exchequer. But now, Sir, the case is quite the reverse. The prices of agricultural produce have come down to one quarter of the prices obtaining at the time when the land revenue was enhanced. I assure the House that if in this matter the zamindars are consulted they would now certainly prefer the *batai* system to the payment of land revenue. The plight of the cultivators is much worse. Under the present circumstances they cannot keep their soul and body together. It is most difficult for them to pay the Government dues. I would therefore, request the Government to restore the old rates of land revenue, for in my opinion the reduction of 25 per cent. as proposed by the honourable mover would be immaterial and would not relieve the zamindars of their present distress. If that is not done immediately I am afraid that the Congress people, who incite zamindars against Government by reciting such Punjabi verses as:—

جے اسین کہیت نوں پڑی دیندے چاہی لکھی جاندی ہے
اکھان کہلو زمیندار و قوم عرق ہوندی جاندی ہے

would succeed in their propaganda. Sir, matters have come to such a pass that zamindars are already searching for a pretext for non-payment of taxes. The Government would be well advised to restore the old rates of land revenue. With these words I resume my seat.

Mian Nurullah [Lyallpur South (Muhammadian), Rural]: Sir, among the ancient nations like the Greeks, the Romans and the Persians, the share

of the State in the produce of the land was generally fixed at one-tenth of the produce. The Hindu kings levied from about one-sixth to one-twelfth of the produce. The Muhammadans were bound by the Shariat not to take more than one-tenth on *chahi* and one-twentieth on *barani* lands. This thing continued from the time of Akbar the Great right down to the premanent settlement under Lord Cornwallis. (*Mr. H. Calvert: Question*). Land revenue in theory has meant the customary share of the State by virtue of its position as a kind of overlord. Whether the State can legally force their share in kind or cash is a question out of my sphere to-day. Bishop Harber after travelling through British India and Native States in 1826 wrote: 'No native prince demands the rent we do.' "A land tax like that which now exists in India" wrote Colonel Briggs in 1830, "professing to absorb the whole of the landlord's rent has never been known in any Government in Europe and Asia." Precisely this thing is again happening in many parts of our province. Whatever be the rules under which we are assessed, the fact remains, that we are paying to-day the whole of the net cash assets to the Government as revenue. (*Mr. H. Calvert: Question*). My honourable friend who moved the resolution proved that we are running at a loss. He proved that where the cost of production was about Rs. 128, probably we got only Rs. 112 for it and I would leave it to him to answer my honourable friend's question from the opposite benches. Nobody would object to the Government taking double the share fixed as net cash assets, instead of the revenue paid, provided it takes in kind and not in cash. There are hundreds of zamindars who are prepared to give their standing crops. If you enquire about the lessees, you will find that most of them have given up their contracts, they have cut their losses, and we are helpless not knowing what to do. They cannot pay us the lease that was fixed in cash.

During the last session I pointed out with what great difficulty the zamindars had paid their revenue. Some of them had to pawn or sell their ornaments, the others had to borrow at exorbitant rates, a good few had to sell, as I said, their dearest asset, the cattle. Not only that, when I returned from Simla, I was astonished to find a zamindar make a statement before a Settlement Officer who had gone to Lyallpur to make a preliminary report regarding the next assessment that is due in 1932. He was prepared to prove it and said that many of them had to sell their daughters to pay up their revenues. The zamindars were keen to pay because they did not like to be associated with the Congress movement. That reminds me of the Punjabi saying—

پورے کی مان کب تک خبر مٹائیگی

Further, there was another point. They were prompted to pay because some of the Government officers like tahsildars and higher officials gave assurances that next time there is bound to be remission if they pay. They are looking forward to those assurances and if the Government does not fulfil those assurances, it is likely to cause great distrust and discontentment. For these reasons and for its own sake, I say, the Government would be well advised at this time to remit a substantial portion of the revenues. If it does not do so, it will be face to face with a very difficult problem of how to collect it. The zamindars are willing to pay but there is nothing to pay. If the Government does succeed in collecting the full revenue it will be doing

[Mian Nurullah.]

an incalculable harm to the interests of the country as well as their own interests. It will be giving an impetus to very undesirable, the so-called Red ideas to which I alluded in an earlier session, and to check which the Government has done nothing so far.

As regards remission a crop is entitled to full remission if it does not fetch more than 4 annas in a rupee. If you compare an acre of wheat at the lowest price in cash with an acre of wheat in cash in 1921 when the land revenue was fixed in my district, it comes to less than 4 annas and necessitates full remission. Then, to pay all the Government dues which come approximately to Rs. 7, we had to pay only one maund or so of wheat, now we have to pay 7 to 8 maunds of wheat. Why should not the zamindars feel it? Nobody is unaware of the sudden and unprecedented fall in prices, unparalleled in history. There is no doubt that it is a world-wide phenomenon and is due to over-production as my friends from the opposite benches have remarked, but if the Government does not come to the rescue of the zamindars immediately, the zamindars will be forced to decrease their cultivation.

The Honourable Captain Sardar Sikandar Hyat Khan : How can the Government come to their rescue?

Mian Nurullah : I am coming to that. But for the time being I say that if they do not come to their rescue the zamindars would be forced to reduce the area under cultivation. It will help them a good deal and is one of the ways by which they can pull through difficult times. Zamindars, if they sow half, as I hear they are trying to do, they will be paying revenue on half only while they will be more efficiently using their labour and will be making intensive use of it as they say. They will be better utilising their water of which there always is a scarcity and complaint. I do not see the Chief Engineer here, otherwise I will point this out to him. Now with an acreage of half their present sowing they will be paying half the revenue. What will the Government then do? The Government will be helpless. My advice to the Government is that it should help now and thus should not allow that position to arise.

Mine is an advice only and I am prepared to advise my zamindar brethren too. They should think that a great calamity—and what we see before us is nothing less than a calamity—has thrown them back for 30 or 40 years. There was no progress whatever. It was all a dream. They should try to create a self-contained, self-supporting, self-sufficing community of their own in every village as it used to exist a few years ago, when they could get all their needs supplied in the village. Going to the bazaar for shopping and other needs would not do at all. Instead of a shoe from the bazaar they should use their own village—made *gāme shahi juti* which would last for years. They should try to produce everything in the village and be content with it. The case of the big zamindars is no better. It is perhaps worse. They are still big landowners but without any money to spend.

Mr. Calvert : Question.

Lala Mukand Lal Puri : You do not look starved.

Mian Nurullah : These are old clothes made some years ago. I am accustomed to them. I shall have to change my style now. Take the case

of a person who owns ten or twelve squares of land in the Lyallpur Colony. He is called a big zamindar because he pays about Rs. 1,200 to 1,500 as land revenue. You take them as big landowners, those who vote for the Council of State or the Assembly. Their position if they are not in debt may be hopeful but if they are in debt their position is hopeless. They are no better than any babu getting about Rs. 300, in an office. Our position is virtually reduced to that of our previous manager or munshi and if we do not put ourselves in that position from to-day we shall be seen no more. Our fate is sealed.

A man who earns about two thousand rupees is much better off than a landowner who owns five squares of land. He pays no tax while a landowner pays 30 per cent. of his cash assets. And even if he pays a tax the incidence of taxation is very low, and only those who own millions and know not what to do with their money, pay 30 per cent. in the form of super-tax, while, I say, all zamindars pay super-tax. It is very unfair.

It is very difficult for any zamindar big or small to carry on. He can hardly eke out a living. He works day and night, summer and winter for a mere pittance and he has to pay a good bit of his hard earned money to keep a top-heavy Government going. He has to pay it whether he is able or unable to pay it. Everyone knows that the prosperity of the whole country depends upon the prosperity of the zamindars. Condition of the country goes according as the condition of the zamindar goes. Even the Government cannot go on for very long unless the zamindars are happy. Even my friend from Hoshiarpur who generally gets up to oppose us will also in turn be affected. If they have no surplus, how can they go on with costly litigation and pay him a handsome retainer. Why not then help the zamindar? Why not give him remission now. We are not asking the Government to do what the Governments in America and other agricultural countries do in helping the zamindar in his dire need? Perhaps that would be too much to ask. It is likely to be argued that remission will not be of much use. It is a fallacy, you are comparing absolute figures. Explain it like this. A zamindar who earned Rs. 100 paid about Rs. 33 to the Government, about Rs. 20 in the form of cost of seed and cost of production. That amounted to about Rs. 53. He was left with Rs. 47 with which he could lead a comfortable life. But at the present rates his income is reduced to Rs. 50, for every hundred that he earned previously. He still pays Rs. 33 to the Government, and the cost of production and seed comes to about Rs. 15. He is left with only Rs. 2. How can he then pull on with this, how can he keep body and soul together? Any remission, even 25 per cent., would be a great boon to the zamindars. We should compare in terms of marginal utility as they call it. Even 25 per cent. remission will be helpful. You might be withholding the last straw from the camel's back.

Lala Mukand Lal Puri : We are convinced.

Mian Nurullah : I am glad you are. Now I turn to the position of the Government. The Honourable Finance Member has placed before the House a large number of statistics showing us how the Government has been affected during the last two years and how Government has undergone a loss

[Mian Nurullah.]

of about 4 crores. I say, just calculate what our loss has been. We have lost a few billions of rupees. The present position however is Government's own creation.

The Honourable Captain Sardar Sikandar Hyat Khan : Question.

Mian Nurullah : The Government could have been thrifty. They should have looked far ahead, and they could have helped us by starting thrift societies and in this way out of the flood of wealth that came with the great war, millions and crores of rupees could have been saved and invested, the return of which could have been utilized now and thus avoided the difficult position into which we are now drifting. A land revenue policy based on some sort of index number would have made our Government a solitary example of good and sound finance throughout the world. Expansion went on everywhere and money was spent whenever it came. Every penny that flowed into our coffers was spent and was seen no more. Whether it was usefully spent or proved a waste we will take up in the budget session. For the present our difficulty is how to raise money, how to be able to give relief to the needy zamindars. Sir, I have gone through the budgets of 1920 and 1930 and tried to compare them. Before I take any individual item I would like to remark that the total voted portion of the budget is over 80 per cent. If we can bring about a reduction on any sliding scale of 10 to 25 per cent. or even 15 on the whole as my friend remarked, we will be saving two crores. The best thing would be to cut the salaries of all Government servants by 25 per cent. at once. I maintain that in spite of the change, they will be better off than others. The reduction should begin right from the top. Let the Ministers come forward and offer a corresponding reduction in their salaries. Let them show their sympathy

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to the general public before the general public asks them or forces them to do so. The dismissal of a few chaprasis here or the reduction in the salaries of a few clerks there would not bring about any tangible result. Let the Government be bold, let the Government recommend to the Secretary of State for a corresponding reduction in the higher services, I mean the Imperial and Indian services. Let the Government of India be approached to levy a tax on all incomes from Rs. 1,000 upwards instead of from Rs. 2,000 upwards as is the present case.

The Honourable Captain Sardar Sikandar Hyat Khan : How will that help you ?

Mian Nurullah : We get only a few lakhs now. Then we will be getting a few crores.

The Honourable Captain Sardar Sikandar Hyat Khan : But the Government of India will take it all away, for income-tax is a central subject.

Mian Nurullah : In that case we should ask the Government of India to give us the power to tax all those who have an income of over Rs. 1,000 to recoup the provincial funds. Let the Government of India further help us by raising the duty on imported sugar. We import at present 21 crores worth of sugar yearly. The levying of this duty will result in the develop-

ment of sugar industry of this province. (*Hear, hear*). If only we could convert the *gur* of our province into sugar, we would be richer by about 12 crores of rupees annually. (*Hear, hear*).

Let the Government of India be also requested not to carry on the policy of deflation any more because it is very detrimental to the interest of the country specially when the prices are already heavily falling.

When I compare the budget of 1920 with that of 1930, I find that the following departments have abnormally extended their activities. The first one is the Agricultural Department. This department has increased its expenditure from about 10 lakhs to 60 lakhs.

Mr. President : Economy in time is as necessary as in money.

Mian Nurullah : I shall not be long. Unless we can effect economy in these departments, we cannot get much relief. Then in the Co-operative Societies Department the expenditure has risen from 3 to 11 lakhs, in the Industries Department from 7 to 14 lakhs, in the Jails and Convict Settlements from 26 lakhs to 41 lakhs, in the Education Department 80 to 171 and Police from 104 lakhs to 121 lakhs. In the Administration of Justice the expenditure has practically doubled. (*A voice : What about Public Health ?*) The increase in the expenditure perhaps is not so much or it is mixed up with Medical Department. In the Agricultural Department the expansion seems to be the most for in that department the expenditure went up from 10 lakhs to 60 lakhs.

The Honourable Sardar Sir Jogendra Singh : I think you are wrong.

Mian Nurullah : Kindly see the budget. May I ask the Honourable Minister what practical achievements it has brought about? Has it ever researched into the question of our present difficulties that if cotton or wheat crops fail, what other crops we should take to, out of which we could extract useful products and sell them in season and out of season, here and abroad. What has the department done in the way of developing subsidiary industry? That was the foremost thing it should have taken up. This is a department which is spending much more in proportion to its practical ability. We would like to see the whole department reduced to a mere college and a few important agricultural farms. If there is a department in which a general reduction can be made it is this.

Then I take the Education Department. We would like to see collegiate education discouraged and only primary education encouraged.

Mr. President : When is the honourable member going to finish his speech?

Mian Nurullah : I will take just three minutes more. If you look at the budget of 1926 and compare it with the budget of 1930 you will find that the total income from irrigation has increased from 606 to 666 lakhs. That is an increase of about 10 per cent. While the working expenses seem to have increased from 157 lakhs to 240 lakhs, more than 53 per cent. When the question of *abiana* is brought up we are told it is a business matter. Have you ever seen a business concern with more than 50 per cent. as its working expenses? No business concern will tolerate that. People ask

[Mian Nurullah.]

what are the Chiefs of the Public Works Department and Irrigation Department doing? They ask, why cannot you stop this too big a drain on our revenue and run the departments more economically and more efficiently combining them together? I would ask all the Chief Engineers—I see one of them standing outside—I would request all the Chief Engineers to sit together and at once try to reduce the rates that prevail in these departments. That will help in cutting down the wages and will help us all round indirectly.

There are a hundred places where I could suggest economy, and there are a thousand and one posts which should be abolished. But I will leave all to the good sense of those who will work it out. In the end I must once more emphasise the political aspect of the question. This sudden and unprecedented drop in the prices and the consequent economic distress in rural areas combined with the political agitation have reduced the mind of the zamindars to such a state of poise that nothing short of a definite promise and assurance to-day, will turn the tide of rising discontentment. With these words I beg to support the resolution of my honourable friend which I hope will be carried unanimously.

Mr. President : It appears that many honourable members wish to speak on the resolution now before the House. Should we continue discussion now or postpone it to Monday next?

Lala Mukand Lal Puri : Sir, I move—

“ That the question be now put.”

Rao Bahadur Chaudhri Chhotu Ram : Sir, there are at least a dozen members who want to speak.

(Mr. President consulted the House with the result that a majority of members were in favour of disposing of the resolution to-day).

The Honourable Sardar Sir Jogendra Singh (Minister for Agriculture) : Sir, I have every sympathy with the object with which this resolution has been moved, and I have listened with great interest to the interesting speech which the honourable member from Lyallpur made. But there are one or two things about which he has gone wrong, and I would like to point to him, that he of all men, who is interested in agricultural prosperity should have light-heartedly recommended the scrapping of the Agricultural Department. He said that expenditure on agriculture has increased to 60 lakhs. May I put him right and say that the expenditure on agriculture is not more than 20 lakhs in the present year. I would ask him to take a long view and tell me if he can point out any other way but of scientific research in the matter of production to secure agricultural prosperity. He knows better than any one else that in Lyallpur alone through the efforts of the Agricultural Department the American cotton and 8-A wheat added lakhs to the wealth of the district. Even in the present year, as my friend, the Financial Commissioner pointed out, the second flowering of *desi* cotton has failed, but American cotton is still holding the field, and there are new cottons coming out, which would increase the production immensely, not

only increase production but would also bring increased prices. If I may, I would like my friend to follow the Persian poet, and face all situation with courage—

هنگام تنگدستی در عیش کوش و مستی
این کیمیائے هستی قارون نذد کدارا

This is the time when you should hold your courage and go steadily forward in the matter of development. If at the present moment you take fright and arrest developments, you will accept perpetual poverty.

The honourable member also complained that the expenditure on education has increased. Expenditure on education has undoubtedly increased but only the other day he was pleading for compulsory education. Can he point out any other way of equipping the younger generation for the battle of life? Is there any other way to make your country prosperous than by educating your young men? Every penny that is spent on education and on agriculture and on public health will repay a hundredfold. I expect him, more than others, because he has studied economics and has travelled, to say whether it is not by increasing the services that the prosperity of the country can be secured. The world certainly has fallen on very evil times, prices of agricultural produce have gone down, and Government, I can assure him, is watching with grave anxiety the situation that has arisen. I am sure my friend, the Honourable Revenue Member, when he speaks, will outline the scheme of relief that he has in view. I agree that the question of prices is a very important question and it is not merely in temporary relief that we should seek a remedy, we must find some permanent cure. You remember, when the Honourable Finance Member spoke he declared that interference with economic matters very often led to disaster. If we agriculturists have any complaint to make, it is this, that the States have been interfering in economic matters, such as deflation of currency and tariff-walls which various countries have raised. I think we might approach, with all the emphasis we can command, the Finance Department of the Government of India to look out to the matter straight in the face and to suggest remedies. Remedies can be found, but the remedies, I may point out, are not either in cutting down the services nor in any temporary relief, but in the first place, in increasing production, in the second place, in putting our currency problem on a proper footing and in the third place, as one honourable member on the other side said, in making the village, a self-sufficing unit. Time has not arrived when we should look back and say, "we must stop, we have done all we can in this matter." We have just begun the work. The future will show the fruits that we can reap by efforts made in the matter of improving education, agriculture, and public health. Do not stop these things. Help them so that the country may grow prosperous and take its rightful place in the world.

Another suggestion that my friend made, was one which I should like him to consider with greater care. He said that we might cut down our area under crops and thus effect a saving. I think that again would be a disastrous policy. I think every one knows, that so far as India is concerned, there is no over-production. There are still large areas in India where people do not get wheat as food. You have only to look into the Report of the Agri-

[Sir Jogendra Singh.]

cultural Commission, which I think we ought to study with greater care than we have hitherto done, and you will find it clearly stated, that there are areas in India where people do not get proper nourishing food ; that is to say, there is not enough wheat to supply the whole of the Indian population, and if that is a fact, then we have only to cultivate our home market to absorb all our production. We have done nothing to cultivate our home market. If we cultivate our home market, all the wheat that we can produce can find a ready sale in India itself.

I entirely agree that there is an urgent need on the part of the Agricultural Department to find some cash crop. But it is not by shutting down experiments or research that a new cash crop can be found. We have to discover by ceaseless effort and continuous study spread over a long time a new and a paying crop. Every agriculturist knows that it takes at least a year to carry out a single experiment. It is not possible for agricultural department to perform a miracle within the course of three or four years, and discover new methods of increasing production. It needs steadfast devotion in the matter of research, to discover new crops and then introduce them and then to prove them. It is not possible for the Agricultural Department to go round and say, 'Here is a new crop, take it up and you will reap the reward that is due.' I may mention, as the honourable member from Lyallpur mentioned, that the Government is taking keen interest in the matter of sugar and we hope that in any case sugarcane may become a cash crop in coming years.

Lastly, I have got one remark to make. The Government and the finances of the Government are yours. What you contribute to the Government has been for the services which the province requires. There is not a penny spent outside the province. In the prosperity of the agriculturists lies the prosperity of the Government and in the prosperity of the Government lies all the possibilities of the future development to which we are looking forward. It is in the prosperity of the people and in the prosperity of the Government that the future prosperity and the modernisation of the Punjab can be secured.

Lala Mukand Lal Puri : I propose—

"That the question be now put."

The motion was carried.

(Then Mr. President called on the Honourable Revenue Member to speak.)

Mr. Nanak Chand Pandit : Has the Honourable Revenue Member a right to speak at this stage, especially when the mover of the resolution has not exercised his right of reply ?

Mr. President : The Honourable Revenue Member has no right of reply, but I understand that he wishes to make a statement on the subject under discussion.

Lala Mukand Lal Puri : We should in any case like to know what the Government has got to say on this subject.

Mr. President : Does the House wish that the Honourable Revenue Member may be allowed to place the Government's point of view before the House? (*Cries of 'Yes, yes'*).

Mr. Nanak Chand Pandit : What is your ruling on the point of order that has been raised? Has the Honourable Member got a right of reply?

Mr. President : The Honourable Revenue Member has no right of reply, but as he wishes to place the Government's point of view before the Council and as the majority of members are in favour of his doing so, I allow him to make a statement.

The Honourable Captain Sardar Sikandar Hyat Khan (Revenue Member): Sir, I have listened to the speeches made from the various parts of the House with great interest and before I touch on the main subject, I might at the very outset mention that the motive which has actuated the mover of this resolution has my fullest sympathy, not only because I happen to be a zamindar myself, but also as Member in charge of the departments which are directly affected by the present situation. This House is aware that the receipts from land revenue and *abiana* are the mainstay of our provincial exchequer, and any incident which is likely to affect them even remotely, necessarily receives the closest attention from the Government. I, therefore hardly need to impress upon the House that the present economic trouble is, if anything, giving Government more anxiety than the zamindars and others who have been affected by it. It would be idle to deny that there is general distress, particularly among the agriculturist classes. As to the degree of distress, it would be unwise to hazard an opinion without being in possession of the necessary information which can only be collected after an exhaustive and protracted enquiry. I might, however, mention for the information of this House that Government has already taken the initiative in this matter and the greater part of the information which we require has been collected and the rest it is hoped will soon be in our possession. The collection and examination of data, however, will take some time, as so many different factors are involved which in themselves require careful examination and verification before even an approximate idea of the effects of the present slump on the various interests and different sections of those interests can be gathered. To mention just a few factors; to begin with, we have to find out the area under wheat, cotton and other commodities; the proportion of each kind of crop to the total cultivated area and to the cultivated area in each harvest in each assessment circle of each district; the pitch of assessment in each district or circle, which in turn is based on yield and commutation prices assumed on the average of so many years in the past, and the forecast for so many years in advance. Then, we have to consider the proportion of net assets absorbed in various assessments, to gauge the difference between the present market price of those commodities and the prevailing and assumed prices at the time of settlement, and the extent to which those prices were responsible in influencing the eventual pitch of that assessment. This is not all. It has been suggested that to do justice and afford relief to those who deserve it most, we should try to find out the effect of the falling prices on those peasant proprietors who eke out a precarious living on small holdings and who may find it difficult to provide themselves even with bare necessities.

[Capt. Sikandar Hyat Khan.]

Further, it has been pointed out during the course of the debate—and I think rightly—that agriculturists are not the only class who have been hit by this economic depression. It is asserted that the petty shopkeepers in the villages, the *artis* in the *mandis* and the grain merchants have all been equally affected, and it cannot be denied that they have been adversely affected to a lesser or greater extent. Then there is the tenant who, if relief is to be given, deserves relief no less than the landowner himself.

This bewildering list by no means exhausts the considerations which have to be kept in view in deciding the extent and the nature of relief, which, to be effective must, as far as possible, be equitably distributed. I can at the moment think of two such considerations which have a direct bearing on this problem, namely the impact of imports and exports on the prices and the possibilities of internal movement and distribution of these commodities. We must not, however, forget the vexed question of exchange and the gold standard. All these matters have their implications and repercussions on the present situation; but the time at my disposal does not allow me to make more than a passing reference to them. I therefore do not propose to weary the House by going into the details of these vast and somewhat intricate problems. My object in mentioning them was merely to show the magnitude and the difficulties of the task which lies before us which has to be faced and tackled not by Government alone, but by every one inside this House and outside it in the province. I hope, Sir, I have been able to convince the House, that the problem is after all not so easy as it appears.

Another difficulty, and which to my mind is by far the greatest, is that unfortunately the present crisis—and so far as we are concerned, an unprecedented crisis—is due to factors which are beyond our control. The present trouble is world-wide; and even those countries which grow enormous quantities of wheat and cotton and other agricultural products and practically control the world markets, despite their vast resources and almost perfect marketing organisations, have been unable to avert the calamity. In their efforts to ward off the evil day, they have tried various devices and palliatives which instead of affording the much sought after relief have actually contrived to further accentuate the position. Bounties, subsidies, controlled marketing to the extent of holding up produce have all been tried and have failed. As compared with America, Argentine, Egypt, Europe and other large agricultural countries, our contribution to the world market is almost ignorable. In face of these formidable rivals the Punjabi, and for that matter, even the Indian producer hardly comes into the picture at all.

I wish to make it clear that we have not to look at this question from a restricted point of view, merely for the purpose of affording temporary relief which at best can only be a temporary palliative. What I want to emphasise is that we must keep in view and tackle the bigger and more difficult problem of restoring if possible, the equilibrium which prevailed before the present depression set in.

We must not in our eagerness to afford temporary relief lose sight of the other and bigger aspect of the problem. It is the duty of the Govern-

ment to come to the help of the people in times of distress, and this House is aware, Sir, that Government has never failed to come to their rescue whenever help in the shape of relief or otherwise has been needed. During the past few years we have had unfortunately to face many and diverse disasters. The cotton failure in 1928, the wheat failure in 1928, the devastating floods in 1928-29, and the scarcity in the south-east of the province, have all been met by grant of substantial relief to the agriculturists; and indeed, the generous action of the Government on these occasions and the combined effect of these disasters have had the cumulative effect of crippling our financial position and reserves.

This House is aware that large sums were remitted during the past three years. I need not go into the details which were furnished to the members by the Honourable the Finance Member, but it may interest the House to know that in one district alone—that of Gurgaon—the outstanding *taccavi* debt stands at 24½ lakhs, while suspensions in the last four harvests amount to no less than 18¾ lakhs, which means that the present outstandings and suspensions are nearly half a crore in one district of the province alone.

We must not lose sight of the fact that the financial position of the province at the moment is far from reassuring. The political unrest which is at least partially responsible for our economic troubles obviously has had a direct bearing on our expenditure also. But it must be a matter of gratification to the House that the situation in the province has so far been dealt with without the addition of any perceptible burden on the tax-payer of the province. (*Hear, hear*). The present economic crisis has further added to our difficulties with the result that we are now on the horns of a dilemma. On the one hand, we are called upon to find ways and means for rehabilitating our finances while, on the other, we are required to meet the crying need for relief. It is extremely difficult, if not altogether impossible, to reconcile the two. But we have to face the situation and must put our heads together to find a way out of the difficulty. Government is prepared to do its best, but it cannot do much without the fullest co-operation and support from the non-official members of this House. I trust that the members of this House will do their duty and not fail to come forward and render such help as may be required of them for the purpose of all eviating distress and securing financial stability for the province, even if it entails some sacrifices on their part.

Any constructive suggestions in addition to those which have been made here will be welcomed by Government. The question of retrenchment and reduction in expenditure is already receiving the closest attention. The Finance Department and the administrative departments have all been looking into this matter for some months now. As a matter of fact, instructions have issued to all departments to curtail their commitments and reduce expenditure as far as possible. In some cases definite steps have already been taken which we hope will result in substantial reduction in our current expenditure. I can assure the House that every effort will be made in that direction, with a view to reduce expenditure and avoid further commitments as far as possible. In this connection I hope the Government will receive the fullest support from the House.

[Capt. Sikandar Hyat Khan.]

The question of *abiana*, as I expected, has been brought into the debate by speakers on those benches and with your permission, Sir, I would like to make an appeal to the House, and in particular, to my zamindar friends from the colony districts, to give the matter their calm and cool consideration and decide once for all whether they desire to treat the canals as a commercial concern, pure and simple, or wish that they should be exploited on every possible occasion for political or other purposes. Can any one deny that the water in our rivers is a national asset and as such, is the property of 20 million people of this province and not merely of those who benefit by it? The capital debt on canals is a liability for which the whole province is responsible, and similarly the interest is paid from provincial revenues.

If the canals cease to be a paying concern, the liquidation of this huge debt and the burden of interest will fall on the tax-payer throughout the province, and not only on those who reap the benefit from these canals. I am sure, Sir, that zamindars in the colony areas will never for a moment think of benefiting at the expense of their less fortunate compeers of the *barani* districts. When I say this, Sir, I do not by any means wish to convey that we should not make efforts towards curtailing the running and maintenance charges and thereby reduce the cost of this commodity and consequently the purchase price. I do not mean that. If you can reduce the expenditure and reduce the cost price, by all means do so. But do not treat it as a monopoly of the zamindars of the colony districts alone but as the property of the province as a whole. What I wish to emphasise is that it is time we made up our minds to treat the water from our canals as a commercial commodity and avoid the temptation to manipulate it for the benefit of a particular section of zamindars, or for other purposes. If we keep a vigilant eye on the working and other expenses and succeed in appreciably reducing them, as I hope we will, a claim can justifiably be made for reduction in the purchase price, and thus it should be possible to achieve the object which some of the honourable members seem to have in view without being exposed to the criticism that this income, which is a provincial asset, is being manipulated for the sake of a favoured few.

Apart from purely financial reasons, I see serious objections to a periodical recrudescence of this question on political grounds also. Unless we decide to treat this matter as a purely business proposition I see grave danger of its becoming a menace to the solidarity of the majority party in this Council. Because, it is conceivable that the zamindars from *nahri* and *barani ilaqas* may find it difficult to see eye to eye with one another, when it becomes inevitable for the majority party to raise funds for repleting the provincial exchequer.

Again, it is equally conceivable that the party in power might consist of a big non-zamindar element in which case they would be equally tempted to manipulate *abiana* in their own way, which I am sure would be unpalatable to my zamindar friends. All these considerations clearly indicate that we should try to divorce our canals from politics completely and once for all, if we want to see good and stable Government in the province after the advent of new reforms. I commend this suggestion to my zamindar

friends and I trust they will give it their earnest and unbiassed consideration and give me the benefit of their advice, after they have given close and careful thought to the problem. The facts disclosed in to-day's debate will be brought to the notice of the Government of India, so that they may be apprised of the strength of the feelings of this House on the subject and such steps or devices to assist as may lie within their sphere, may be examined. Lest I may have painted too gloomy a picture, allow me to point out that the present upward trend in the cotton prices is a hopeful and happy sign. Let us hope, and I am sure the honourable members on these benches are at one with me in hoping, that it will further develop and thus ease the situation. The prospects of *khariif* are also hopeful. The latest crop reports indicate that except for damage to sugarcane in some parts of Rohtak district *khariif* crops are on the whole normal. If the price of cotton attains a reasonable level, our anxieties will be partially relieved, though not completely relieved. Though at the moment conditions are, without a doubt, bad, it is not beyond the bounds of possibility that reversion to better conditions may supervene as unexpectedly, as rapidly and as effectively as the recent fall in prices has occurred. If, unfortunately the unprecedented fall in prices persists, alleviatory measures will be earnestly and sympathetically explored. It is not possible for me at the moment to indicate the exact nature and extent of relief, because as I have already pointed out we have not yet got all the information required—the cotton picking has only recently started—but I can assure the House that so far as cotton, and if necessary also rice, are concerned, Government will come to a decision before the next instalment of land revenue is due. (*Hear, hear*). I can give a further assurance, Sir, that the Punjab Government will leave no stone unturned to seek means to remedy the situation and I hope that the honourable members of the House will whole-heartedly co-operate with the Government not only in finding means for temporary relief, but also for meeting the bigger problem of restoring normal conditions. Subject to these reservations, Sir, I am prepared to accept the resolution moved by the honourable member opposite. (*Hear, hear*).

Mr. President : The question is—

“That this Council recommends to the Government that in view of the unprecedented fall in the prices of agricultural produce and the prospects of a disappointing *khariif* in most parts of the province relief may be afforded to the agriculturists of the Province.”

The motion was carried.

ELECTION OF DEPUTY PRESIDENT—APPROVAL BY HIS EXCELLENCY.

Mr. President : His Excellency the Governor has been pleased to approve Sardar Harbakhsh Singh's election as Deputy President. So I ask Sardar Harbakhsh Singh to take the seat reserved for the Deputy President. (*Hear, hear*.)

Sardar Harbakhsh Singh : Sir, before I take my seat with your permission I thank the House for the election of my humble self and I thank it from the core of my heart and pray to God that He will grant me ability to perform my duties in a proper way.

Lala Mukand Lal Puri : May I on behalf of these benches and others offer my congratulations to Sardar Harbakhsh Singh on his election as Deputy President. There has been a healthy convention in this House that with reference to offices which are not of a political character their holders should be taken from various parties in the House. If the President was from one party, the Deputy President was usually taken from the other party. We are sorry to see that this healthy convention has been set at nought this time by the Government's action in deciding to support both the officers from one party. However, we all join in congratulating Sardar Harbakhsh Singh who personally is perhaps as good a selection as could have been made in the circumstances of the case.

The Honourable Captain Sardar Sikandar Hyat Khan : I also wish to congratulate the honourable Deputy President on behalf of the official benches. But so far as the convention is concerned the honourable member probably knows that Government has been voting in the election of Deputy President and this is not the first time that they have done so.

The Honourable Sardar Sir Jogendra Singh : I wish to associate myself with the Leader of the House in congratulating the honourable Sardar Harbakhsh Singh on his election as Deputy President.

Sardar Jawahar Singh Dhillon : I express my congratulation from the core of my heart on the election of Sardar Harbakhsh Singh as Deputy President.

Rao Bahadur Chaudhri Chhotu Ram : I associate myself with previous speakers in congratulating Sardar Harbakhsh Singh on his election as Deputy President, and wish him success in his new sphere.

The Council then adjourned *sine die*.

PUNJAB LEGISLATIVE COUNCIL.

1st SESSION OF THE 4th PUNJAB LEGISLATIVE COUNCIL.

Friday, the 16th January 1931.

THE Council met at the Council Chamber at 2-30 P.M. of the clock. Mr. President in the chair.

OATH OF OFFICE.

The following members were sworn in :—

- ✓ Smith, Mr. J. B. G. (Official, Nominated).
- ✓ Marsden, Mr. P. (Official, Nominated).
- ✓ Staig, Mr. B. M. (Official, Nominated).

SYMPATHY WITH HIS EXCELLENCY THE GOVERNOR.

Mr. President: Gentlemen, you must have been immensely distressed to hear the sad news of the deplorable occurrence which among other extremely painful things resulted in injuries to our most esteemed and popular Governor on the 28rd December last, in the University Hall at the close of the Convocation over which he had presided. Soon after the unfortunate incident the Secretary of the Council received a large number of motions to the following effect :—

- (1) That His Excellency be congratulated on his miraculous escape ;
- (2) that sympathy be expressed with His Excellency in his suffering; and
- (3) that the incident be condemned as a dastardly outrage and an anarchical crime.

I regret to say that I was unable to admit the condemnation motion as it related to a matter which was pending in a court of justice, and as to the other motions I, as the representative of this Honourable House, express deep felt sympathy with His Excellency in the great mishap he had had and congratulate him most sincerely on his being providentially saved and spared for guiding the destinies of the province. Gentlemen, I trust that in doing so I am voicing your innermost feelings (*Hear, hear*).

The Honourable Captain Sarder Sikander Hyat Khan [Revenue Member]: Sir, on behalf of my official colleagues as well as on my own behalf I heartily associate myself with the sentiments expressed by you.

Rao Bahadur Chaudhri Chhotu Ram [South-East, Rohtak (Non-Muhammadan), Rural]: Sir, on behalf of the National Unionist Party and myself I associate myself whole-heartedly with what has fallen from your lips. As the matter is *sub-judice* any detailed reference to the incident cannot be made, and therefore, I confine my remarks merely to an expression of sympathy with His Excellency the Governor, on my own behalf and on behalf of my party.

The Honourable Sardar Sir Jogendra Singh [Minister for Agriculture]: Sir, in associating myself with all that you have said I wish to express on my behalf and on behalf of my colleagues, and I think I am voicing not only the feelings of this part of the House but of the whole House in expressing a sense of relief at the providential escape of His Excellency the Governor.

His Excellency has given his best to this province from the day he landed on our soil and we cannot but condemn the spirit which animates these criminals. I am sure that this House will do all it can to whole-heartedly support Government in any action that is taken to uproot this poisonous plant which has now manifested itself in this province.

Mr. Nanak Chand Pandit [Hoshiarpur, (Non-Muhammadian), Rural]: Sir, I whole-heartedly associate myself with what has fallen from the lips of the previous speakers. I was one of those who sent in a resolution condemning the outrage and expressing sympathy with His Excellency the Governor and congratulating him on his narrow escape. I do not think that that resolution would have been out of order.

Mr. President: Order, order. That matter is not before the House.

Mr. Nanak Chand Pandit: I believe I am voicing the sentiments of the community which I have the honour to represent here that a Governor, so popular and universally loved as is Sir Geoffrey deMontmorency, should have met with the accident that took place at the Convocation. So far as I have been able to gather the feeling from the various meetings held and especially the large representative meeting of the Saraswat Brahmins where a resolution to this effect was passed and unanimously accepted by the whole House, the news has been received with the profoundest sorrow. I believe that there could not be a more popular and more universally loved gentleman, leaving aside his governorship, than Sir Geoffrey deMontmorency. He has got our heart-felt sympathy in a matter of this kind, and I think it is a matter of sincere rejoicing and congratulations that his life was spared.

Sardar Buta Singh [Multan Division and Sheikhpura (Sikh), Rural]: Sir, I also whole-heartedly associate myself with what has already fallen from the lips of the previous speakers. I only wish to add that feelings of sympathy should also be expressed and sent to the relatives of Sardar Chanan Singh and the other injured persons.

Mr. President: Order, order.

Sardar Buta Singh: All the same I most whole-heartedly associate with what the previous speaker has spoken upon the subject. I think this is the first Governor who has been loved by all the communities alike and the Sikhs are condemning this outrage not only in this House but outside, in the country as well.

The Honourable Sir Henry Craik [Finance Member]: Sir, I desire to express on behalf of the members of the Civil Service, of which His Excellency is so brilliant an ornament, our entire concurrence in the sentiments which you, Sir, have so gracefully expressed. I think that on the day of this outrage the feeling of all of us must have been one of profound relief that a life so valuable and so devoted should have been spared, and

perhaps there are few here who know how miraculous His Excellency's escape was. My own feeling that day was as John Bright observed once in the House of Commons "The Angel of Death is hovering over us. We can almost hear the beating of his wings." It is indeed a matter of thankfulness that His Excellency should have been spared. I should like to illustrate the profound devotion which animates His Excellency by telling the House that on the day after he was wounded I had the privilege of seeing him and I found that he was far less interested in his own wonderful escape than in the prospects of the success of the Round Table Conference. His conversation with me was necessarily brief as I was not allowed by the doctor to keep him long, but the greater part of it was taken in discussing not his own personal affairs but the affairs of the country which he has served so long.

Mr. Owen Roberts [Non-official, nominated]: Sir, on behalf of the European community, whom I have the honour to represent here, I desire to associate myself with the expressions that have fallen from your lips.

Mr. P. Mukerjee [Punjab Chamber of Commerce and Trades Association, Commerce], Sir, the sentiments expressed by yourself as well as the various speakers in this House are so universally felt that it does not need me to labour the point. All the same on behalf of my constituency I desire to associate myself with the remarks that have fallen from the previous speakers. Responsible commercial opinion has condemned anarchical crimes in unmistakable terms and it has expressed its intention to support Government in any reasonable measure that they will take to cope with them.

Khan Bahadur Sardar Habib Ullah [Lahore (Muhammadan), Rural] (Urdu): Sir, it would be better for me to give expression to my sentiments in Urdu. On behalf of the zamindars whom I have the honour to represent here, and also in the capacity of the President of the Zamindara Association, on behalf of all the agriculturists of the province, I associate myself with what you and the other honourable members have said. I have every contempt for the cowardly attack and I express feelings of deep resentment against those responsible for it.

Lala Gopal Das [Lahore and Ferozepore-cum-Sheikhupura (Non-Muhammadan) Rural]: Sir, one of the greatest ideals of Hinduism is *Ahimsa*, that is, one should be non-violent. I believe that every Hindu, keeping that ideal in view, must come forward to condemn such dastardly outrages that are ripe in the present days. Everyone of us was pained to see the other day His Excellency, who is a saint as we consider him to be, made a victim of one of those accidents. He commands the love and respect of everyone of us and of the public as a whole. These outrages are bringing us down to a lower level of morals and I do feel that these outrages are a setback to our moral, spiritual and constitutional progress. Only the other day I was going about my constituency and several influential persons who know His Excellency met me and wanted me to convey to the Governor their strong disapproval of such outrages and also wanted me to congratulate His Excellency through you on his providential escape. It is very desirable that the Government should at once try to investigate the root cause of this spirit of anarchy and nip the evil in the bud. I on behalf of my constituency wish to associate myself with all that my previous speakers have said.

Sardar Jawahar Singh, Dhillon [Lahore (Sikh), Rural]: Sir, much has been already said and I only want to add that His Excellency is popular throughout the province and this outrage is strongly condemned by the zamindars and especially in my own district. I have been going through my constituency and many meetings have been held there condemning this outrage. I strongly reciprocate the feelings that have been expressed and also congratulate His Excellency on his narrow escape.

Maulvi Sir Rahim Bakhsh (Nominated Non-official), (Urdu): Sir, I rise to express my feelings of resentment against this most heinous occurrence. I could not understand how such a dastardly attack could have been made on such a noble, pious, and well-intentioned personality as is our exalted Governor. I wonder why those responsible for that outrage did not consider that such lovable persons come into this world not very often. I think people ought to assemble in their places of worship and pray that such deplorable conditions as are prevalent at present in the country may have an ending in peace and perfect order. I further suggest to Muslims, Hindus, Sikhs and Christians that they should arrange that in mosques, temples, gurdwaras and churches respectively sermons are delivered against this ignoble spirit. Thank God that His Excellency's life was saved. No doubt it is but natural that we should express our sympathy, but at the same time it is most important that we should take effective steps to cope with the unfortunate situation which has arisen recently in our country. It is essential that we should do all that is in our power to stop the repetition of such sad occurrences in the future. Only a few days back a lady and her children were brutally attacked by a person and as a consequence of that attack the poor lady succumbed to her injuries and her children are in the hospital. If we do not take action to put a check to such happenings we will be regarded as the most brutal, cruel and bloodthirsty people. I would like to suggest a few measures that can be adopted against this subversive movement.

Mr. President: Order, order.

Maulvi Sir Rahim Bakhsh: I on behalf of my constituency and all the Muslim population of the province express our deep felt sorrow for the injuries received by His Excellency and thank God for his providential escape.

Rai Bahadur Lala Sewak Ram [Multan Division (Non-Muhammadan), Rural]: Sir, as soon as the sad event took place the Punjab Provincial Hindu Sabha passed a resolution condemning the dastardly outrage. I am the President of that Sabha and on behalf of that Sabha I heartily associate myself with the resolution passed by the Sabha. His Excellency's life is closely associated with the Lyallpur district of the Multan division which I have the honour to represent in this Council. I, therefore, on behalf of the people of the Lyallpur District and of the Multan Division also associate myself with the sentiments expressed by you. Such an event is a matter of great grief to my community.

Sardar Mohan Singh [Rawalpindi Division and Gujranwala (Sikh), Rural]: Sir, I on behalf of the Sikh members of this Council and on behalf of myself wish to associate with every sentiment expressed by you.

Mr. M. A. Ghani (Nominated, Non-official): As a representative of the labouring classes of this province which form half the population I most heartily associate myself with what you have said and with what the other honourable members have said in connection with the sad event. The Punjab Labour Board which is the central body of the Punjab Labour was the first to pass a resolution of condemnation on the most dastardly outrage perpetrated on His Excellency. I once again heartily associate myself with the sentiments that have been already expressed by you and the other honourable members.

Rao Bahadur Captain Rao Balbir Singh [Gurgaon (Non-Muhammadan), Rural]: Sir, I heartily associate myself with what you and the honourable members have said. Every one feels sorry for the cowardly and brutal attack that was made against His Excellency's most exalted person. Not only I am grieved at this sad occurrence, but all the inhabitants of the Gurgaon District also feel grieved that such a deplorable thing has happened. His Excellency is a very kind-hearted and good natured gentleman. Whosoever comes in contact with His Excellency feels himself bound to him with chains of love and respect as a disciple. Whenever he meets people he overwhelms them with kindness. His nature is sweet and to sympathise with humanity at large has become a habit with him. For these high qualities of his he is generally respected and loved, and through God's grace he escaped from this brutal attack.

Rai Bahadur Lala Mohan Lal [North-East Towns (Non-Muhammadan), Rural], (Urdu): Sir, I also associate myself with what the honourable members have said. When these sad news reached me in my village I was struck dumb. At that time I failed to understand how one can dare to commit such an outrage against a personality so noble and so pious. I am happy and I thank God that his life was saved. I, on my behalf of myself as well as on behalf of my constituency, express sympathy with His Excellency and congratulate him on his providential escape.

Lala Bhagat Ram [Jullundur-cum-Ludhiana (Non-Muhammadan), Rural], (Urdu): Sir, the honourable members who spoke before me have already given expression to my feelings and sentiments. In the district of Ludhiana which I have the honour to represent meetings were held and resolutions condemning this dastardly attack and expressing sympathy with His Excellency were passed. Also telegrams congratulating His Excellency on his providential escape were sent by the inhabitants of that district. I thank God that his life was saved. His Excellency is a most popular and beloved Governor. Sometime back he visited the districts of Jullundur and Hoshiarpur. During his stay there whenever he went out into the country, people came to him to represent their grievances. He very patiently and politely heard all that they said and was very kind to them.

Kanwar Mamraj Singh, Chohan [Ambala-cum-Simla (Non-Muhammadan), Rural]: Sir, I associate myself with the feelings of sorrow and sympathy expressed by this House in connection with the incident of the 23rd December 1930. This news was a great shock to the whole population of Ambala city as well as of the Ambala District with whom I had come across. It was because of this incident that some of us had to break

[Kanwar Mamraj Singh.]

our engagements and had to come to Lahore to enquire about the incident. Our sorrow and sympathy are more intensified by the fact that His Excellency has been kind and popular to the public as also to his subordinates and particularly to the poor ryots over whom he has been destined to rule. It also leads me to congratulate His Excellency upon his narrow escape, providential escape as it may be called, which His Excellency has had the fortune to have. Such an attack upon anybody whether popular or unpopular, defended or undefended would have proved fatal. It was the good deeds of His Excellency that came to his help. With these words I associate myself with the sentiments expressed already in this House.

Honorary Lieutenant Sardar Ragbir Singh [Amritsar (Sikh), Rural], (Urdu): Sir, I whole-heartedly associate

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myself with all that has been said by you and other honourable members with regard to the abominable crime. It is really very deplorable that such an attack should be made on such a kindly person without any reason or rhyme. However, it is a matter for great satisfaction that the wounds did not prove very serious, and we thank God for that. With these few remarks I again associate myself with my honourable friends in condemning the cowardly attempt made on the life of His Excellency.

Dr. (Mrs.) M. C. Shave [Nominated Non-official]: Sir, I wish to associate myself with the remarks made by previous speakers and on behalf of my people, the Anglo-Indian Community, to express our extreme gratitude and relief at the miraculous escape of His Excellency the Governor.

Rai Bahadur Lala Rattan Chand [Non-official, Nominated] (Urdu): Sir, I beg to associate myself with every word of my honourable friends who have spoken before me. The country was shocked to hear the news of the attack on His Excellency and the people of all classes and communities living in the various parts of the province have condemned the ghastly deed without reservation. This is a clear proof of how this province loves its Governor. Therefore, Sir, in my opinion there can be nothing more disgraceful than an attempt on the life of such a saintly and kind hearted person and we must condemn it with all the force at our command. We thank God Who has spared the life of our beloved Governor.

Now, Sir, I wish to draw the attention of the honourable members of the House to another side of the matter. We all know that when a bomb was thrown in the Legislative Assembly Chamber that too was universally condemned, but later on some people got photographs of the perpetrators of that crime printed and their copies were sold throughout the country as if they deserved every honour at the hands of their countrymen for the "heroic" deed. These things really encourage such rash and hot-headed young men to earn this sort of cheap notoriety. Therefore, my submission is that we should not be satisfied with merely condemning such deeds, but it is very necessary to create strong public opinion against anarchical crime and make their repetition impossible. The public must learn to detest and denounce such attacks; otherwise every deed of this kind will be a source of encouragement to criminally-minded persons.

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhammadan), Rural]: What the National Unionist party feels has been expressed already by our worthy President. I wish to associate myself with what has been said in this House by honourable members. The incident is all the more deplorable when we think that this attack was made upon His Excellency who is not only the most kind-hearted but one of the most brilliant men in the Civil Service. We could ill-afford to lose such a brilliant man at this juncture in the destiny of our country and perhaps it was on account of our sincere desire to see the end of this long struggle that Providence has saved him. We rejoice at the providential escape and we pray that all that is good and noble may be still achieved by His Excellency in the days to come. With these words I associate myself fully with the remarks that have been made in this house.

Chaudhri Bansi Lal [Lahore City (Non-Muhammadan) Urban] (Urdu): Sir, I was really shocked to hear of the attack on His Excellency the Governor and I condemn it in the most unequivocal terms. But I must say that even the honourable members of this House cannot be absolved of the responsibility for the existence of such crimes. They do not care to create any public opinion against murderous attacks on innocent persons. The photographs of criminals are sold under their very nose and those people gain a good deal of what is called cheap notoriety. The result is that others are encouraged to follow in their footsteps. They know that every mortal has to die one day or other and, therefore, finding an easy avenue to the temple of fame they try to become famous and leave a name behind them. If they find that the public does not approve of such deeds they never will try such methods of gaining notoriety. I do not condemn this outrage merely as a member of this House. I have lately visited many places in the capacity of the President of the Adi Balmiki Mandal and everywhere I found the people condemning this cowardly attack. Therefore, on my own behalf and on behalf of my community and constituency I again condemn the dastardly attempt on the life of His Excellency the Governor.

Honorary Lieutenant Khan Sahib Malik Muzaffar Khan [Mianwali (Muhammadan) Rural], (Urdu): Sir, I associate myself with every remark of the Chair and previous speakers, with regard to the attack on His Excellency the Governor. Both as a soldier and in the capacity of the representative of the loyal district of Mianwali I view this cowardly attack with the greatest contempt and thank God Almighty for sparing the precious life of His Excellency. With these few words I again condemn the ghastly deed with all the force at my command on behalf of my district and the soldier community.

Khan Bahadur Chaudhri Fazl Ali [Gujrat East (Muhammadan) Urban] (Urdu): Sir, I am confident that not only I but every sensible and right thinking person fully shares the horror and consternation felt throughout the length and breadth of the province on account of the dastardly attack on His Excellency the Governor. I thank God that the wounds were not very serious and His Excellency's precious life has been spared to the province. Sir, no lengthy speech is required from me to show the gravity of the crime. Every one is aware of the sacredness of human life and the condemnation that an attempt on it deserves. But the attempt looks all the

[K. B. Ch. Fazal Ali.]

uglier when it is made on the life of a person whose high qualities it is well nigh impossible to enumerate. No one can accuse His Excellency of any unkind and unjust deed. Had there been any flaw in his disposition there could be some excuse for the ghastly crime. But I submit, Sir, that nobody can have any grievance or grudge against such a saintly person and therefore I fail to understand why some contemptible creature made a murderous attack on His Excellency. With these few remarks, Sir, on behalf of my district and on my own behalf I condemn the dirty crime and pray to God that His Excellency's precious life may be spared for a long time.

RESOLUTION.

RESOLUTION *re* : ANARCHICAL CRIMES.

Mian Ahmad Yar Khan Daultana [Muhammadan Landholders] : Sir, I beg to move the resolution that stands in my name which runs as follows :—

This Council recommends to the Government that adequate measures be adopted forthwith to cope with anarchical crime.

Chaudhri Allah Dad Khan : On a point of order, Sir. Questions have to be put and answered first. It is laid down in the Rules that the first hour shall be devoted to questions and answers.

Mr. President : If the honourable member refers to the revised agenda, he will find that no questions are entered in to-day's list.

Mian Ahmad Yar Khan Daultana : As we all know, during the time of disturbance, generally bad men have the most power. Mental and moral excellence always requires peace and quiet. Our great poet, Dr. Sir Muhammad Iqbal has said :—

دھرمین دینس دوام آئن کی پابندی سے ہے
رج کو زادیان سامان شیون ہو گئیں

"We must have the courage to face the facts and our hearts should not be far from our tongues." We all know that the conditions that are prevailing in this country at the present moment are far from being or are anything but desirable. Anarchy whatever the reasons may be is gaining ground and we very often hear incidents and outrages happening in some part or the other of the country. Revolutionary ideas or anarchies, as far as I know, are not openly encouraged by any section of the population, but I am afraid I must say that there is a group of men who at least provoke anarchy almost transparently. "The free man is one who is protected against injury" says Daniel Webster. Those who try to get liberty by revolution are trying to get real strength by stimulants. There is no doubt that the best security against anarchy and revolution lies in the constant correction of abuses and introduction of the needed reform and improvement. It is always the neglect of a timely and petty repair that makes the rebuilding necessary. The great poet of the East, Saadi, Says.

سو چشمہ شاید گرفتن بہ میل
چو پُرشد نشاید گرفتن بہ پیل

It is also urged that the balm of dominion status and Swaraj or whatever you may call it will cure and heal the cancer of revolution, but I am afraid I am not very optimistic about it. (*Hear, hear*). If the cult of the bomb and the revolver is encouraged, the only difference that it would make even if dominion status was granted would be this, that instead of His Excellency Sir Geoffrey deMontmorency being made the target of an Indian's revolver, some one would, God forbid, aim at the life of my friend the Leader of the House or, God forbid, another would try to choose my friend the Minister for Local Self-Government as a victim to his anarchical mania (*laughter*). Unfortunately facts are facts and they cannot be denied. We all know that the Rowlatt Act agitation which made people forget the respect for law and encouraged lawlessness no doubt to some extent though temporarily made the rulers uneasy and uncomfortable, but very few realise that eventually it resulted in the loss of several valuable Indian lives in the subsequent communal riots. It is more difficult, unfortunately, in this country to distribute the bounties among ourselves, than to get them from the Government. The fountain of irresponsible press and platform perhaps tries to send waters of anarchy to consolidate the banks of the national canal which eventually empty themselves into minors of communalism only to fertilize lands of prejudice and discord. I hope that every one will agree with me that Lord Hardinge ; Lord Irwin and Sir Geoffrey deMontmorency are greater friends of India, they have done more for India and have greater regard for the aspirations of Indians than any other three put together. But unfortunately, we all know that some of our countrymen tried to kill them. The spectacles of revolution makes it impossible for those who wear them to distinguish right from wrong and good from bad, and that the great master of human nature of whom our friend the Honourable Minister for Agriculture was pleased to say in one of his writings that he "took nature by surprise," tells us in his famous play Julius Cæsar that when the enraged populace was after Cinna, a conspirator, and wanted to kill him, having not been able to find him, found an innocent and popular poet named Cinna and killed him, and in order to console their guilty and injured conscience said that they had killed him for his bad verses. Does not humanity tremble and does not conscience feel like committing suicide at that most dastardly and disgraceful outrage of the Lahore Cantonment ? If these are actions of those who profess the creed of non-violence, I shudder to conceive what they will do if their creed was that of violence. (*Hear, hear*). As far as I know the Government is not so weak as some do feel. Government officials have got in our districts, I do not know about the Central Punjab, but about my own division I know they possess great influence and power, and if they were allowed to use that power in order to create a calm atmosphere in the country I think it would not be very difficult for them to do so. Government should be very careful about their friends and their enemies, because an enemy cannot do as much harm as a friend can. As far as I know there is a big section of population who are very loyal and are anxious to co-operate and help the Government if they really want to suppress the disturbance and revolutionary crimes. It is for the Government to decide what action they have to take. One thing strikes me to be very extraordinary and that is where this money comes from which is being spent on these anarchical crimes and in defence of the criminals. Money is spent but I do not know wherefrom it comes. Perhaps the Government knows where it comes from.

The Honourable Sir Henry Craik : Partly from robberies and partly from outside.

Shaikh Abdul Ghani : And from private subscriptions. It is a pity Government should not know it.

Mian Ahmad Yar Khan Daultana : Unfortunately past experience shows that Government has not been a very good judge of men and I must repeat my remarks that they should be very careful about their own enemies. There is a story which we read in Gulistan when we were children about an astrologer who was sleeping outside with his wife in a moonlit summer night and was telling his wife how bright their future was. Just at that time a thief was committing theft in their house and when he succeeded in taking away all their valuable property he said :

تو بر اوج نلک چہ دانہی چیت
چون ندانی کہ در سرائے تو کیست

Sir, when I learned that I was to move this resolution I thought that I will be able to make some general remarks and that it will be the duty of my abler friends to discuss and suggest some means with their experience. I, therefore, hope that the Council will adopt this resolution unanimously. (*Hear, hear*).

Mr. President :

This Council recommends to Government that adequate measures be adopted forthwith to cope with anarchical crime.

Mr. Din Muhammad [East and West Central Towns (Muhammadan), Urban] : Sir, I lend my whole-hearted support to the resolution that has been moved by the honourable member for the landlords constituency. On more than one occasion, I have drawn the attention of this House to the gravity and horror of the outrages that are being committed in this country for the last two years, and I am glad to see, that after all we have awakened to our responsibility and we have begun to realize, that it is high time now that something must be done to put an end to these abominable deeds. I am not unmindful of the fact that there is in the minds of the people of India a growing feeling of political advance and I am also conscious of this fact that it would be a sin to check the growth of that feeling, but it cannot be gainsaid that revolutionary methods are not the panacea for the ills from which the country is suffering. Our accredited representatives are at present giving their best in a remote place to discuss what we desire, and to consider what advance should be made in India, and it is most inadvisable on the part of any Indian to take it into his head that he can force the hands of Government in this manner.

Sir, if we ponder over this matter a little, we will see that three things at least are responsible for the growth of revolutionary spirit in the country. In the first instance, the reception the country gives to such deeds, when they are enacted, is mainly responsible for the unrighteous leaven that is leavening the country. A revolutionary is a danger to society. He is a friend of nobody. He is a political maniac, who is unable to discriminate between a friend and a foe. He is out for murder. His mind is diseased. His head is off the rails. He does that

act which would earn for him cheap notoriety. And how do we receive his action? We organise mammoth meetings to glorify his deeds. We take out huge processions to commemorate his achievements. We contribute funds towards his support. We institute defence committees to conduct his defence. We make a martyr of him, we deify him, and when here we meet and talk of his deeds, we have the cheek to condemn them. If we really condemn them, if we really disapprove of those actions, if we really feel that it is time now that these actions must be stopped, then this is not the way to stop them. To shed crocodile tears will not do. Let us be honest men, honest in our thoughts, honest in our deeds, and let us sincerely condemn this movement as it is most unpatriotic. Let us extirpate it, as most inhuman and brutal things are being done, under it. Let us not content ourselves merely with lip sympathy. The other day, when a Bill was being moved in this House, which was considered as some remedy for the checking of this revolutionary spirit, knowing what the significance of our opposition would be, we opposed the Bill; knowing what results it would lead to, we actually placed obstructions in the passage of the Bill at every step and at every stage. Hearing a long list of the revolutionary outrages, that was read by the Honourable the Finance Member, we still kept quiet over the matter, and did not move; we actually advocated the cause of those who perpetrated them and such things, Sir, when they go out, unbalance the minds of the low-bred, ill-educated youths, who are out for cheap notoriety. When an ill-balanced mind reads in the papers the news of the glorification of the deeds of worst offenders, there is kindled in his mind at once a zeal to do the same thing. There is created in his mind a desire to repeat the same incidents. At once he buys a fire-arm, he joins a revolutionary society, he chooses his own target and there the shot goes with the result that one more innocent life is lost. He does all this as he is conscious that with this short jump he would win martyrdom and would soon be deified. Sir, as His Excellency the Viceroy remarked the other day at the European Association dinner, it is the public opinion alone that can stamp out these deeds (*Hear, hear*). Let us create public opinion against these things, and it is then and then alone that these things can be stopped. Let us realise that a revolutionary is a curse to society. Let us realise that his very touch is abomination. Let us realise that he is to be suppressed at all times and at all costs (*Hear, hear*). Let us realise most sincerely that his very existence is a menace to the whole country and it is then and then alone that you can uproot him, that you can chase him out of the country. Otherwise not. As I have already said in this House, mere lip sympathy, mere lip condemnation will not do. What have we been doing, since we have been hearing of these sad tales every day. We have been keeping quiet in our own homes. We have been satisfied merely with formal resolutions that were passed in the meetings we attended. Has since then anybody come forward to expose an anarchist? Has any honest citizen of the Punjab or of India stirred against an anarchist? Has anybody informed the Government beforehand that such and such a thing was being contemplated by an anarchist and that they should be forewarned? And can you imagine that these things take place single-handed? Absolutely not. That most unfortunate incident that was referred to at the beginning of this session, the incident in which His Excellency the Governor received wounds which were very serious and in which a European lady was also injured and an Indian assistant Sub-Inspector lost his life, do you think

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that that incident could have happened single-handed? Wherefrom did the culprit obtain the admission ticket? How did he get his seat in the hall? How could he take out his pistol and aim it at His Excellency without being noticed by anyone? Was no one seated beside him? When he fired his first shot, was nobody looking at him? Could he not be stopped by those who were occupying the neighbouring seats? There was a feeling of indifference, if not of active participation and that feeling of indifference was responsible for the repetition of those shots. Had there been no sympathisers in the hall, this incident could have not happened (*hear, hear*). He could have only fired once, but he could not have repeated his shots. I am told that six shots were fired in quick succession. Two at least were received by His Excellency the Governor. There were some shots besides which were responsible for the death of poor Chanan Singh, and there were some which injured Miss McDermot.

Mr. President: Order, order. The honourable member is discussing a matter on which judicial decision is pending.

Mr. Din Muhammad: I am not referring to the person who did it I am not referring to the merits of the case. I am referring to the bare incident and the happening of that incident is not *sub-judice*. The thing that is *sub-judice* is who has done it, not what has been done and whether it has been done or not. My submission was that without sympathisers these things are not possible, and unless in the minds of the public, an opinion is created to most sincerely condemn these things, these things cannot be stamped out. It is we ourselves who are responsible for encouraging them. If from to-day we resolve, if everyone of us, every sensible man in the country resolves that henceforth he condemns this movement, that henceforth it would be his duty to expose the anarchist and to check his deeds, this movement cannot flourish for a single moment. As soon as the anarchist finds that there is none to glorify him, that there is none to deify him, there is none to make him a martyr and none to put a halo of sacredness around his head, he would die his own natural death.

Along with this, Sir, there is another factor also which requires serious consideration, and that is the civil disobedience movement. Whatever the advocates of the civil disobedience movement might say, however non-violent they might represent themselves to be, it cannot be denied that it is only since the civil disobedience movement started, that this cult of the bomb has been spread in the country. There were some stray cases before, a case here and a case there, but this regular system of anarchical outrages has come into existence only simultaneously with the launching of the civil disobedience movement.

در میان قعر دریا تخته بندم کردی باز میجویی که دامن تو من هوشیار باش

You throw him in a pool of water and then you advise him to keep himself dry. You teach him how to disregard authority, you teach him how to defy law, and then you expect him to keep himself within bounds. We should not expect unhuman things from human beings. When in the course of time, this civility is changed into incivility, when disobedience is developed into disaffection against the Government, the result is quite evident. The issue of this unrighteous combination of incivility towards and disaffection

against the Government is the anarchist. As soon as one learns these things, as soon as one feels disaffection against the Government, as soon as that wholesome check is removed, which is provided by regard for authority and respect for law, then one can only be an anarchist and nothing else. It is therefore absolutely essential for us to see that we control the source, the root cause of the revolutionary movement. Ailments can be remedied only when the cause is removed, and unless we arrest the source, the evil cannot be stopped.

There is another factor also to contend with, which I consider is mainly responsible for such revolutionary deeds. If you look at the list of the criminals, who have been involved in these outrages, you will see, they are mostly youths of the country, not the hardened criminals, not the confirmed politicians but raw youths fresh from the college, fresh from the university, fresh from the school, people who had nothing to do with politics before, people whose business it was to keep aloof from politics. They are the persons who have come forward to commit these outrages. And can it be said that they cannot be controlled? Time after time it has been impressed upon the educational authorities that students should not be allowed to dabble in politics. Time after time it has been impressed upon the parents of students that their children should not be allowed to attend political meetings. Their mind is recipient, their intellect is weak, their wisdom is still undeveloped and they fall an easy prey to every temptation that falls in their way. They hear stories and their head is unbalanced. In their immature minds is ingrained that revolutionary spirit which they imagine had saved other countries from the yoke of a foreign Government. They have not the sense to discriminate between a foreign Government and an indigenous Government, a Government that is in existence in the present day in India. I may be excused if I point out that four-sixths of the Government that I see before me is Indian, and so far as the balance is concerned, as I have already remarked, efforts are being made in England to have a reasonable cut therein and to add something more to our share. Now, a constitutional Government is there. Four-sixths of this is Indian. Our British rulers are in my humble opinion mere paper monarchs. We are virtually the sovereigns of the country. They rule in theory and we rule in practice. Now, what do these revolutionaries desire to achieve? What do they want to gain? Do they mean to say that in a constitutional Government, in a settled country, these methods would be effective enough to turn out the rulers and have these revolutionaries substituted in their place? This reminds me of a story of a village *mirasi*, who while he was molested by a *lambardar*, ran to his mother and asked her 'If this *lambardar* dies, who would succeed him?' 'Well,' she very pertinently remarked, 'the *lambardar's* son.' 'And if he dies?' She again replied 'Then his son.' And guessing what his meaning was, she at once added, 'Be contented my son. Your turn will never come. You will never succeed.' A constitutional Government knows no gap; like nature, it brooks no vacuum. What is the good of murdering an individual? As soon as one is removed, another takes his place as a matter of course. What do the revolutionaries gain if they take an uninnocent man's life, except that they inflict an unbearable pain upon that poor man and on those who are near and dear to him by the irreparable loss they cause them, except that they wound the feelings of the whole country, especially the

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feelings of those sane people who are working for the good of the country ? They gain nothing. Unpatriotic, therefore in conception, ignoble in design, inhuman in execution and futile in result, these anarchical crimes stand self-condemned. It is for us to adopt such measures and not leave it to Government to adopt them as would stamp out the growth and spread of revolutionary spirit. It is for us to control our people, to teach them the right way of living and to instil into their hearts the futility of such deeds. If we do that I daresay Government will not at all feel the necessity of introducing measures which might eventually prove drastic. But even if Government introduces such drastic measures it would be perfectly justified. If people grow rebellious on principle Governments are justified if they grow tyrannical on policy. After all that has happened, after such incidents, as the murder of Mrs. Curtis, the attempt on the life of His Excellency the Governor, the murder of the Inspector-General of Prisons, and the murder of the Inspector-General of Police in Calcutta, after all these incidents, which Government can remain unmoved and which legislature will withhold its support from any measure which it adopts ? (*Hear, hear*). I would therefore submit before this House that they should feel their responsibility and not only should they lend their verbal support to the resolution that has been moved but they should manifest in their deeds that they actually condemn these anarchical crimes and that they consider that these crimes cannot lead the country an inch further. (*Cheers*).

Rai Bahadur Lala Rattan Chand (Non-official nominated). (Urdu) : Sir, I whole-heartedly support the resolution moved by my honourable friend from Multan. While doing so I must submit that the primary function of the Government as well as of this Council is to maintain law and order in the country. If there is no peace in the country I would say that the Government does not deserve to be called Government. It is the duty of the Council to help the Government in maintaining law and order in the country. We should try to remove the causes of discontent now prevailing in this country. I quite agree with my honourable friend there when he says that the phrase non-violence is meaningless. If we carefully study the events ourselves we shall see that violence is practised everywhere in the name of non-violence. Unfortunately I live in a city where you must know the people have been coerced to pay towards the Congress funds. According to the Punjabi proverb,

خدا ڈیرے یا گھسن

the Congress workers intimidate the traders and shopkeepers. They impress upon them that they are at the mercy of the Congress, they cannot afford to displease them and that they are helpless in the matter. I am sure that the people are not contributing funds for the Congress of their own accord but they are made to do so through extortion. The selected wise men of the province are sitting here. Let them join heads together and devise some means by which we could put a stop to the nefarious activities of those who are responsible for spreading in the country discontent and disaffection which is the root cause of these crimes.

Chaudhri Allah Dad Khan (Ambala Division, North-East (Muhammadan) Rural) : Sir, the resolution moved by the honourable member from Multan is one with which every one in this House will agree. Surely, without

uprooting these violent crimes no true progress towards constitutional reform can be made. It is such things that clog the wheel of progress. Therefore it is the duty of every member of this House, not only of every member of this House, but of the people outside, to try to suppress these crimes everywhere. But the resolution as it stands is vague and indefinite, and in my opinion hardly conveys the meaning the mover has in mind. For instance, the resolution says that it should be recommended to the Government to adopt adequate measures for suppressing this sort of crime. Does it mean to say that the Government has not been adopting adequate measures? They have already been doing everything in their power. The Government at present consists of very able men and they have been doing everything. Last time when we were discussing the Criminal Procedure Amendment Bill it was represented by the Government members that this was one of the measures for checking revolutionary crimes. That does not mean that they have not other measures in view. What is the definite recommendation the honourable mover has got by way of remedy? What is the suggestion which the honourable mover has got to make which the Government should adopt? That is the point on which the members should concentrate their attention.

While on this point, I wish to point out that the remarks on the resolution made by the honourable member for Gujranwala were off the point, many of them at any rate if not all. For instance, he said that the opposition which was offered to the Criminal Procedure Amending Bill last time in the Council was, if not the direct, the remote cause of such outrages. No member of this Council should let that statement go unchallenged. Does he mean that the opposition should not at all do anything by way of opposing any measure that is introduced in the Council? The opposition, very rightly and honestly did its duty in opposing the Bill and whenever it was considered desirable, it lent its support to particular clauses. But to say that the opposition offered by the members of the opposition to the Criminal Procedure Amendment Bill was responsible either solely or in a remote degree is absolutely off the mark. Does the honourable member mean to say that we should recommend to Government that we would support any measure that the Government may bring forward? For, to my mind that is the only meaning that can be deduced from the reference to the opposition to the Criminal Procedure Amendment Bill as having been even the remotest cause of these crimes. In making such a reference the honourable member went very far off the point.

Not only that. He committed another mistake. He referred in detail to the case which is now *sub-judice*. He said the man who shot six shots was sitting in the University Hall with three or four men near him. This is a full description of the man and that is a point which the court is sitting to find out. Whatever the consensus or agreement of view may be in regard to the outrage, there is no opinion yet, and nobody can say, who the real culprit is. Possibly it may turn out that somebody else was the real culprit. But to refer in this detail to the case is nothing short of contempt of court and such remarks instead of serving their own purpose defeat the very purpose for which they are meant.

[Ch. Allah Dad Khan.]

After this preliminary introduction, I want to proceed further and to say that my honourable friend from Multan has left the field open for us to suggest

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remedies and that is what I think honourable members of this House should do in their speeches on this resolution. Although the wording of this resolution is such that it does not cover this ground, yet, as you, Sir, have kindly allowed it, I suppose honourable members will suggest such remedies as occur to them. In that way the resolution will be profitably discussed. Otherwise as it stands it has no meaning. Does it mean to say that the Government are not doing their best for suppressing these political crimes? Again, we cannot ask the Government to adopt any policy. The Punjab Government being a subordinate government to the Government of India cannot initiate any new policy and take any new measures which are not approved by the Government of India. So, in fact, in putting the resolution in the form in which it is, we would not be doing anything useful. The Government of India is itself indicating and instructing the local Government as to the measures which the latter should take and it knows its business better. But still it may be suggested to the Punjab Government and through it to the Government of India that the effective measure to be taken in the opinion of this Council is to adopt a policy of conciliation. That is in my opinion the best and the only remedy. Repression has been tried to the utmost but it has not succeeded so far. Now let them try and see the result of a lenient policy. For, what has that great poet said? The poet Saadi has said :

دزشتی و نومی بهم در به است—چو رگ زن که جراح و موم نه است

That is to say, severity and leniency are best when they are combined, together like the surgeon who cuts a vein open and puts an ointment on it. Let the Government therefore try the balm of conciliation and leniency I am sure it will find such crimes reduced if not altogether rooted out. In my opinion the time has come when lenient measures should be adopted after so much severity. The manner in which these outrages are committed is really regrettable. And I agree with my honourable friend from Gujranwala that people in this Council and outside it should exercise their influence to suppress such crimes whenever it is possible and wherever it is visible, and if each man tries his best there is no reason that such crimes should not be diminished. But, as my honourable friend from Multan said, the Government should also keep its eye open in being a good judge of men. He said, and I quite agree with him, that the Government was not a good judge of men. Many men who are not its friends are treated as its friend. The point which my honourable friend made was that Government should be very careful about its friends and foes. For, there are many people who give wrong information about decent and good men. I have seen this in my experience. Many men when they want to injure a man, an innocent man who sees very little of officers, at once go to the officer and poison his ears and attribute things to him which the latter would never have even dreamt of. Such things constantly occur and the result is that if Government does

not judge of such men by itself it is misled with the result that they are driven away from Government. The policy which the Government has been following requires really a little re-consideration and overhauling. Leniency, a policy of conciliation, is one of the remedies that could be suggested. Other remedies have been suggested which are very good indeed but it is doubtful whether the Government will adopt them just now or not. Anyhow we all feel that this crime ought to be rooted out before any progress towards advancing reforms can be made and it is the duty of every one here and outside the House to do his best to reduce the crime and root it out altogether, if possible. With these remarks I support the resolution which has been moved by my honourable friend.

Thakur Pancham Chand [Kangra, (Non-Muhammadan), Rural]: Sir, before I support the resolution of which I had also given notice I should like to put before the House in a few words the political situation of the country so that the House may come to the right conclusion. At this time there is political discontent and dissatisfaction and the desire for freedom is very intense. At present there are two movements, one non-violent and the other violent, running side by side, though the former has no connection whatsoever with the latter. The non-violent movement is headed by Mahatma Gandhi, the greatest living soul. He has launched his civil disobedience movement. That he did after writing his historical letter to His Excellency the Viceroy in which, as every one knows, he implored the Viceroy to fulfil the aspirations of Indians. His object is to attain freedom by love, sacrifice and suffering. He has no hatred for any living being, Indian or European, no revenge, no bloodshed. And his movement has become so popular that young and old, rich and poor, ladies and children, all have joined it and thousands of Indians have courted imprisonment cheerfully. How far we agree with the movement is not my business to discuss at this time.

I pass on to the other side of the picture, and that is the violent movement. There is no denying the fact that revolutionary parties exist in our province and all over the country. That was indeed one of the reasons expressed by Mahatma Gandhi that as the expounder of the principle of non-violence it was his humble duty to start civil disobedience because the revolutionary did exist in the country. I am pained to find that the energy of the youth of the country is misdirected and misguided. Murders have been committed, pistols, daggers, revolvers and bombs have been freely used in this connection indiscriminately. Innocent persons have been killed and I am much more pained when I find that these are being committed in the sacred name of our Motherland. I have no sympathy with this movement at all. I condemn their actions most emphatically and instead of doing any good to the country they are doing immense harm to the land and retarding its progress. It was in the month of November when the Bill which has now taken the shape of an Act was passed by this Council that our Honourable the Finance Member gave a long story of the murderous outrages committed in the several districts of the province. Two months later we find that there was a most cowardly and dastardly attack on the highest official of the province. That was done in broad daylight in the land of the Five Rivers and that is a blot which can never be removed by the waters of all the five rivers put together. This revolutionary party wants to terrorise the Government, but I warn them that they are sadly

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mistaken. The present Government which is the most organised Government can never be overthrown by these bombs, pistols and revolvers. They should know that they are rather cutting their own throats by such methods. The Government is the more civilised as it does not want to take strong measures. Otherwise this movement can be crushed in no time. If this party wants to free the country I have no objection whatever to their aim, but the methods they choose are not the proper ones. Such methods are against our own culture, our own civilisation. Sir, the Criminal Amendment Act was mainly intended for the prevention of such crimes but we find that it has not been able to achieve its object. The House should therefore support this resolution which recommends to the Government to take adequate measures to prevent these crimes of the worst type. The life of everybody at this time is unsafe; the property of everybody is unsafe, and the Government being the custodian of law and order and the protector of lives it is their bounden duty to keep law and order and to save our lives. At the same time it is our duty to strengthen the hands of the Government at this time so that the Government may take such measures which may help them to prevent such crimes.

With these remarks I support this resolution in the best interests of my country. That is my honest opinion and as a lover of my country, for whose cause I have suffered, I support this resolution.

Maulvi Sir Rahim Bakhsh (Non-official nominated) (Urdu): Sir, in the debate of to-day it has been said from various parts of the House that there is disorder and discontent in the country at present and that crimes of very serious nature are being committed without a feeling of compunction on the part of those who are committing these crimes. It is true and I should say that it is this sense of the danger that has prompted speaker after speaker to make speeches on the subject. I will not say that these speeches are useless and that they produce no result. I realise that by such speeches alone we can come to certain sound conclusions. But it will be also admitted that speeches alone cannot help us much. Something substantial should be done to show our resentment with regard to the obnoxious activities of the revolutionaries. I should think that a committee of the representatives of the public should be constituted which should direct its energies to crushing the spirit of violence that has grown of late in the province and in the country. Why should not this very Council form itself into that committee and every member take upon himself to see that his constituents do not help or sympathise or harbour the anarchists and to see that no opportunity is lost in bringing to book any offender against the peace of the province? This Council is again meeting in the next month and in that session it can hold its meetings in the mornings or evenings to enable the members to report the work done by them during this interval and devise ways and means for controlling the situation. In addition to that we should arrange the congregation of people in the churches, in the mosques, in the temples and in the gurdwaras and in such congregations the religious heads should be requested to preach against these crimes. There is yet another suggestion that I would like to make for the consideration of the Government in this connection. I think that it will do much good if advisory committees are formed to help the Dis-

trict Magistrates in the work of putting a stop to the anarchical crimes. In brief I would like that something practical should be done to meet with the situation that has arisen in the country. We should not stop with making speeches and go home satisfied that our duty is done. That will not be practical politics or statesmanship. We should all go from this place determined to root out this evil by all means that are open to us by our influence in our constituencies, by kind words and by harsh measures wherever necessary. With these words I support this important resolution.

Rao Bahadur Captain Rao Balbir Singh [Gurgaon (Non-Muhammadan), Rural] (Urdu) : Sir, I rise to support whole-heartedly the resolution moved by my honourable friend from Multan. During the debate on this resolution it was hinted at by some member of the Council that freshers from colleges and schools are mostly perpetrating these crimes. No doubt it is true, but has it ever occurred to him that there is a strong reason why these students commit these abominable crimes? Need I remind the Council that there is no human being who will ever take the life of an innocent man or will commit any political crime and thus court the hardships of jail life and capital punishment unless he is discontented with his surroundings and unless that discontentment has driven him to despair? Most of the students that come out of the schools after finishing their educational career, get no work to do and they become discontented very soon. After having read for so many years they cannot earn even as much as they had been spending in the college days.

Khan Bahadur Nawab Muzaffar Khan : It is impossible for the Government to provide all these students with Government employment.

Rao Bahadur Captain Rao Balbir Singh : It was nothing new for me. I know it already that this Government cannot and, in fact no Government, can offer employment to all those who are educated or even to those who seek such employment and if the Nawab Sahib had waited, he would have learnt that I was not going to ask the Government to provide all these young men with Government posts. I would rather have suggested that all the manufactories that are producing such useless men should be closed at once. The present education in our schools and colleges is certainly spoiling the youths of this country. It does not teach them simple living and high thinking. All that they learn in these colleges and schools is how to wear a good suit and to hate what is simple. After receiving education in these institutions, our young men begin to shun all work and think it below their dignity to do what their ancestors had very cheerfully and proudly been doing. They join these schools and colleges with high hopes and they come to think that they all will secure good jobs as a few of them, who happen to be very lucky, chance to secure but when their hopes are not materialised they feel as if they have not got what was their due. My opinion is that if these schools are to continue, these should be located in the villages where the students should be taught industries and agriculture. They should be compelled to live simple lives in these institutions and should be made to work in the fields with their hands so that they may not find themselves at their wits' end after leaving the schools. If this is done, they will surely become better citizens and will not be tempted to commit such crimes. As I have said before, I realise very well that Government cannot afford to employ all

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these men, but it cannot deny as well that it is its duty to see that these men are not wandering listlessly. Something must be found to keep them busy. A father is bound to feed and educate his children that he brings into this world, otherwise he has no business to produce them. Similarly, the Government is in-duty bound to provide all these young men with work. If that is done I am sure that no such crimes will be witnessed. I quite agree with what His Excellency the Viceroy said in one of his speeches made recently that public opinion should concentrate and unanimously condemn these outrages. That will also help to smooth matters. With these words I again support the resolution before the House.

Pir Akbar Ali [Ferozepore [Muhammadan) Rural] (Urdu): No one will deny, Sir, that the resolution now before the House is very important and that the adoption of adequate measures to cope with anarchical crime is very necessary and very urgent. I am also sure that many will agree with me that things are not placed before the Council and the Government in their true colours when such proposals are under consideration. It is very seldom that we say all that we have in our minds perhaps for fear of displeasing this party or that party. I shall, however, not try to mince matters and give my frank opinion for what it is worth on this resolution.

I look upon this resolution from two points of view. The first is as to how far the people are responsible for the present critical situation in the country. It requires no great power of eloquence to prove that the perpetrators of these abominable crimes are directly responsible for what is happening in the country to-day. The most dastardly outrage committed in the University hall and the shameful murder of a lady in the Lahore Cantonment during the last few days speak for themselves. They are a clear testimony of the fact that some of the people of this province and, for the matter of that, of this country are out to upset the present system and to terrorise the Government established by law. I may, in passing, say that these crimes will not help us to advance on the way to our goal and, as has been expressed by some other members of the Council, they will rather retard the progress of the country. No one who loves mankind and values human life and who has known that some of us are guilty of butchering innocent people, will ever sympathise with our political aspirations. The *swaraj*, which is our goal, will not come in sight in this manner. It will be rather farther removed from us. Now, let us see how far Government is to blame for the present perilous position. It is my opinion—and as I said in the very beginning of my speech I shall be very frank in giving expression to what I have to say—that Government is much more responsible for the present situation though in an indirect way. In the first place, it is in the bad habit of sleeping over very serious matters which ultimately result in undermining its very foundations. It allows the seed to grow into organised revolutionary bodies and does not try to nip it in the bud. It wakes up only when some of its well-wishers have dinned into its ears many times that a particular danger has assumed a very serious shape and then it is very late or too late. It is a pity that Government does not take notice of such things at their early stages and does not arrest or stop the persons who proclaim to the people that the Government is *shaitan* until such slogans become by-words and have done the harm they were meant to do. Such

persons go on decrying the Government and using very objectional language even against His Majesty the King Emperor with impunity for a long time, and they are stopped from so doing after they have poisoned the ears of the public and have created the mischief they intended to create. We have never seen Government acting promptly in such matters. Of course it will not lose one minute to arrest volunteers after volunteers picketing liquor shops although it is not bad to dissuade people from drinking and although the activities of such men do not and cannot land the Government into any serious difficulties. At the worst, their activities can bring about a loss of a few lakhs of rupees in the revenue which can be made up without much difficulty. It is my personal experience that most filthy language is used against the Government and its officers such as the Deputy Commissioners and the Superintendents of Police unchecked and that goes a very long way to loosen the reins of the Government. The public at large becomes encouraged to defy authority and to commit all sorts of crimes. This is the one mistake which Government commits in dealing with such matters. I gave expression to this view in a public meeting recently held at Ferozepore and I shall make it a point to give expression to it on all such occasions whether Government may or may not act up to it. While on this point I may be permitted to say that Government has very often stuck very tenaciously and regardless of public opinion to the proposals which have been initiated by its officers although it has found, in many cases, that it was wrong to do so. It has been doing so lest it should not lose its prestige. But I shall be excused if I say that it has a wrong notion about prestige.

In the second place, the doctors that the Government selects to cure a malady are not in reality doctors. They are germs which help to grow and to spread the disease. Those very men who are appointed to check the growth of a movement against the Government, help, though not openly, the men running such movements. I need hardly say that if the watchman himself is a thief or in league with thieves, the property under his care cannot remain secure and safe. The Government ought to have known that the presidents of the meetings held to create disaffection against the Government and other moving spirits of the bands of lawless people are, in many cases, relations of the high officers of the police detailed to duty for stopping the propaganda against the Government. If Government will continue to trust these doctors and will not employ men from the villages in large numbers in the police, civil and revenue departments, who are the only loyal and faithful class of people, the present situation will not improve. It is a pity that Government is kept in the dark as to the real state of affairs by these agents who report the matters in their own colour. The civil disobedience movement—what a wonderful name and I should say a contradiction in terms because disobedience cannot be civil—has been started by the people in the cities and it is from the cities that men are selected for all responsible posts under the Government. The villagers who are admittedly the backbone of the country and who have always helped the Government to tide over the difficulties in war as well as in peace, are practically debarred from entering the services. If any of them dares to apply for a post he is readily refused on the ground that neither his father nor any of his other relations ever held any post in the department to which he applied. Then these simple villagers have not free access to the officers to whom they should go and

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report the real situation and if any of them is sometimes granted an interview by an officer and exposes the true state of affairs, he or some of his relatives are involved in one way or the other into some difficulty. They are thus discouraged in every way to help the Government as they want to.

Sir, the zamindars are willing to help and co-operate with the Government but the difficulty is that they are not allowed to do so. The urban people who are given preference in the matter of interviews paint things in their own colours and whatever reaches the Government is wrong. Call the zamindars loyal, sincere, faithful or by any other name you like, but it is a fact that it is they and they alone who can depict things as they stand. Government shuns them and spurns them away and thus discouraged they keep aloof all the time feeling sorry for the deplorable conditions that are prevalent in the country. Sir, as I have already said in the matter of all kinds of appointments the urban people are given preference over the rural people. Therefore, advisory committees suggested by the Honourable Maulvi Sahib, will be of no use. All its members will be selected from the urban people, who will lack in sympathy with the Government. These people will not work rightly in the right spirit. Sir, these people who are in the good books of the Government have no following and people do not care whatsoever for them. They come to the Government and make a great show of their influence on the people. They tell the Government about the propaganda they are doing in their favour and the Government believes them. But it is a fact that they do not do anything for the Government. Such people if they are selected to work on any such advisory committee cannot attain any success for they are not the true representatives of the people. Therefore such an advisory committee if brought into existence is bound to prove a failure. These people whom the Government regard as the representatives of the people are only "*lathbaz*." Government rely upon them and listen to what they say. (*An honourable member* : Then you are also a *lathbaz* for you are one of them.) Yes, I am one of them and am a *lathbaz*. We are all *lathbaz*. We are not the true representatives of the people. The true representatives of the people are kept back. The doors are shut against those who are deserving but the undeserving are let in. These people who enjoy Government's trust and confidence take little interest in helping the Government to reduce their difficulties. It was our duty to point out a glaring defect and we have discharged it. Then, Sir, another honourable member defended the civil disobedience movement on the ground that it has become popular. If a thing can be called good simply because it happens to acquire popularity, then, I would say that dacoity is also good for it is popular among many people. Sir, civil disobedience is responsible for all our troubles and the present increase in crime is also due to it. With these words I support the resolution now before the House.

Sardar Jawahar Singh Dhillon [Lahore (Sikh), Rural] : Sir, the resolution before the House is one of very great importance, and the members of this House have already discussed it at great length with a view to devising means to cope with anarchical crimes. I submit before this House that these murderous outrages ought to be put down simply because they are

not for the betterment of the Government and because they mar the advancement of the country and put it back by fifty years. In order to devise means to cope with these anarchical crimes, I suggest that there are two things which can help us at this time. One is the press and the other is the platform. The members of this House ought to come forward; they should not only make speeches in this House and forget what they have said here, but they should go out to their constituencies and guide the people at the right moment, and they should join hands and put an end to these anarchical crimes. The press is unfortunately in the hands of the urban people, and therefore I submit that to cope with crimes the agriculturists should start a press and propagate that these outrages should be put an end to, and therefore it is of primary importance that all the agriculturist members of the House should join at this right moment and start the propaganda in their own press. It has been rightly remarked by my friend who has just preceded me that the Government has always failed to seize the right opportunity of helping the agriculturists. I also endorse the remark that whenever there is need for recruitment, the agriculturists come forward to enlist themselves, whenever there are some funds required by Government, it is the poor agriculturists who fill the coffers of Government. Therefore, I submit for the consideration of Government that they should help the agriculturists at this juncture. The honourable members know that during the Great War when recruits were required, it was only the agriculturists who came forward and not the urban people. My first submission therefore is that the agriculturists should join together and start a propaganda in their own press to meet anarchical crimes.

My second submission before this House is that education which is being given to the youth of this country is not of the right type. The students of schools and colleges should not be allowed to join any political movement. They should not attend such meetings. They should be dissuaded from attending political meetings, and instructions should be given through the Director of Public Instruction to the principals and headmasters of educational institutions that they should see that the students do not join such political movements, because the youths are like melting iron that can be shaped into anything you like. Therefore, if they are given education on right lines they would become good countrymen and they will be on terms of peace with the Government. It has been many a time urged in this House that we, members of this House, who are the custodians of public rights, shirk our responsibility when such nefarious outrages are committed. Therefore, the members of this House ought to see that in their own constituencies such things are not repeated and they should always be the first to advise the people that they should always remain loyal to the Crown. With these remarks I whole-heartedly support this resolution, namely, that some means should be adopted to cope with these anarchical crimes. I also suggest that a committee should be constituted consisting of elected members and official members of this Council to devise means to cope with these anarchical crimes.

Shaikh Abdul Ghani [West Punjab Towns (Muhammadan), Urban]: Sir, it has been justly complained by one of the honourable members of this House that the resolution which is before the House for consideration is indefinite and vague. There is not the least doubt that the wording of the

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resolution is very loose. That is why one member had an opportunity of discussing the ways and means of how to conciliate people, and I think he was quite within his rights, if we consider the wording of the resolution. Because, after all, if measures are to be adopted to uproot anarchism in the country, a member of this House may rightly believe that Government should take to conciliation; and I do not think that the wording of the resolution can shut this out. But, I might at once say that this was hardly in the mind of the honourable proposer of the resolution. Being influenced by certain dastardly outrages here in Lahore or round about it, the honourable proposer brought forward this resolution before the House and in a way recommended it to the Government that if Government took any reasonable measures in which the assistance or support of the House was necessary to suppress the anarchical crimes, the House would not grudge it; and I understand that to be the sense of the resolution. Because it was so worded, therefore, certain members of the House have drifted into irrelevant and wholly unconnected matters, such as the rights of the agriculturists *versus* non-agriculturists, the kind of education given in our schools and colleges, and so on. All this time we have been listening to discourses that have practically got nothing to do with the subject before us. The simple question is, when these anarchical crimes are being committed, these outrages are of everyday occurrence, you who are responsible for the legislation of the province, you who are the chosen representatives of the people, would you like under the circumstances to sit idle, would you not give out your mind, would you not, as in duty bound, come out to condemn the crimes whole-heartedly and unequivocally and to assure those who are responsible for the maintenance of order in the province, that if they are out with some reasonable constitutional scheme to put a stop to such occurrences in the future, if they want to seriously and earnestly deal with this menace, this House would ungrudgingly place all its resources at the disposal of the Government? If that is the meaning of the resolution—and I think that to be its meaning and the proposer could not have meant anything else by putting forward this resolution—then, I do not think there will be any member in this Council who will grudge even this little, because after all we are taking no responsibility, we are simply making the recommendation to the Government, a handful of over-worked and hard-pressed officials, that they should adopt forthwith adequate measures to suppress these anarchical crimes; and I think if we are not up to doing this much even in this House, then of course we are taking absolutely no responsibility in the matter. As I have already submitted, it was far from the proposer's mind that all this talk about conciliation, repression and leniency to those who are committing those crimes should come in. What leniency, what compromise is possible with a revolutionary, with an anarchist? They want the English people to leave India; they want independence. The whole intelligentsia is opposed to this view. What should the Government do? What did my learned friend over there mean when he said that Government should effect a compromise with these anarchists? Should the Government leave to-morrow bag and baggage taking all Europeans with them and embark? Is that the proposal? After all, these anarchists do not want anything else but complete independence, and that is a thing which cannot be conceded. We will not allow it even if the Government

wanted to do so, because it is to the interests of India, to the interests of everybody, to the interests of all those who love law and order, that the British should remain here. There was a clamour on the part of the intelligentsia that there should be a round-table conference and such a conference is now going on. It is receiving very sympathetic consideration at the hands of the English people and I hope that some very good results will be coming forth from it. What more is wanted? After all those who are to carry on the Government, those who are responsible for the welfare and the well-being of the country and the province, they have to take measures to keep law and order going. If that is done, there is an outcry "Well, be lenient, don't you use your force and let the miscreants do what they like." I do not think this sort of compromise can be of any good.

To come back to the resolution, as I submitted, it is indeed very vague. It suggests or recommends that adequate measures be adopted forthwith. What can those measures possibly be? They may comprise either new and extraordinary legislation or the grant of larger funds for the police and other services that have to do with the keeping of peace in the province. I think that our experience of the last year, the cut that was proposed in the grant for the additional police—I am referring to the Simla session of course—is not very encouraging. If additional police is wanted, and the Government comes up with demands for additional grants, cuts are proposed, and votes of censure are carried and as a matter of fact, the House on those occasions does not consider fully the responsibility it owes to the administration. (*Hear, hear*). I do not think the House is prepared even at this moment to pledge itself to any such action for the future. So far as the suggestion with respect to adopting adequate measures in the way of additional grants to police or other services is concerned, I do not think we are in a position to give any such guarantee. The only other way to deal with such outrages is to introduce new legislation. With the experience of the Criminal Procedure Amendment Bill, I do not think Government will be encouraged to bring forward any such measure for the consideration of the House. Attempts were made to whittle down some of the most wholesome provisions of that useful enactment. There were many amendments tabled and our Finance Member and the Legal Remembrancer were most of their time on their legs for several days meeting all sorts of objections, and it was with very great difficulty that through an arduous and long session Government got through that legislation in this House. So, I do not think with the experience before them Government would be encouraged to bring forward any such legislation before the House. Nor do I feel as a responsible member of this House to be in a position to give any guarantee that the House will say 'Yes' to any legislation that might be brought forward in the future. What is the position, then? We take no responsibility, we give no guarantee, we suggest no ways and means, but we only put down a resolution leaving everything to Government. We do not pledge our word or our support in any very clear unequivocal terms for the future. Therefore, my submission is that the resolution as it stands is most indefinite, insufficient and vague, and therefore, we cannot at the present moment do anything more than this that we give the assurance to Government that we are whole-heartedly at one with it in condemning such outrages, in suppressing them, in devising means, just means, and measures to put a stop

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to this pest which is eating into the very vitals of society. Beyond that we cannot go. We can say, and I hope the sense of the House will not be obscure or indefinite on the point, that whenever the Government wants the services of the House in the cause of suppression of such anarchical crimes, the House will not be found wanting in its duty to do what it can constitutionally and consistently with its duty to its constituencies do. That is what I understand to be the meaning of this resolution and I whole heartedly support the resolution if this is the sense that is to be attached to it.

Kanwar Mamraj Singh Chohan [Ambala-cum-Simla (Non-Muhammadan), Rural]: Sir, a similar resolution also stands in my name and though I was not inclined

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to speak to-day because of my being a little indisposed, I have been prompted to speak simply because of the remarks that were made against those who opposed the Criminal Procedure Amendment Bill that was introduced in this House at the last sitting. This resolution contains three important points first, that the measures taken must be adequate, second, that they should be adopted forthwith and third, that they should deal with anarchical crimes. The incident which has unfortunately led the members of this House to propose this resolution is, I believe, that which occurred at the Cantonment two days ago. It remains yet to be said by the honourable judges of the courts of law whether that incident was the result of an anarchical mind or a conspiracy or was simply the result of a private grudge or was the act of a fanatic. But still feeling the gravity of the situation, knowing the dangers that are involved in such offences the very idea of which is horrible to us, we have taken upon ourselves to request the Government to take precautionary measures, preventive measures, to cope with such offences which are anarchical offences. The remark which has really led me to speak to-day is that we who opposed the Criminal Procedure Amendment Bill were indirectly responsible for such occurrences, if not for this very occurrence. I beg to point out in the very first instance that the measures which I, at any rate, had in mind in sending notice of this resolution were not adjectival measures intended to punish persons who may have come before courts of law and been tried for offences of anarchy. But they are preventive measures and I suppose that is what the resolution refers to, if rightly understood. It wants that without violence to any innocent man, without any innocent man running the risk of being tried for such anarchical crimes, those crimes should be prevented. When a man is tried by a court of law and witnesses perjure against him then he is to curse those witnesses. But if the judge takes a specially prejudiced view against him, he has to curse the judge. If, however, a legislation leaves such a loophole, if it allows false evidence, irrelevant evidence, evidence which was never on the file to come on the file and be taken against the man, surely that legislation is to be cursed. It was simply with this idea that the Bill was opposed by the leaders of the opposition. Not only was the interest of the accused in their hearts but they wanted to adopt safeguards which might minimise the possibility of an innocent man going to jail, being condemned without having a fair trial. So the remark of my honourable friend which was levelled at the members who opposed that Bill falls to the ground.

It now remains for me to say a few words as to what measures are to be adopted in the present circumstances. Attempts have been made by honourable members to enumerate or explain the methods which they consider good. I refrain from suggesting—I confess my incapability to suggest—any measure which may enable Members of Government to proceed with and draft into legislative shape at once. The only hint I can throw is this. Some time back when burglaries were often committed in villages, the Government introduced the wholesome system of *tikri pahra*. That was really a preventive measure though people had to come out of their houses, leave their rest and undergo much trouble in winter and in the hot season alike, still that was a preventive measure and throughout the Punjab it was a welcome measure. If I mistake not that system is even now practised. When a burglary has actually been committed, persons from that village and from other villages who happen to be previous convicts are called by the police, they have to waste their time sitting at the feet of the police sub-inspector to see the results of the investigation. But nobody even grudges that waste of time when the man who has been caught by the police is alleged to be the burglar, for then it is the duty of every citizen, of every subject of this British Government to plead not guilty and to ask the Government to give as many facilities to him as possible because no accused can ever claim equality with the Government with its numerous resources. There is another hint which I may lay before this House. If you go to the zoological gardens and point your stick at a monkey, the monkey attempts to snatch it away from you. Surely the monkey is not to be blamed because it attempts to snatch a stick from an honourable member. But the fault lies with you. I do not accept that the Government has gone bankrupt of political resources, but can introduce measures, wholesome measures, not only for the benefit of those people who look to them for the safety of their lives and property, but measures which will not bring the Government into hatred. Government should not forget that in the minds of the public or a section of the public if I may qualify my words, there exists a feeling of apathy towards the Government and if I mistake not and judge the matter aright, the police are to a great extent responsible for this feeling. Another thing I may mention by way of a hint—ask me not to enumerate the cases which are in my mind—is that I do have definite cases where the action of the police led to so many arrests simply because of their injudiciousness and want of tact. I should also mention another fact which may again be taken as a hint. This province contains a population of several communities and it cannot be forgotten that communal feelings are at the top of all this. Unfortunately in this province the police force happens to represent a particular class, the community in the majority. I do not grudge that but what I complain of is the method of posting police officers who belong to that community in places where that community is not in the majority. When we find that in any particular part of the province any one community is preponderant, to set officers of a different community to find out culprits in such an area is quite a wrong policy. Set a thief to catch a thief, as the proverb goes. It is only those persons who have any connection with the burglars that will give information at the correct moment and help you to arrive at correct conclusions. These are things which I just mention as hints which have to be considered before

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the problem could be adequately dealt with. With these words I resume my seat.

Dr. (Mrs.) M. C. Shave [Nominated Non-official]: I rise to support this resolution, and on behalf of womanhood, because of the ghastly and terrible ordeal a defenceless woman suffered two days ago, I appeal to every one of you, to do your best, both inside this House and out of it, to make such crimes impossible, so that, in your country, European women may not go in fear and trembling when isolated in any way and little children in such circumstances may never again be subjected to shock and torture and irreparable loss. To talk, when such fiendish hatreds are being fanned into flame, of conciliation, leniency, apathy and the like, is mockery. I demand that you make the position for European women safe again. After all these years of settled Government a crime like this is a disgrace. Let there be no more begging of the question, no more suggestion that this was the act of a mad man. His own statement has proved that he was inflamed by propaganda, and in face of such a statement I demand that adequate measures be taken to make such crimes impossible. (*Cheers*).

Khan Bahadur Chaudhri Fazl Ali [Gujrat East (Muhammadian) Rural] (Urdu): Sir, the question before the House is whether, in view of the conditions obtaining in the province, something should be done or not and, in my opinion, it is not difficult to answer this question. The present deplorable state of affairs is well-known to everybody and, unfortunately, it is going from bad to worse. No doubt a Bill was passed in the last session of the Council to amend the Criminal Procedure in the light of the conditions prevalent in the country, but even that has not gone very far to improve the situation. Now, my submission is that if the country is in a better state than when the said Act came into force there is no necessity for adopting any further measures, but if the situation has become worse, as it has, then, in view of the hideous nature of the crimes, something must be done to cope with them.

Now as regards the resolution before the House, it may be possible to put it in a much better form but so far as the principle underlying it is concerned nobody can take exception to it. We know that a certain group of people has come into existence whose activities are dangerous to the life and property of all peace-loving and law-abiding people. Whenever some one has ventured to condemn such activities a host of threatening letters has been showered upon him. My own district Gujrat has also been often honoured with such letters asking law-respecting persons to succumb to the freaks of the mind of the authors of those letters or to prepare themselves for bombs and revolvers before some months, though it is all right now in the district. They respect neither age nor sex. Even helpless women and children are not immune from their abominable attacks. Under these circumstances, I do not think there can be anybody so heartless as to withhold support to the resolution under discussion. The Government cannot deal with this sort of crime single-handed. It must have the public opinion at its back, and if we do not lend it our support, the life and property of every peace-loving citizen will be in danger. I may also point out that there are always a number of criminals who having committed certain heinous crimes succeed

in making good their escape from the clutches of the police. For instance, if there are four accused in a murder case all of them are not likely to be arrested by the police ; some of them are sure to escape arrest. Now these absconders watch very carefully the proceedings against the rest of the accused and if the latter are acquitted they surrender themselves to the police. But if, on the other hand, the accused are convicted, the absconders await the result of the appeal filed by their comrades, and in the event of their appeal being dismissed, they continue their nefarious career and being sure that they can be hanged only once in their lives they try to kill as many of their enemies as they possibly can. Thus there is a danger that even if these criminals are not interested in politics, they may join hands with the revolutionaries and form a larger and a more dangerous party for the commission of anarchical crimes. Therefore, it is absolutely necessary to adopt adequate measures to save innocent people from the frenzy of these misguided young men.

One of my honourable friends was pleased to say that the Government should adopt the policy of leniency and conciliation. But I submit, Sir, that commonsense revolts, as it must revolt, against showing leniency to persons who do not refrain from attacking even helpless women and innocent children. I am afraid a time may come when these advocates of leniency will advise the Government to offer handsome awards to these people to stop the crimes. My contention is that at times the Government has been unnecessarily lenient towards these people. Therefore, I would request my honourable friends to help the Government to take necessary steps to deal with this sort of crime. Of course nobody wants the Government to adopt any unjust measures but they must be adequate. It is no use drawing our attention to the creed of non-violence. But we must remember that human nature being what it is, people will always run to the extremes and once they are let loose they will stop at nothing. We must keep in view the words of Mahatama Gandhi when, as the result of some actions of the followers of the creed of non-violence, he said that in taking a certain step he had made a Himalayan mistake. I do not know whether Mahatama Gandhi has changed his mind now. If he has, the responsibility lies with him. But there is no gainsaying the fact that he compared his mistake to the greatest mountain in the world. Therefore, Sir, we cannot attach much weight to a certain body adopting the creed of non-violence because the civil disobedience movement is undoubtedly responsible for the present state of affairs, and I cannot say how far the honourable member was right in lauding this movement to the skies.

Then as regards the unreserved and unequivocal condemnation of the attack on His Excellency the Governor I must say that although I attach much importance to it yet mere condemnation of a certain action is not sufficient. Leaving aside the noble personality of Sir Geoffrey deMontmorency, any Governor may be attacked by these miscreants at any time. Therefore, these expressions of sorrow, horror or sympathy will not help us to any appreciable extent. Such lip sympathies and prayers were rightly ridiculed by the great poet Akbar when, during the Great War, he said

کہ جو سن کی توڑوں میں کیڑے پڑیں

My submission is, that in addition to these prayers we must help the

[K. B. Ch. Fazl Ali.]

Government to adopt adequate measures to deal with the situation that has arisen, and I congratulate the honourable mover of the resolution, who has afforded us an opportunity to do so. An honourable member has said that it is the bounden duty of the Government to adopt prompt and adequate measures. I quite agree with him. The Government must rise to the occasion and we must help it in doing so. It is our duty as peace-loving citizens to help and support the Government in whatever steps it may take. I know that our financial condition is not quite satisfactory, but even if money is required for this purpose, we will be quite willing to help the Government with it. Therefore, Sir, I request the Government to take immediate steps and assure it that we will be always prepared to do our duty in this connection. With these remarks I strongly support the resolution before the House.

Sardar Buta Singh [Multan Division and Sheikhpura, (Sikh), Rural] (Urdu) : Sir, I have no intention to make any lengthy speech on this resolution. I know and I assure all concerned that there is not a single person in this House who approves of the activities of bomb throwers and anarchists. (*Hear, hear*). Those who indulge in such hideous crimes and do not spare even helpless women and children, must be condemned most unreservedly by every right-thinking person. The views of my community with regard to such activities are well-known and they can be summarised in one sentence, *viz.*, a Sikh will never stab even his enemy in the dark. Therefore, Sir, every Sikh condemns these cowardly attacks.

Now I come to the remarks made by certain honourable members in connection with this resolution. Some of the previous speakers have said that those honourable members who opposed any part of the Criminal Procedure Amendment Bill in the last session of the Council are responsible for these crimes. This, Sir, is absolutely wrong, or shall I say even mischievous. If some honourable members opposed any section of that bill it was in order to safeguard the interests of the accused and they were perfectly justified in doing so. It is as much our duty to save the innocent accused as to take necessary steps for the safety of innocent officials. Those honourable members wanted to shape the Bill in such a way as to enlist public opinion in its favour and I must say, Sir, that their object was most commendable.

Then another honourable member advised the Government to adopt a policy of leniency and conciliation. But in my humble opinion, such people do not deserve any leniency. (*Hear, hear*). However, as regards conciliation there can be no two opinions as to its usefulness, and the best way to achieve it is to adopt such measures as should be quite adequate to deal with the crime but may not appear unjust or unnecessarily harsh to any right thinking person. If you want that innocent officials should not be shot at, I have no hesitation in saying that there should be no lathi charges on innocent people because they go a long way to embitter the feelings of the public at large. I do not want to say anything more in this connection but the Government must remember that it does not serve any useful purpose to beat innocent persons without any reason.

Sir, every honourable member has explained as to what he understands to be the meaning of this resolution and my interpretation of it is that the Government should adopt such wise and just measures as may be adequate to deal with the sort of crime, which we all condemn. Now if this interpretation is correct, as I think it is, I have no hesitation in supporting the resolution before the House.

The Honourable Sir Henry Craik (Finance Member): Sir, I have nothing to complain of in the tone of the speeches made to-day. The only ground I find for complaint is, that there has been no opposition to this resolution—a resolution with which I am wholly in accord. I do, however, regret that from one section of the House there has been a silence as of the tomb, and I notice it is a very sparsely populated tomb. I have heard none of those members who so actively resisted the passage of the Criminal Procedure (Punjab Amendment) Bill. None of them have yet raised their voice in this debate. One of the most prominent opponents of that Bill has not even attended this debate. No doubt he has adequate reason for his absence, but in the absence of any such reason, am I not entitled to draw the inference that he is afraid to face the music? I think I am.

Now, the resolution asks that adequate measures should be adopted forthwith to cope with anarchical crime. I do not know, Sir, if the House is aware of the measures that Government is already taking—the measures which have met with a very large portion of success in preventing anarchical crime. But in case they do not or in case there is any idea that in this matter of preventing anarchical crime by detecting and arresting persons plotting those crimes before they have an opportunity to commit them, if there is any idea that in that part of their duty Government, or rather its agency, the police, have failed, then I would like to do what I can to dissipate that idea. Since I spoke on the introduction of the Criminal Procedure Amendment Bill at the end of October last, I have, I am sorry to say, a large number of incidents to add to the long list of thirty outrages which I then detailed to this House. In the two and a half months, that have elapsed, there have been seventeen incidents in this province and in Delhi. Not in every case were these anarchical outrages, but they were either murders or explosions of bombs, in many cases with fatal results to the person who had made the bomb, or they were captures of people who were known—and many of whom have since been proved in court—to have been plotting these outrages. That is a formidable list. Many of them are incidents that reflect the greatest credit on the police. That the police can altogether by preventive action stop these crimes, I suppose no human being would claim. It is the universal experience of those who deal with anarchists, not only in this country but in other parts of the world, that there is no system which human ingenuity can devise which will stop the commission or the attempt to commit murder by a man who is absolutely reckless of the consequences to himself.

Now, we have taken or are taking to-day the most elaborate precautions we can devise for preventing these crimes. Here in Lahore alone, we have a body of more than 400 police engaged solely in watch and ward work of this kind, part of them on guard over persons likely to be the victims of such outrages, most of them patrolling the streets and places where such outrages are likely to be committed. That of course means a formidable amount of expenditure, but I think the House will agree that it is money well spent.

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At Amritsar there is a smaller but still a fairly large staff, which has recently been organised and which, since it has been organised, has done work of the very greatest value in capturing revolutionary literature, in arresting persons plotting crimes and in securing a large quantity of explosives and of arms. In August last, for example, to mention a few instances of preventive action by the police, nine or ten persons were arrested in Lahore. These persons were implicated in certain notorious crimes which are well-known to the House and which I need not further describe. The point is that, these persons at the time of their arrest are known to have been plotting fresh crimes. At the end of October in Delhi the police raided and seized what was evidently the main armoury of the Revolutionary Party—an enormous store of explosives, bombs, arms and, what is perhaps more significant still, large quantities of deadly poison. The amount of explosive substances alone in that armoury was capable, according to the expert officer who went through them, of manufacturing more than 6,000 dangerous and deadly bombs. I think the police deserve the very highest credit for that discovery which has prevented the whole country, the whole civilised world from being shocked by crimes on a scale far greater than anything that has been witnessed yet. Recently within the last few weeks a raid on a house in the close neighbourhood of Lahore, led to the apprehension of one more dangerous revolutionary and the killing of another who attacked the police. Yet another dangerous revolutionary was arrested in Delhi a short time ago by a constable who showed the most magnificent courage in tackling his man after he had himself been very badly shot. Three more were arrested close to Amritsar in November last in possession of a large number of arms, and the arrest of those three men is held by persons with knowledge of these conspiracies to have prevented many outrages. Yet another gang was arrested in Amritsar in July last, which had formed plans for collecting arms, for setting fire to Government buildings and committing dacoities and perpetrating other acts with the object of terrorising Government. At Ludhiana a murder gang was discovered before it could commit any crime. There again bombs, firearms and a complete plan to blow up running trains by means of bombs, was discovered. A similar gang was discovered and dealt with in Jullundur a few months earlier. Once again a dangerous conspiracy was prevented from coming to fruition. These are only a few instances which I mention, as showing the value of the preventive side of the work done by the police.

But there is another and perhaps even more difficult aspect of this task that lies before Government, and that is of dealing with the people who are behind this movement. I am not speaking now of those murderers or would-be murderers who fling the bombs or fire the revolvers. I am speaking of those who encourage and incite them and who keep in the background themselves. One speaker in this debate has commented on the fact that this outbreak of revolutionary crime coincided with the start of the civil disobedience movement, and he is perfectly right. Nobody, who has studied the civil disobedience movement closely can come to any conclusion other than that the persons promoting that movement are in sympathy with, and have incited the commission of, violent crime. The movement calls itself non-violent, or did call itself non-violent. We do not hear very much about

non-violence now and I think it is almost time that the people running that movement should drop this futile mask of non-violence. Non-violence is dead. We have only to read the extreme section of the nationalist press to see how they have steadily and of set policy glorified those who commit these detestable crimes. You have only to read the speeches of the leaders of the civil disobedience movement to see how they palliate and condone these crimes.

The whole thing started at the last All-India Congress held here last December. Speaking at Lahore shortly before that Congress, Pandit Jawahar Lal Nehru, the President, used these words :—" It is a great consolation," he said " that beings like Bhagat Singh and Dutt existed amongst us and we can rightly feel proud of such persons. For the last 20 or 25 years India showed signs of life. Now it has reached a point where it can produce Bhagat Singhs and Dutts." These are the words of the originator of the Youth Movement and the President of the last All-India Congress session. At that session, he openly stated that if at any future time violent methods should appear preferable, the Congress would not hesitate to adopt them. That time has not been long in coming. The entire object of that session of the All-India Congress was, to an impartial observer, to increase and to instil ideas of violence. You will remember that at that session there were meetings not only of the Congress, but of various subsidiary bodies. One was the Naujawan Bharat Sabha, which has always rejected the policy of non-violence. That met in the Congress camp with the encouragement and—I think I am right in saying—the presence of the principal Congress leaders. Another society was the *Kirti Kisan* society, another violent society, that openly preached violence and whose newspaper is such that it cannot be tolerated in this country at all. That society also met, I think, in the Congress camp. So lately as October last on his release from jail, Pandit Jawahar Lal Nehru in a public speech said, " Bhagat Singh is honoured in this country to-day, because he is a brave man and is bravely mounting the gallows. The same applies to many others of your countrymen. We shall raise our heads high at their bravery and feel proud that our country contains heroes who can face the gallows boldly." If that is not incitement to violence, I should like to know what it is. A man who uses that language, who knows that his rhetoric " maddens the boys to crime " is just as guilty as if he put a loaded revolver into their hands.

Now, I will take another leader. Mr. Sen Gupta, the well-known Congress leader of Bengal,—this is the person, the House may remember, who was arrested at Amritsar when he was addressing a meeting—on the 13th October last at Karachi, took a somewhat more philosophic turn when he said, " Is there any possibility of carrying on violent revolution in this country to-day or even ten years hence ? Even if we get men, trustworthy men, even if we get ammunition and bombs to fight with ? The English want to goad you to violence. If you want violence, you must have a secret movement." That is surely a direct encouragement to violence. Then, we come to another Pandit, Pandit Govind Kant Malaviyya, the son of that famous apostle of non-violence and the love of humanity, Pandit Madan Mohan Malaviyya ; in a speech at Allahabad on the 8th October last, he extolled the services of Bhagat Singh and referred to him as a jewel. He also remarked that if the non-violence movement failed, he hoped God would

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give people courage to take up arms and free their country. So much for the All-India leaders.

Now, let me come to one or two of our provincial leaders. Dr. Muham-mad Alam, that great man who has so often thundered at me from those benches opposite, presiding over a Students' Conference here exhorted the young men to live dangerously, a phrase which had not even the merit of originality. Dr. Satyapal, another provincial leader, in a speech at Lahore congratulated himself at having been fortunate enough to have the privilege of living for a short time in the Delhi jail which was sacred because it had once housed Bhagat Singh and Dutt. He was privileged to have been in the same building. On the 19th January, Dr. Satyapal came out into the open and exhorted the young men to "climb the scaffold like Bhagat Singh." Well, you do not climb the scaffold in this or any other civilised country unless you have done something to deserve it. That, I consider, is a direct incitement to murder. Dr. Saifud-ud-Din, Kitchlew, slightly more cautious in his remarks, in November 1929 declared himself in favour of revolution and boasted that during his trial at Karachi he had stated in his statement in court that he was in favour of violence and was ready to die, and had only renounced his principles out of respect for Mr. Gandhi. In the same speech he admitted that all the young men were not in favour of non-violence, that is to say, to his knowledge there was a party of violence in the country even slightly over a year ago and he sympathised with it and shared their views.

So much for the speeches of the leaders of the civil disobedience movement, a movement which is pledged to non-violence! It is common knowledge in this House, more than one speaker has referred to it, that for many months, and so far as I know, still the regular propaganda of the civil disobedience movement has been carried out by processions and public meetings at which these murderers and perpetrators of outrages have been praised, that their pictures are exhibited on banners, that they are freely sold or given away in the bazaars and that they are honoured as the national heroes of the movement. Apart from the other deplorable aspects of this propaganda, I would like the House to reflect for one moment on the strain which that sort of thing places on the patience of the police, a strain, I might say, which has been magnificently met. The police are wonderfully patient. For months they have daily listened to the foulest abuse from the riffraffs of the bazaar, abuse directed not only to themselves but to their womenkind, their relations and so on; but I think even more than that they feel the glorification of these cowardly and degenerate murderers who are responsible for the death of their comrades. I think that is a feeling that every man that has a warm heart in this House, will sympathise with. How any but a perverted mentality can call these men brave who shoot unarmed men in the back and run away, or to cut to pieces defenceless women and children, passes my comprehension. These are the people who are extolled as the heroes, the jewels of the country by the leaders of the civil disobedience movement and their press. We have even in Lahore some papers that week-in and week-out take their turn to incite to violence. In one single paper, the *Partap* I have noticed within a few days an article deploring

the death of Bhagwati Charan, the man who blew himself up by the premature explosion of a bomb, an admitted revolutionary and terrorist. In the same paper, an article appeared deploring the death of Bose, the man who shot Colonel Simpson in the Writers Building in Calcutta, and within a few days there was another article praising the convicts in the Kakori dacoity case.

It is not only that sort of article that I complain of. There is a more subtle and more cowardly kind of article I have seen, wholly false, invented from beginning to end. One recounted an attack on a very distinguished police officer, Khan Bahadur Abdul Aziz. He was attacked here in Lahore and fortunately escaped with his life. Papers in Lahore published a statement that he has been attacked again in another place, a statement wholly untrue and, I strongly suspect, designed to give away his present residence to the revolutionaries. Similarly you get statements wholly untrue that such and such an absconder has been arrested, probably merely intended to give a warning to him. Take, for example, the attitude of two leading newspapers in Lahore on that terrible crime which occurred two days ago in our neighbourhood, a crime which has shocked the civilised world from one end to another. The account of that crime in these papers or at any rate in one of them was a few lines on a back page. It contained what purported to be a statement by the man arrested for the crime. That statement was an entire fabrication from beginning to end. There was not a word of truth in it. The man has made a statement which I have seen and which I will not quote, but in not one single particular did he say one single word as reported in the newspaper. That, Sir, I consider a disgrace to honest journalism. I am glad to say that in the case of the attempt to murder His Excellency the provincial press took a tone to which I have no particular reason to object. But in Bengal it was far different. Five papers in Bengal wrote articles in this sense: "We are not in the least surprised to see that the blood of young men surges up at the attitude of the Government. The attempt on the life of the Governor of the Punjab shows once more how the minds of impulsive youths in this country become agitated on account of the reckless repression practised by Government. The incident must be regarded as a token of the strong resentment against the general administration of the country." In other words, to find excuses, they suggest that His Excellency has been guilty of strong repression.

This attitude of the press is, as I have said, one of the most difficult aspects of the problem of dealing with anarchical crime. The responsibility of the press is direct but the law, as it stands at present, is inadequate. The newspapers prepare the soil on which anarchy flourishes. They sow the seed and they are responsible for the harvest and in the day of reckoning their answer will be taken. This is not a mere general statement. There is a definite connection between specific articles and incitements in the press and specific outrages and murders.

We have thus three forces at work behind the actual criminal. We have the leaders, who give encouragement on the platform. We have the press and we have the encouragement given by processions and other demonstrations of that kind. All these are problems in dealing with

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which the Government is hampered in many ways. There is the reluctance of people to come forward as witnesses. There is, I say it with regret, a reluctance on the part of the courts to pass really deterrent sentences. And there is the general failure to realise the gravity of these incitements. I hope that the Council will show by its decision on this resolution that it agrees with the view taken by Government that really deterrent sentences are required to check this constant flow of incitement to violence. As regards the delays of the law, these have been the subject of remark and comment by skilled lawyers from every country who have visited India. One is sometimes forced to the conclusion that there is too much law in this country and too little order. The codes in India supply enormous possibilities for delay of which the ingenuity of counsel is quick to take advantage. We have cases within the knowledge of every one in this House, a case where a brutal double murder was committed of two Government officers within a few hundred yards of where we sit. That happened more than two years ago and to this day the men found guilty of that crime have not paid the penalty. Can anybody defend a system which can tolerate or encourage delays of that kind?

Sir, this resolution asks that steps should be taken forthwith to cope adequately with anarchical crime. But I regret to say that excellent as has been the spirit shown in this debate, general as is the realisation of the gravity of the peril, and the sympathy with Government in its difficulties, the number of practical suggestions put forward has been singularly few. I do not want to pretend that we are doing all that could be done. The point that I make is that we are doing all that it is within our power at the moment to do. But I wish to make a statement—I make it with every sense of its gravity, and a full sense of my responsibility—that if the situation continues to deteriorate as it has done in the last few months, if, day by day we are confronted with fresh evidence not only of revolutionary outrages but evidence of constant incitements to outrage, the formation of constant new gangs with the object of committing outrages, then we shall have most seriously to consider whether Government should not arm itself with additional weapons for dealing with this deadly menace and whether it should not come to this House with a request for greater legal powers than it has now. When I introduced the Bill that was passed into law as the Punjab Criminal Procedure Amendment Act last November, the Government deliberately refrained from asking this House to pass the second part of the Bengal Act on which our Bill was modelled. That part, as many members of this House must be aware, gives the Government power to intern people suspected of complicity in terrorist crime. There is no trial. It is admittedly a special measure designed to meet a grave emergency. Suspects can either be interned in jail or restricted to reside in one particular place or in a specified area or compelled to report their movements to the police. The papers on which Government has taken action, all the material is submitted to the scrutiny of a bench of two sessions judges within one month of the orders of the Government being passed. The person interned does not appear before that bench and he cannot be represented by counsel. If the bench considers the order of Government is justified, there is no appeal. That is a very drastic measure and I hope it may not be necessary

in the Punjab. It has been in force in Bengal for some six years. It is doubtful whether Bengal can now claim priority over the Punjab in its list of anarchical outrages. As I have said, if the situation continues to deteriorate it will be our duty to consider very seriously whether we shall not have to introduce a measure of that kind in the Punjab. There are other possibilities which such circumstances may force upon us. There is a Murderous Outrages Act, which I think, is in force or was recently in force on the Frontier, (*The Honourable Sardar Sikander Hyat Khan*: It is still in force on the Frontier). And there is an old Act dealing with fanatical outrages in the Punjab. That I think is not in force now but it is a measure of a sternly drastic character, by which a trial can be held immediately by the Commissioner, or the Deputy Commissioner or the Sessions Judge, who can pass any sentence authorised by law and can direct its immediate execution. That again, as I see, is a measure, which we should introduce with the greatest possible reluctance, but to which the circumstances may compel us to have resort. I hope, Sir, by its attitude on this resolution to-day the House will show that should it be necessary to take special measures of this kind the Government will have this House at its back. As I have said, if we have to do this, my prayer is that we may not, we should do this with the greatest reluctance and only if we see that no other course is feasible, no other way of crushing this abominable menace is possible. If the public generally act on the advice given by so many speakers to day, if public opinion concentrates in condemning not only the perpetrators of these outrages but those who incite them, then no special measures should be necessary. Finally, I would like to express the hope that every member of this House will himself do what is possible to act on the advice, will himself do what he can to encourage public opinion to condemn these outrages and their perpetrators, to condemn, what I fear, a large section of the public is at present too timid to condemn and too ready to condone. Let it be remembered that the intention of these conspirators is by dacoity, by murder and by other crimes to terrorise the Government and its agencies and to make Government in this country impossible. That is the creed of the anarchist all over the world. The movement is one subversive not, as is sometimes represented, of British Government,—we have not got a British Government in India now,—the movement is subversive of any Government. Anarchism means a system without a Government. Let every member of this Council do his best to show that he does not share the mistaken view of those who look upon these young men as innocent patriots with perhaps slightly wrong ideas or misdirected zeal. Let every member of the Council do his best to remove that delusion, for it is a pure delusion. These men are not patriots, they are, on the contrary, enemies of civilization and of progress (*hear, hear*), they are the enemies of any form of organized Government, whether British or Indian, they are definitely working against those—and I know there are many in this House, in fact I hope I may say, all in this House—who ardently desire to see the progress of this country. These men are your worst enemies and their activities are doing more to retard the progress of this country than any other force that can be conceived. Their object is to get away from any system of organized Government and to make Government impossible. We are being told that one of the steps to be taken to check anarchical crime is conciliation. 'Let us throw the bomb of conciliation' one honourable member said. Conciliate! you might as well conciliate a mad dog or a wounded tiger

[Sir Henry Craik].

as conciliate these people. To talk of conciliation is moonshine. They are not to be conciliated. Sympathy with them is entirely misplaced, and to talk of sympathy and conciliation merely encourages them to further efforts. It is the duty of all good citizens, of all soberminded men to combat this dangerous and disruptive movement, and to do everything in their power to stir popular opinion against it. Above all let me implore the members of this House to show their utter condemnation of these people who either on the platform or in the columns of the press or by any other method, while lacking the courage to come forward themselves, from a safe back-ground, incite these pliant tools to their desperate acts. Let me remind you of the words of the poet about people who acted in a similar way in Ireland in the old unhappy days of the Fenian Movement :

“ They only said ‘intimidate,’ and talked and went away ;

By God, the boys who did the deeds were braver men than they !”

(*Loud cheers.*)

Mr. Nanak Chand Pandit [Hoshiarpur (Non-Muhammadan), Rural] : Sir, I regret very much that the Honourable Finance Member who has just sat down started his speech by an attack on members who sit on these benches. He gave an instance of what a hasty judge would do without hearing the other side. So far as I am concerned, I owe it to the House that I should give my reasons why I have been quiet for such a long time. You know that I was one of those who sent in a resolution condemning the outrage that occurred in the University Hall, expressing sympathy with the Governor of the province and congratulating him on his narrow escape. That resolution was sent in by me as also by a number of other members of my party. The next day I received a resolution standing in my name entirely different in spirit and form from the one which I had sent for the consideration of this House. When that resolution came to me I drafted an amendment which, with your permission, I read, not with the object of moving it at this stage but just to explain what that amendment was—

That this Council views with alarm the growth of anarchical crime in the Punjab and recommends to the Government to appoint a committee to investigate the causes of the steady growth of this kind of crime and to suggest remedies for the same; the report of the committee to be submitted by the 15th of March 1931 the committee consist of two official and three non-official elected members of the Council to be appointed on the recommendation of the elected members of the Council.

I was the first man to rise in order to know whether I would be permitted to move this amendment. I was told by the Secretary that perhaps it was not quite in time. That was one of the reasons why I thought that the talk will be very long till tomorrow and perhaps this amendment would be in time then.

Mr. President : Even then it would be out of time.

Mr. Nanak Chand Pandit : However, Sir, that was the impression that was in my mind. The second point is this. I waited to speak, and I may tell the Honourable Finance Member that even when I spoke on the first day of the Criminal Procedure Amendment Bill, I was the last to speak, because I liked to hear other members and there is a complaint on our benches that the people who sit on the front benches generally monopolize speeches and others are not given time to do so. I have got my notes on this very resolution and I wanted to make a speech and tell the Honourable Finance Member what my feelings on this subject were

Mr. President : The honourable member has complained in a way that he gave notice of a motion to condemn the outrage committed in the University Hall on the 23rd December 1931 ; that that resolution was not admitted and in its place another resolution was admitted in his name, and that he refused to accept or be a party to it.

Mr. Nanak Chand, Pandit : My resolution did not condemn any person at all ; it only condemned the outrage. I understand that some arguments were given before you which wanted to throw the burden of the outrage on a particular individual.

Mr. President : Has the honourable member read the rules under which I disallowed his resolution ?

Mr. Nanak Chand, Pandit : I have.

Mr. President : Will the honourable member please quote the rule ?

Mr. Nanak Chand, Pandit : The rule relating to matters *sub-judice*. I was trying to express my sympathy with the Governor by means of the resolution and congratulating him on his narrow escape.

Mr. President : The honourable member is shifting the ground. He wished to say that he wanted to condemn the outrage. Has it been proved judicially that an outrage was committed ? It may have been an insane man's act.

Mr. Nanak Chand, Pandit : It may have been an accident, the man may have been shooting himself.

Mr. President : If that is so, what did the honourable member intend to condemn ?

Mr. Nanak Chand, Pandit : Even if a person commits suicide he is to be condemned. I go so far and I am ready to argue this point that my resolution is perfectly in order though you have ruled it out of order.

Mr. President : I shall be glad to discuss the point with the honourable member if he comes to my room.

Mr. Nanak Chand, Pandit : I am ready to discuss this point and say that my resolution, which I drafted very carefully, could not have been ruled out on this ground.

Mr. President : Was it as carefully worded as the amendment which the honourable member now wishes to move.

Mr. Nanak Chand, Pandit : I do not know, I drafted this amendment in haste.

Mr. President : I rule that the amendment does not satisfy the time limit. Two clear days' notice was necessary.

Shaikh Abdul Ghani : Is this all in support or in contradiction of the resolution before the House ?

Mr. President : As the honourable member may take it.

Mr. Nanak Chand, Pandit : I am yet going on with my speech.

Mr. President : The honourable member will speak on the resolution when the Council meets again at 2 p. m. to-morrow.

The Council then adjourned till 2 p. m. on Saturday, the 17th January, 1931.

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PUNJAB LEGISLATIVE COUNCIL.

1ST SESSION OF THE 4TH PUNJAB LEGISLATIVE COUNCIL.

Saturday, the 17th January 1931.

The Council met at the Council Chamber at 2 P.M. of the clock. Mr. President in the chair.

MOTION FOR ADJOURNMENT.

FALL IN PRICES OF AGRICULTURAL PRODUCE.

Mr. President : I have received the following notice from Rao Bahadur Chaudhri Chhotu Ram :—

“ I beg leave to move that the Council be adjourned for the purpose of discussing the steps which should be taken to protect the interests of the Punjab in view of the unprecedented fall in the prices of agricultural produce.”

The Honourable Captain Sardar Sikandar Hyat Khan [Revenue Member] : Sir, I do not wish to oppose the motion for adjournment, but I think that the matters which it is sought to discuss are not such that they cannot wait till the budget session. As the honourable mover of this motion is aware, Government has already done a great deal to minimise the effects of the present economic depression on agriculturists and others in the province. So far as the question of relief to zemindars is concerned, we have already made large remissions in the *kharif* both in land revenue and *abiana*. As regards next *rabi* there is plenty of time yet, and it would be premature to consider the matter now. As a matter of fact we would be merely wasting time, as it is impossible to anticipate conditions and position in *rabi* with a view to afford relief by way of remission or otherwise. And I think other matters also can suitably wait till the budget session. The present session, as you are aware Sir, was fixed for discussion of non-official business on the request of a large number of members, who particularly desired to discuss the resolution about anarchical outrage. I can at the same time give an assurance to the honourable mover that Government is giving the fullest consideration to the various aspects of this problem and, may be in a position, when we meet for the budget session, to make definite statements on certain matters regarding which we are in correspondence with the Government of India. I hope this will satisfy the honourable mover.

Rao Bahadur Chaudhri Chhotu Ram [South-East Rohtak (Non-Muhammadan) Rural] : Sir, I do not think that any harm will be done by discussing this matter at present. The budget session is, generally speaking, the most crowded time of the year and if this matter is to be discussed during the budget session, it will mean the curtailment of the ordinary time which is allowed for the discussion of non-official questions. I, therefore, submit that now that the Council has met, it will be just as well to discuss this matter either to-day from 6 to 8 P.M. or on Monday at some time which may suit the convenience of the Council as a whole. This is a matter of the utmost vital importance to the province now.

Mr. President : One of the restrictions subject to which a motion for adjournment can be allowed is that the matter must be of recent occurrence. Is the unprecedented fall in the prices of agricultural produce, a matter of recent occurrence ?

Rao Bahadur Chaudhri Chhotu Ram : It is a matter of recent occurrence in so far as these low prices of agricultural produce have become a settled feature of the economic position in the province in the last few days. Of course there was a slump in prices in the last summer, but it was thought at the time that that might be only a passing phase of the economic situation. It is only now that we have realised that this low level of prices has made itself a definite and settled feature of the economic situation and therefore I submit that the matter may be discussed to-day or on Monday.

Mr. C. A. H. Townsend [Financial Commissioner]: Sir, the honourable member for Rohtak said that low prices are a settled feature of the economics of this province. Prices at present are, of course, very low. But I think the honourable member is pessimistic in saying that low prices are a settled feature of the economic life of the province. I do not think that prices will remain at their present level for ever. This is the only point I wish to make.

The Honourable Captain Sardar Sikandar Hyat Khan : As I have already mentioned I have no intention of raising any technical objections to the introduction of this motion. My reason in asking for putting off the discussion till the budget session is that there are certain matters about which we are at present in correspondence with the Government of India, and regarding which we are not in a position to make any statement at present.

Mr. President : Does the honourable member wish to make a second speech ?

The Honourable Captain Sardar Sikandar Hyat Khan : I merely wanted to explain and amplify the reasons which I put forward earlier.

Mr. President : I am afraid I cannot allow a second speech.

The Honourable Captain Sardar Sikandar Hyat Khan : I merely want to mention certain facts which might help in influencing and persuading the honourable member to withdraw his motion.

Mr. President : If the honourable member can do so only by making another speech I am afraid I cannot allow him.

The Honourable Captain Sardar Sikandar Hyat Khan : I wish to raise another point.

Mr. President : It may be raised by another member of Government. I cannot allow the honourable member to speak twice.

The Honourable Sir Henry Craik [Finance Member]: Sir, the honourable member for Rohtak suggests that in the budget session the House will be pressed with a mass of business and it will be difficult to find time to discuss this very important subject. I can assure the honourable member that if need be, Government is prepared to set aside a day for the discussion of this question.

Mr. President : But under the rules the motion can be discussed either to-day or on the day on which the Council meets next.

The Honourable Sir Henry Craik : I mean to say that if this subject comes up for discussion in the budget session in the form of a resolution, Government will be glad, if the House so desires, to set aside special time for its discussion. As for the honourable member's statement that he only recently became aware, or that he only recently realised the fall in prices and the extent to which the interests of the Punjab are affected by the general economic depression, I can assure the honourable member that Government realised it many months ago and that ever since then the matter has been engaging the constant and vigilant attention of the Government.

Shaikh Abdul Ghani [West Punjab Towns (Muhammadan) Urban] : Sir, with due deference to your views as to the legality of this adjournment motion.—

Mr. President : I have not expressed yet any view as to the legality of the motion.

Shaikh Abdul Ghani : You just now referred to the restriction to the moving of adjournment motions. With respect to that I should like to point out that this session came to many of us as a surprise and particularly to those of us who are at a distance from the headquarters of Lahore. Some of us were not even at the headquarters of our constituencies when we received the notice of this meeting.

Mr. President : The honourable member will please come to the point.

Shaikh Abdul Ghani : I am coming to the point. I am explaining to you that this is a matter of a recent occurrence in the sense that this session commenced only yesterday and many of us had not enough time to send notice of a resolution in time, because the notice of this session was too short.

Mr. President : May I remind the honourable members of the House that the prices were lower in the months of June and July than they are to-day. The Council met in July at Simla and in October in Lahore and the adjournment motion now proposed to be moved could have been moved in either of those sittings.

Shaikh Abdul Ghani : Nobody realised that cotton would be going so low after it was harvested and nobody could have thought, as my learned friend submitted, that this would be a sort of a permanent feature. That is why I submit technically there should be nothing in the way of bringing forward this adjournment motion. After all, you are holding an extraordinary session now and this is only the second day of the session when my honourable friend the mover brings forward this adjournment motion.

Mr. President : Does any honourable member object to the motion being allowed ?

The Honourable Captain Sardar Sikandar Hyat Khan : I have objected to it.

Mr. C. M. G. Ogilvie [Home Secretary] : Sir, I should like to point out that in proceeding to discuss this tremendous problem we might in some respects be spoiling our own chances, as some aspects of it, some extremely important aspects, are even now under the consideration of the Government

[Mr. C. M. G. Ogilvie.]

of India and under correspondence with this Government. We cannot now state what those aspects are, but the House can be sure that they are extremely important. It is probable that at the time of the budget session we may be able to say what the Government of India have provisionally decided. It is, therefore, in the interests of every one of us to wait till then. (*Hear, hear*).

Mr. M. A. Ghani : So far as the rules are concerned, we have to see whether the motion relates to a matter of recent occurrence. So far as I can see the recent occurrence is that prices of wheat and other articles are going up and not going down. Wheat was selling at sixteen seers per rupee about a month ago. It now sells at 12 seers. In view of this factor, I think the adjournment motion ought not to be allowed.

Mr. President : Has the honourable member the leave of the House to move the adjournment? (*More than 20 members rising*).

Mr. President : The leave is granted and the motion will be taken at the conclusion of the business of the day.

RESOLUTIONS.

RESOLUTION *re* ANARCHICAL CRIMES—*concl'd.*

Mr. Nanak Chand, Pandit [Hoshiarpur (Non-Muhammadan) Rural] : Sir, yesterday I had just begun by expressing my regret at the attack levelled at our party by the Honourable the Finance Member. There were two points which he placed before the House and from which he wanted the House to infer that the loyalty of the members on this side of the House and their devotion to the constitutional principles were open to challenge. (*Lala Mukand Lal Puri* : Was any particular side of the House referred to ?) The Honourable the Finance Member referred to the sparseness of the benches on this side and the sparseness of speakers. I just wish to place the actual facts before the House and leave the House to draw its own inference. There are 21 members of our party. (*An honourable member* : Which party ?) The National Reform Party. Out of 21, fifteen members were present yesterday. Of course, they were not present in the House all the time but were occasionally going out and coming in, as many of us usually do. If the honourable member wants, I shall give the names. But I do not wish to waste time. Out of those who were not present, one is engaged at the Round Table Conference, another is in Calcutta—and I may say his father is a C.I.E.—a third was engaged in a professional case at Amritsar. A fourth was ill but is present to-day without any telegram being sent to him, and a resolution stands in his name which suggests that he was in sympathy with this resolution. There was one gentleman about whom I know nothing at present. On all occasions if one would only look at the debates one would find that the attendance yesterday was larger than our usual attendance unless of course a whip is issued when the whole party is present. That is in point of attendance. The Honourable the Finance Member went on to say that there were few members who spoke from this side. There were two questions which came before the House yesterday. With regard to the first which was initiated by you, there

were four members who could not speak, three because they have never spoken in the House before and one because he is now on the Government benches. There were thus eleven members left, out of whom ten actually spoke regretting the outrage and condemning it and congratulating His Excellency on his escape and expressing sympathy with him in his trouble. With regard to the second point, the resolution under discussion, four members spoke from our side. The honourable member from Lahore, (Chaudhri Bansi Lal) had made his suggestion in his first speech and there was no necessity for him to make a second speech. He said that he wanted the whole families of the anarchists to be destroyed not merely the actual murderers. Thus really five members spoke on the resolution from this side as against six from the party on the other side, the favoured party of the Honourable the Finance Member with a strength double that of ours.

The Honourable Sir Henry Craik : On a point of personal explanation, Sir.

Mr. Nanak Chand, Pandit : I do not give way. I request that I should not be needlessly interrupted.

Mr. President : The Honourable Finance Member will please wait till the honourable member who is now speaking has finished.

Mr. Nanak Chand, Pandit : I was saying that the Honourable Member was perhaps under a misapprehension that every member should speak before the Government Member spoke. That, I submit, is entirely wrong. We have the constitutional right to speak after the Government member has spoken.

Pir Akbar Ali : May I know on which resolution my honourable friend is speaking ?

Mr. Nanak Chand, Pandit : A slur has been cast on the loyalty and integrity of members on this side of the House.

Mr. President : The honourable member is in order in replying to certain aspersions which he thinks have been cast upon his party. But I may remind him that many members wish to speak and I do not propose to give him more than fifteen minutes out of which he has already taken eight.

Mr. Nanak Chand, Pandit : I should submit that it would be unfair if I am not permitted to reply to the speech of the Honourable Sir Henry Craik when he has made certain aspersions on the loyalty of our party and criticized our devotion to the constitutional principle for the redress of grievances. There was no limit of time fixed yesterday to the speeches made and I would beg of you to extend the same indulgence to me on the ground that I had already begun to speak yesterday and am not a new speaker for to-day to whom you may apply any such limit.

Mr. President : Extension of the limit would depend upon the speech of the honourable member himself. If he simply wants to reply to the so-called aspersions I will have to consider whether I should show him the indulgence or not.

Mr. Nanak Chand, Pandit : That is true. I submit that before a responsible Member of the Government gets up to cast aspersions on a section of the House which through thick and thin has stood by constitutional

[Mr. Nanak Chand, Pandit.]

principle, he should think twice before he makes such allegations or insinuations. In times of stress and keen agitation as against those people in the country who have favoured the civil disobedience movement, as against the extremist section of the people, these honourable members have fought hard and have come to this House showing their loyalty to the constitution. I would submit this for the consideration of the Honourable the Finance Member that he should learn the art of making friends for the Government. If he cannot do that, he should at least try to unlearn the art of losing friends of the Government. Let me say in the most solemn words that there is no member on this side of the House who does not condemn in the strongest possible language the diabolical crime which has disgraced the history of the Punjab to-day. When we heard of the murder of an innocent English woman and her two children, there was a thrill or horror throughout the length and breadth of the province. This is the work of a lunatic, of a person who is morally depraved, a person who has lost all intellectual sense of things. How could one possibly expect that people who had on more than one occasion shown their sympathy with constitutional agitation alone look upon such a man and a crime of this kind with sympathy? While on the one hand I condemn all these outrages I also condemn the speeches from the Government benches which lead people to sympathise with such crimes. If there are extremists on the one side there are extremists on the other too, and if any responsibility is to be traced for these diabolical crimes it is the extremists on both sides at whose doors the blame must lie. (*An honourable member*: Why?) Because the speeches of the kind which are made calling leaders of public movement bad men and mad dogs are not going to win their sympathy. People may differ from you, yet you must treat them with respect and consideration. So far as the revolutionaries are concerned, the Honourable Member dealing with the argument of my honourable friend, Chaudhri Allah Dad Khan, said 'Compromise? It is possible to have compromise with mad dogs but it is not possible to have compromise with these men.' If the honourable member was talking of revolutionaries, they do not seek any compromise. They are out to destroy. But there are others, leaders of public opinion who must be conciliated by Government.

Shaikh Abdul Ghani: All that was about anarchists. I said, compromise with them.

Mr. Nanak Chand, Pandit: I seek your indulgence that I should not be interrupted like this. The Honourable the Finance Member stated that there were various causes for this encouragement of crime. One was the leaders, the other, the press and the third, the courts which do not give deterrent sentences and a fourth was, witnesses not coming out to give evidence. Those were the causes according to the Honourable Member which encouraged the growth of anarchical crime. It is high time that the Honourable Member revised his judgment with regard to these matters. This is a situation which I submit is the most complicated and which challenges the ingenuity of all of us, and if I may be permitted to say this, I should say that this is a matter on which we cannot have Sir Henry Craik as an authority or any other single individual. This is a matter into which the Government must go thoroughly. Various members have suggested various causes which have created the present upheaval and increased anarchical crimes. How can I accept the

Honourable Sir Henry Craik's word that the courts do not give deterrent sentences and that that fact encourages the crimes? How can I as a member with due regard to constitutional principles, as a person who owes allegiance to the Crown, believe that the very courts where justice is being dealt are one of the causes of the instigation and encouragement for these crimes. (*An honourable member* : That was never said). The Honourable the Finance Member said that the courts did not give deterrent sentences.

Well, Sir, there was another member who is absent to-day, but he received a whip to be present here, that absent member also cast aspersions on the loyalty of those who were not prepared to support Government Members in their entirety just as he himself did. Sir, I would ask him, he is not here and some of his friends will tell him, I ask him this. Some years ago the Government adopted certain measures for the suppression of crimes, they proclaimed martial law in Gujranwala, they handcuffed Mr. Labh Singh and the honourable member, I mean Mr. Din Muhammad, and paraded them through the streets of Gujranwala proclaiming Hindu-Muslim unity in fetters. If the Government to-day come with a measure of this kind before the Council, shall we not be entitled to tell the Government that we could not support it? Supposing Government came for our approval for issuing a crawling order which should be obeyed as was done in Amritsar? Would the Government be justified in asking us, the representatives of the people of this province, the custodians of their liberties and their rights, to give our consent to such orders? Should we give our consent to other similar orders promulgated in the name of law and order during those days? If Government came to-day with measures of this kind should we be right in supporting them? Sir, I say most emphatically that we would be traitors to the interests of the people who have sent us here. We are not here to obey the mandates of the executive Government, we are here to help the cause of the people and to put their case before the country at large, to represent them in the best possible manner before the powers that be. Now, Sir, this honourable member then gets up and says, because a number of people have not throughout supported the Government in the Criminal Law Amendment Bill, therefore, they encouraged these crimes, therefore they are responsible for the increase of these crimes. A reply is contained in what I have said above. If any legislative measure of this kind or any other measure comes before this House we are entitled to and we will do our best to examine it carefully. If it is a reasonable measure we will lend it our support, if it is an unreasonable measure we will fight it tooth and nail, let the Government think about it whatever it likes. We are not here to give our adherence blindly to measures of this kind, and I am very pleased that one very prominent and able member sitting on the other side of the House said that this resolution which is being talked about to-day is an indefinite and a vague resolution. If by supporting this resolution is meant the condemnation of the anarchical deeds, then, I support it, but if by support is meant the support of the Government in any kind of measures that the Government may bring, I am not to give my support to the resolution. Sir, the statement made by Mr. Abdul Ghani, a representative from Sargodha, contained commonsense and the view of all the members of this side of the House. If it is a measure which is a reasonable measure, a measure which we in justice and conscience and according to our reason can agree and support, we

[Mr. Nanak Chand, Padit.]

will give it our whole-hearted support, but if it is a measure which ropes in innocent persons and which is likely to bring trouble to people who are not connected with crimes of this sort, we will fight it tooth and nail. Let the Government think what they like, about us and the measure.

The Honourable Captain Sardar Sikandar Hyat Khan : Although innocent people may be murdered ?

Mr. Nanak Chand, Pandit : Another luminary of the Punjab Government says that if innocent people are murdered then there should be no reason why innocent people should not be roped in. This exactly is the proposition which my friend by his interruption wants me to accept. (*Official Members :* No, No.) I say even then we will oppose it. Yes, this is a statement which we will never accept. Even if innocent men are murdered we will not be a party to putting innocent men in jail. That is not a principle accepted by any civilized country and we should be traitors to civilization and our culture if we gave adherence to a statement or measure of this kind which brings in innocent men and under which innocent men are roped in. But I have said that if it is a reasonable measure it will have our support. Well, Sir, then there was a third member who spoke from our benches. Three speeches, three very notable speeches were made making very definite suggestions. One was of the Honourable Sir Henry Craik, the other of my friend Mr. Din Muhammad who is absent to-day and the third came from the benches behind me from Chaudhri Bansi Lal who said that if you find a person being shot, you should not only shoot the person who is guilty of murder but his whole family should be destroyed. This is a reasonable suggestion and I hope the Government members will accept it and the speech made by the Honourable Finance Member falls into line with the speech which my friend sitting at my back (Chaudhri Bansi Lal) made. I make a present of it to the Government. I submit that these are not the times when you can ask 28 crores of people to be governed in the old Nadir Shahi ways. The world has advanced further. People realise their responsibility. They know what is what and they would like to examine what Government places before them before acceptance and what other people have to say about these measures. So, I submit that if there are diabolical crimes of this kind, the Government and those who are responsible for the Government must not lose their heads. They must in calmness ponder over a very serious situation which is not only troubling India to-day, but is troubling America, Russia and many other European countries of the world. There is the growth of anarchical crimes in all these places and it is no use losing your head and I would request the Honourable Finance Member to look at the example of our popular Governor himself. He could have ordered the massacre of the innocent people after the shot had been fired at him but like a true and just Englishman, a brave man and a gentleman he passed on to do his work. Lord Irwin's train was bombed, but the noble Lord was not perturbed, but went to the Committee where the talk of compromise was to take place with the Congress leaders. Lord Hardinge when he was bombed, calmly carried on his duty. It is on account of these men that the Empire lives. It is on account of these men that England grows bigger and greater in the moral stature of the world. But if the administration was put in hands of men who can get excited over these matters whose brain loses the

power of thought and judgment, who cannot calmly deliberate over important questions in times of stress and trouble, then would be the day when England will lose its empire. It can never rule and I would, therefore, submit that instead of making these exciting speeches, instead of trying to follow a policy of repression, follow the policy of reconciliation through and through, at the same time punishing those only who deserve punishment. Then only can you solve this problem. Do we not realise that to-day the hands of the murderer are raised against the British officials or Indian officials, to-morrow they would be raised against private individuals as well? Do we not know that only a few days ago a bomb was thrown at the Principal of the Khalsa College? Do we not think that these bombs would be used in dacoity and do we require Sir Henry Craik to teach us these things? (*A voice*: Yes). No, not at all. We are men who move with eyes open. We take note of facts and remember them. We do not condemn people by saying that on their side there has been the silence of sparsely populated tomb, we do not make suggestions of this kind, when we find so many people condemning these outrages. I would submit, therefore, that it is a matter which requires calm and cool consideration and, therefore, I think that if we could have a committee to consider these causes and make definite suggestions, it would be a step gained. But I do not think it is necessary for me to move that amendment which I wanted to move and I do not want to harass the Government in any way. I only want the Council to go to the very root of these troubles and when we have gone to the root then only we would be able to find out the true remedy. You should not go into hysterics. You should not try to threaten people by all sorts of threats of the means which you now possess and which the revolutionary people are possessing imitating the example of others. It is known history that this bomb came to India through the channel of western civilization. It was spread in the villages on account of those returned soldiers. It is known history. (*A voice*: No.) It was used in the Hoshiarpur district in many dacoities and it was found that it was a military bomb. Who are you then to cast aspersions on the civilization and culture of India as propounded to-day by Mahatma Gandhi, the apostle of non-violence? Had not Mahatma Gandhi proclaimed non-violence, you would have seen bigger and more serious spread of anarchical crimes than you see to-day. Though I am not a believer in civil disobedience movement, I am a believer in non-violence. I am a believer in the theory of co-operation. I do not believe in Mahatma Gandhi in non-co-operation, but if there is one contribution which he has made to politics it is this policy of non-violence. Non-violence, even Government benches will have to accept one day, otherwise the western civilization will be destroyed by these scientific and devilish inventions, the dreadnoughts, the torpedos, aeroplanes gases and various other means of destruction which are being found out and invented to-day for the destruction of mankind. Let Sir Henry Craik pause and ponder over these words.

Mr. Owen Roberts (Nominated non-official): Sir, the honourable member from Hoshiarpur proclaimed yesterday, I think that it had been his intention all along to speak on this motion. My own intention was the other way round. It appeared to me from the wording of the resolution that it had been so narrowed down as to leave the matter open to lawyers to argue, but the speech made by the Honourable Finance Member yester-

[Mr. Owen Roberts.]

day has placed quite a different complexion on the subject from the point of view of my community. I have arrived at certain conclusions on that speech and in order to give him an opportunity of contradicting me if I have got my facts wrong I propose to go over some of the grounds of the speech very shortly. He commenced I think by quoting the number of outrages that he had referred to in his speech on the Criminal Procedure Amendment Bill and went on to tell us that in the two and a half months following that Bill 17 further outrages had been committed. He then referred to the police organization with which Government dealt with the movement. He told us the number of men in Lahore and he made references to the police establishments in Amritsar, Delhi and Jullundur and in the course of so doing paid these establishments a well deserved tribute on account of the heroism of many of the acts performed by individuals connected with them. But the particular reference to which I must draw attention is the reference which he made to the capture of the revolutionary armoury in Delhi. I will ask honourable members to bear that in mind. He next traced a direct connection between the civil disobedience movement and revolutionary propaganda and to the outrages. In explaining my conclusions I am departing from the strict order in which he dealt with the subject. He traced the agitation through speeches on public platforms, the press, propaganda, and finally the Congress meeting held in Lahore in December 1929. In the matter of platform speeches it is necessary to divide them into two sections—speeches which were delivered in the province and speeches which were delivered outside the province. In connection with those delivered outside the province—I presume that all of the following except one were delivered outside the province—he quoted speeches by Pandit Jawahar Lal Nehru, one of which was delivered within the province, one by Mr. Sen Gupta, and a third which was delivered by an individual whose name I was unable to catch, who spoke at Allahabad on the 8th of October. In the second category, I presume, come the speeches of Dr. Alam, Dr. Satyapal and Dr. Kitchlew. That is to say, they were speeches delivered in the province and that it would be the local Government which should have taken action against those people. He further stated in carefully weighed sentences that these speeches extolled murder and violence and thereby directly invited people to commit these crimes. Coming to the press we again have two divisions. There are the papers outside the province for which the local Government is not responsible and there are the papers within the province for which it does carry a degree of responsibility. Under the first of these groups he referred to five Bengal papers and their comments on the outrage in the Convocation Hall. Under the second, he referred to direct incitements to violence by certain classes of journals and particularly named one journal—the *Partap*.

Then we come to propaganda. Under this head he classified processions and public meetings where convicted persons are praised and their crimes extolled by the exhibition of their pictures on banners as national heroes, the free sale of copies of their pictures and under the same head organised and deliberate abuse to the police. The Honourable Finance Member remarked here that the effect of this propaganda on the police was that the extolling of criminals whom they had brought to justice was felt a great deal more by them than the abuse of themselves and their families.

I come finally to the Congress of 1929. The Honourable Finance Member said in so many words, if I heard him correctly, that the intensive campaign in this province dates from the All-India Congress meeting in Lahore during December, 1929, and attributed this movement to the Congress. Pandit Jawahar Lal Nehru is said to have stated there that they should be proud of Bhagat Singh and Dutt, and further that if in future non-violent methods appeared preferable the Congress would adopt them.

Now, Sir, it is my feeling that in making this speech the Honourable Finance Member has either said too little or too much. We have it from him authoritatively that there has been direct incitement to crime in this province through the sources that I have mentioned, and he has quoted specific instances in many cases of statements and acts which Government regarded as direct incitements to violence and crime. I would like to know whether Government can say in respect of each of these specific instances that he quoted that the law was put into motion against the individuals. (A voice : The law could not touch them). We ought to be told what was done in the case of each of these instances within the province that Government has declared to have been illegal and improper and incitements to violence. The importance of this information lies in this fact that if those things have occurred and if Government has not taken action, then Government stands self-condemned, and the speech of the Honourable Finance Member amounts to the strongest indictment of Government that I have ever heard in this Council. We are said to have the gift of being too late. I admit it ; the honourable member's speech has brought home to us the fact that we are too late.

Then the honourable member referred to the force and the use of public opinion in this matter. Is there any better test of public opinion than to come before this Council with a measure asking for additional powers, and have those powers ever been refused ? These are questions that I will leave Government to answer.

I come now to the subject of conciliation. If conciliation is to be defined as a passive submission to law-breaking, then I submit that it is a definition which you are going to find extremely difficult to force down the throats of injured people. It is neither conciliation nor government. I will ask the Council to follow the statement of the Finance Member attributing this wave of anarchical crime to the meeting of the Congress here in December 1929. As a resident of this city, as a man who has lived all his working life in the Punjab, it was always a matter of pride to me that the All-India Congress meeting passed off without a hitch. But, Sir, if Government hold the opinion that has been expressed by the honourable member about the words used by Pandit Jawahar Lal Nahr, and have failed to take action then the price which we have paid for this peaceful Congress is too high. In making up this price you must add in the blood of a helpless woman and include the honour of a province. The Honourable Member must either further explain what he has said, or some other Member of Government must do so, and tell us how the infringements of the law have been dealt with or else he must accept the position that Government has failed in every respect to carry out its duty towards law-abiding people. I am not squealing for my own community. I claim to speak on behalf of every law-abiding and decent person in this province. I am not one to ask for repressive

[Mr. Owen, Roberts.]

measures where they are not necessary ; I have no desire to see this province or any part of India police-ridden, but as one who obeys the law I do claim that we must have both the law and the quantum of protection necessary to make life liveable, and property secure wherever, we are under the British flag.

There are two last points on which I must touch before I conclude. Whatever degree of doubt, if any exists, there may be on the point of the responsibility of the civil disobedience movement for these deeds of violence, there will certainly be no contradiction of the fact that the civil disobedience movement is directly responsible for the strangling of certain classes of trade. This is one of its proclaimed weapons, and I was told yesterday by an honourable member of this Council, to whose opinion I attach very great weight, that a great deal of the present disturbance arises out of unemployment. Sir, it is for the first time in my life that I have heard that strangling commerce is a method of increasing employment, and those who adopt this method must take full responsibility for its consequences.

Is not Government aware of the fact that it is a common pastime of the youth of this city to use the telephone, a state instrument, in order to threaten people with murder ? They must be aware that there is hardly a man of my community in this room now who has not been threatened with murder by anonymous letters.

Mr. Nanak Chand, Pandit : I hear it for the first time.

Mr. Owen Roberts : I am extremely sorry.

Mr. Nanak Chand, Pandit : At least I have not been threatened. (A voice : Nobody thought it worthwhile to threaten you).

Mr. Owen Roberts : The honourable member claimed a while ago to be well informed, but he has fallen enormously in my estimation as a well-informed man. I shall be very pleased to show him anonymous letters, in fact I received one not so long ago, and the obvious injustice of the thing struck me. One of my partners had done something of which one of these gentlemen did not approve and the consequence was an anonymous letter threatening me with death first and then him. I would have been contented if it had been the other way about, but there was an element of injustice in threatening to kill me first ! These things are going on all around us and it seems to me that the time for mere talk on this subject has passed. I have a right not only on behalf of my community but on behalf of every law-abiding person to insist that Government will see that they stop.

I have one more point to touch on. I refer to the resolution tabled yesterday by my honourable friend Mr. Nanak Chand, Pandit. In this connection I would like to draw the attention of the Council to two things. The first of these things is this, that he proposes a committee.....

Mr. Nanak Chand, Pandit : Which resolution is the honourable member referring to ?

Mr. President : Probably he is referring to the Honourable Pandit's amendment which was not moved.

Mr. Owen Roberts : That amendment illustrates a certain phase of the question as it affects me. The committee which the honourable member

wanted to form was to consist of two officials and three non-official elected members of the Council.

Mr. Nanak Chand, Pandit : I rise to a point of personal explanation.

Mr. Owen Roberts : If he had allowed me to continue he would probably not have objected. Incidentally in the last sentence he makes a suggestion which would deprive all nominated members of their constitutional right to vote in this Council. However, I leave that aside. But in future, Sir, I make a claim that if any committee is appointed in this Council which deals with the question of public safety or with questions directly relating to my community, then my community shall receive direct representation (*Hear, hear*). If Government fails to see its duty in the matter, then, Sir, I must appeal to you to use the power vested in your hands in the appointment of members on committees of the Council. I will not accept the view that my interests can be safeguarded by two officials. These officials are sent on to a committee not to express their opinions but to express opinions which are placed in their mouths. I do not doubt that their feelings are identical with mine on many subjects, but I realise the limitations imposed upon them and I hope you will see that my community is directly represented on all such occasions.

Mr. Nanak Chand, Pandit : Sir, I rise to a point of personal explanation. When Mr. Owen Roberts pointed this out to me, I said that it was an oversight, and that I would be the last person to say that the European community which is a very important minority in the Punjab should not be represented on this committee, if it ever was appointed. Mr. Owen Roberts knows this.

Khan Bahadur Sardar Habib Ullah (Lahore (Muhammadan), Rural,

3 P.M.

(Urdu) : Sir I am sorry to say that all the speeches made on this resolution yesterday as well as to-day, whether they came from official or non-official benches have not taken us a single step further than where we were before this debate commenced. Not a single honourable member has offered any useful suggestion. I cannot say what the official members think of the debate but most of the non-official members are of opinion that it has not served any useful purpose. On the contrary it might have done some harm. My honourable friend from Gujranwala was one of the gentlemen who spoke on the resolution yesterday and I feel constrained to say that the light in which he took the whole matter was not a proper one (*Hear, hear*). There was no necessity of telling the honourable members of the Council what conditions are prevalent in the country at present. Every one knows and condemns them. Moreover it appeared from the manner in which the honourable member from Gujranwala presented them as if honourable members of this House had a hand in the deplorable occurrences that have unfortunately become too common. Then my honourable friend, Chaudhri Allah Dad Khan, was pleased to remark that the Government should adopt the policy of conciliation. Even that is not a new or very effective suggestion. The Government has already tried it and some people are of opinion that it has done more harm than good.

Again, even the Honourable the Finance Member has not been able to offer any useful practical suggestion. He tried to rake up old fires and, no doubt, did the business admirably. He treated us to the history of crime

[K. B. Sardar Habib Ullah.]

in the province which the press and the people of criminal tendencies had long forgotten, but, unfortunately, did not utter a single word to tell us as to what the Government did to cope with that crime. This shows that they simply let the events take their own course and did nothing to check their progress.

The same is the case with the speeches delivered to-day. They were excellent specimen of rhetoric and if the object had been to please the press and the visitors' galleries I daresay they were most suited to the purpose, but they did not carry us any further so far as the matter in hand is concerned. Even my honourable friend, Pandit Nanak Chand, failed to offer any practical suggestion in his otherwise very excellent speech.

Mr. Nanak Chand, Pandit : Let us have some from you.

Khan Bahadur Sardar Habib Ullah : I was one of those who wrote to His Excellency the Governor that a session of the Council may be summoned to explore some method to cope with anarchical crimes. I was of opinion that when so many heads meet we might be able to find some effective method to deal with the situation.

The Honourable Captain Sardar Sikandar Hyat Khan : But the heads are empty (*Laughter*).

Khan Bahadur Sardar Habib Ullah : In my humble opinion the Government should have a strong public opinion and a strong party at its back. What does our Government do at present? It tries to please one party at one time and the next time goes to another. Of course I do not mean to say that the Government should take advantage of our communal differences and find out a communal party to support it. What I suggest is that the Government should have a party to help it as the Governments in other countries do. Look at England. There the Government has a solid party to help it through thick and thin. Is there any such party here? You cannot have the solid support of any party by merely appointing your Ministers from amongst the various parties in this Council. Even these Ministers do not care to create any public opinion in favour of any policy adopted by the Government. Let them go to the Mochi or the Mori gate and face the public there. (*Hear, hear*). They have not got much work to do in their offices. Most of it is done by their Secretaries. Therefore they should go on tours and educate public opinion. (*A voice : And if a bomb is thrown on them?*) When Governors are not afraid to face bombs and revolvers, Ministers must be prepared to take the risk. I submit that the Government must attach due weight to public opinion.

The Honourable the Finance Member has expressed the opinion that nothing succeeds like prompt punishment where crime of this sort is concerned. But we know that some people commit suicide just after committing a crime. What more speedy punishment can you devise? Therefore, if the Government is anxious to take effective steps it must have public opinion and a strong party at its back. I do not care whether that party consists of Muslims or Hindu Sabhaites or of all communities. At present no party can trust the Government because we never know as to when it may let down one party and take sides with another. The result is that no party can take the responsibility of always helping the Government. Therefore,

the Government must create a strong party on whose support it may rely at all times.

Again, the Honourable the Finance Member was pleased to remark that the press is in the habit of giving publicity to such things as carry the raw youngsters in schools and colleges off their feet. But may I ask whether this is the reason why the Government is helping that very press with Government advertisements and court notices? Let the Government stop this source of income to the press and it will at once come to senses. I may also add in this connection that, fortunately, we have a very able Director of Information Bureau who possesses much experience of the press. My suggestion is that there should be a small fund at his disposal so that he may entertain the press people and discuss important matters with them. These discussions will help the press people to judge whether the stuff they are supplying to their countrymen is useful or injurious to the best interests of their country. Of course, I do not mean to say that there should be a huge fund to bribe the press although even that practice is in vogue in almost all the civilized countries. But what I want is that the Director of Information Bureau should get opportunities of exchange of ideas with the press people.

Then I wish to draw the attention of the Government to another aspect of the matter. Sir, my lawyer friends may throw better light on the question, but I am of opinion that the punishment at present awarded to the perpetrators of these crimes is not sufficient. Mere sending the criminals to jail and treating them as C class prisoners there has not proved effective and I think that if confiscation of property is added to imprisonment much better results can be achieved.

In the end I have a few words to address to my non-official Indian friends. We are face to face with a political upheaval in the country and most of these occurrences are due to that upheaval. I do not condemn the upheaval; perhaps it is necessary. But we must not lose sight of the fact that the Round Table Conference is in progress in London and that upto this time it has not been possible to find any satisfactory solution of the communal question there. My request is that we should not create more complications by sending discouraging telegrams to the delegates of the Conference and questioning their right to accept any settlement on behalf of one community or the other. On the other hand we should help them to find out some solution of the question and when some decision is arrived at and the new Reforms are declared all efforts should be directed towards making them a success. If this attitude is adopted we may get rid of a good bit of the present unfortunate situation. With these remarks I resume my seat.

Mr. C. M. G. Ogilvie : I move—

“ That the question be now put.”

The motion was carried.

Mian Ahmad Yar Khan, Daultana (Muhammdan Land-holders) :
Sir, I am very grateful to the honourable members who have spoken on this resolution. I am glad that no one has so far opposed it clearly. So far as I have been able to understand the debate on the resolution, the majority of members want the Government to take adequate steps forthwith to stop anarchical crime while there is a small minority who want Government

[M. Ahmad Yar Khan.]

to pursue rather a policy of lenity than of rigor. As a matter of fact I want the measures that are to be adopted should be a double-edged sword. By one edge I want that the incorrigible criminals who cannot be corrected must be shown no mercy or leniency and the sooner the society gets rid of them the better, because nothing emboldens sin more than leniency towards the sinners. With the other edge I would like to have a somewhat sympathetic and lenient attitude to those raw youths who have been misguided and misled because, as we all know youth is like a virgin parchment, capable of any inscription. I have been charged by some honourable members for having tabled a vague and indefinite resolution. The resolution was drafted thus so as to enable every honourable member to make his own suggestions, and it was my intention not to limit the scope of the resolution by its wording. I have made my suggestions and without repeating them I just wish to say a word. I wanted the Government to try and find out the source that was financing these crimes. As soon as that is found out, it must be stopped, and in consequence the crimes will end automatically. I wish in the second place to suggest to the Government to be careful of their own house. As a matter of fact I have got information—it may be right or it may be otherwise—I want the honourable the Minister for Education and the Director of Public Instruction to note it, that there is a definite charge brought against some teachers in this province that intentionally or otherwise they preach disaffection against the present system of government while teaching History or Economics or any other subject. (*The Honourable Malik Firoz Khan, Noon*: Give me their names. They will be sacked.) Of course the names will be given to the honourable member and it will be for him to enquire into the matter. I was going to suggest that the Government should take some steps to find out whether the allegations were correct. If the Government wants to do it they can do so easily. I do not want that these enquiries should be made through the C. I. D. (*An honourable member*: Through non-officials?) No, not even through non-officials. But I mean to suggest that the Government should have a sort of espionage, and I would like it to be placed under the Information Bureau which is doing most useful work under its sagacious Director. My honourable friend the Finance Member will be able to reply to the remarks of the honourable member from Hoshiarpur as regards himself as he can do so in a better way than I can. I only say—

نه هم سمجھي نه آپ آئے کہیں سے۔ بسینہ پونجی اپنی جین سے

I wish to say just one thing about my honourable friend from Gujranwala who happens to be absent from here. The honourable member said that he was the man who now advocated a repressive policy, but who during the martial law days suffered the most. I think if the man who has once suffered on account of the repressive laws, finds that repressive laws are necessary, his opinion should carry greater weight than that of one who has not suffered like him and has remained on the border land as my friend has been. I share the opinion of the Honourable the Finance Member that the press is responsible for these crimes more than anything else. Here I have got a paper called 'Vir Bharat', Sunday Edition, dated the 21st December 1930. There appears the heading.—

اے فرنگی۔ پیڈیا غریبوں کا تو خون کب تک

There is another weekly, *The Comrade*, Lahore, dated 3rd January 1931, which writes—

ان ظالموں کو کہدو کہ بس اب بہت ہو چکی۔ تمہاری چال بازیوں سے ہم آگاہ ہو چکے ہیں۔ اب جاؤ ہو ریا بستہ اٹھاؤ۔ کیونکہ ہم اپنے کرم اور کھولتے ہوئے خون سے ہندوستان کے اُجڑے ہوئے باغ کو گلزار بنانا چاہتے ہیں اور یقیناً اپنی قربانی کے پاک خون سے سر زمین ہند کو لالہ زار بنا دیں گے۔

I will just quote one other sentence—

ان کے مقابلے میں میں مرد میدان بن کر اپنے اعمال کا اقرار کرونگا میں کہوں گا کہ میں نے موجودہ نظام کو تہ و بالا کرنے کے لئے سازش کی ہے۔

I refer next to the leader in the *Bande Mataram* in its issue, dated the 10th December 1930 about Bhagat Singh—

بہت سنگہ کی سمدہ پر دیویان بہادر بوت مانگنے جا ئیگی۔

I just refer to all these press accounts to show how far they are mainly responsible for the situation.

Then, Sir, many honourable members have accused many others of having made no practical suggestions without themselves making any. I am glad that my honourable friend Sardar Habibullah Khan made one very constructive suggestion when he said that no Government could go on without friends, that they must have friends and call them friends, treat them as such and trust them. Well, the Government should be very careful in finding out friends. As far as I can class people there are three classes. There are classes whose strength lies in the weakness of the Government, there are classes whose weakness lies in the weakness of the Government and then there are people who are indifferent as for them it is a question of only change of masters. So the Government can very carefully analyse which party is to be preferred to the other. There is one whose strength lies in the weakness of the Government and there is the other whose weakness lies in the weakness of the Government. Now, Sir, I will say only one word. My friend from Hoshairpur says that it is on account of the non-violence creed of the Congress that we are saved, otherwise God knows what would have happened. If this is non-violence I say please come out with your violence. The sooner you do so the better, for we will know where we stand.

The Honourable Sir Henry Craik (Finance Member) : Sir, I will not take more than a minute or two of the House. There are two or three points made by recent speakers which I should like to reply. I will take first the speech by Pandit Nanak Chand, the honourable member from Hoshiarpur, whose references to my remarks made yesterday I cannot accept as correct. The actual words which I used in this House yesterday I will, if you permit me, Sir, repeat. This is the official report. I said—

“ I do, however, regret that from one section of the House there has been a silence as of the tomb—silence of very sparsely populated tomb—I notice. I have heard none of those members who so actively resisted the passage of the Criminal Procedure Amendment Bill, none of them has raised his voice in this debate. One of the most prominent opponents of the Bill has not attended this debate.”

[Sir Henry Craik.]

These remarks I submit, and I put it to the House, are completely justified by the facts. I said nothing that was not exactly true, and I submit that the honourable member had no right to distort my remarks into attacks on the loyalty of his community or his party. I made no such attack. I merely commented on the emptiness of those benches. The honourable member proceeded to make one remark, describing the party opposite as my favourite party. That is a suggestion which I very strongly resent. In thirty-one years' of administrative experience I have never yet been accused of partiality to any party or community, and I defy any honourable member of this House to mention a single incident which can be so interpreted. I have always endeavoured, and I claim I have succeeded in maintaining, absolute impartiality.

There is one point taken by the last speaker, Mr. Owen Roberts, to which I would allude. He mentioned that I have quoted extract from the speeches of certain all-India and provincial leaders as instances of incitement to violence and suggested that if legal action has not been taken on these speeches the local Government is very much to blame. Every one of the speakers whose speeches I have quoted belonging to this province either has been for a long time or is still in jail. The honourable member cannot I think point to a single prominent leader of the civil disobedience movement in the Punjab who has not been or is not in jail. There are no leaders left.

Mr. Owen Roberts : Where action was taken in respect of these incidents.

The Honourable Sir Henry Craik : In many cases it was. In these cases it was. In these cases which concerned the local leaders I think I can claim that it was. But the honourable member further attacked this Government for not taking action on the speeches made by the all-India leaders at the Congress meetings held here at the end of 1929. The honourable member will realize that the decision as to the action did not lie in the hands of the Punjab Government. Interests wider than the Punjab were concerned. One reason for deferring action on these speeches was that at that moment they might have been no more than empty threats of a policy which the speakers, for all that was known then, could not have put into action. Looking back on it now it is quite possible to say that prompt action taken then might have done much to check later developments of the movement. But, on the other hand, it is quite arguable that premature action then might have had even worse results. In either case for whatever decision was taken the responsibility does not lie on us. I do not think the honourable member can quote or find a single speech delivered in the Punjab inciting to violence on which we have not prosecuted. If he can, I will be grateful if he will let me see it. Certainly every such speech which comes to our notice is carefully considered, and if we see a reasonable chance of obtaining a conviction we direct prosecution. As regards the press we, as I said yesterday, are greatly handicapped by the inadequacy of the press law. We can prosecute for a seditious article. But whom can we prosecute? The editor of the paper in 9 cases out of ten is a dummy. The editor is a *chaprasi* on 10 or 12 rupees a month whose name appears on the imprint as the editor of the paper, but who in reality licks the stamps to put on the paper wrappers. That is the sort of man you can prosecute, and that is the effect of the existing law. I

am glad to say that under the ordinance we have greater powers of controlling the press, and I am glad to see that in the Legislative Assembly a Press Bill which I understand follows largely the terms of the ordinance has been introduced. The sooner that can be passed into law the better it would be. Sardar Habibullah also mentioned the press, but I do not think that there is any point in his speech to which I have not given a reply excepting one. The honourable member suggested that we should take the press more into our confidence. Well, personally I always make a point, though I am a fairly busy man, of invariably seeing any press representative who calls on me. The honourable member can hardly expect me to go and seek them out myself. But whenever a pressman comes to me I invariably see him and a good many of them do come to see me. I usually take them into my confidence so far as I can, and occasionally they take me into their confidence, but I do not know really that it leads to very much. I have a friend who is an editor of a paper and whom I have occasionally in quite a friendly way taken to task for publishing false news. He did not deny that it was false. I asked him why did he publish it? His answer was that he could not be behind other papers. I suggested that telegrams and messages emanating from a certain agency were always false, and I said I was surprised to see that he contributed to the agency and published its messages. He said that as everyone else does so, he cannot help doing so. All papers take their news from it. We have, as the honourable members are aware, established within recent years, and I am glad to think that I had a very large part myself in establishing it, the Information Bureau which is intended and which does establish and maintain friendly relations with all journalists who care to seek its help and assistance and that Bureau has, I think, been extremely successful in establishing closer liaison between the more reputable section of the press and various branches of the administration (*Hear, hear*).

Mr. President : The question is—

“That this Council recommends to Government that adequate measures be adopted forthwith to cope with anarchical crime.”

The motion was carried.

[RESOLUTION RE RECRUITMENT OF INDIAN JUDGES OF LAHORE HIGH COURT.

Khwaja Muhammad Eusoof [South-East Towns (Muhammadan) Urban]: Sir, I beg to move that—

“This Council recommends to the Government to take such steps as are constitutionally open to it to ensure that, subject to considerations of efficiency, at least half of the Indian Judges of the Lahore High Court are members of statutory agricultural tribes.”

In moving this resolution my reasons are that the majority of the people of this province belongs to agriculturist classes and practically all of them are governed by customary law, and an agriculturist judge would probably appreciate the point of custom well. On the other hand, we find that two non-agriculturist judges have been imported from outside the Punjab, and with due deference to these gentlemen they cannot be expected to know much of the customs of this province. Moreover, a large part of the revenue is being contributed by the agriculturists and about 80 per

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cent. criminal, civil and revenue litigation comes from that quarter. It is, therefore, necessary that they should be better represented in the High Court. Another point is that their ancestral property in the hands of sons is not liable to sale or attachment in the discharge of a father's unencumbered debt. I refer you to 115 Indian Cases, page 475, and 119 Indian Cases, page 730. There you will find that it was held by the High Court that the property of an agriculturist insolvent can be sold by a receiver.

The Honourable Captain Sardar Sikandar Hyat Khan : Not now.

Khwaja Muhammad Eusoof : This is exactly what I want to say. This view of the High Court was quite incorrect because this was modified in the latest ruling which you find reported in 31 Punjab Law Reporter, page 842. In the circumstances I think it is necessary that at least half of the Indian Judges of the Lahore High Court should be members of the agriculturist tribes. With these few words I beg leave to ask the House to support my resolution (*Hear, hear*).

Mr. President :

"This Council recommends to the Government to take such steps as are constitutionally open to it to ensure that, subject to considerations of efficiency, at least half of the Indian Judges of the Lahore High Court are members of Statutory agricultural tribes."

Mr. M. A. Ghani [Non-official, Nominated] : Sir, the resolution which has been moved wants this Council to agree that at least half of the Indian Judges of the Lahore High Court should be members of statutory agricultural tribes. I am a Barrister-at-Law practising in the High Court, and what I have learnt in the last ten years is this that the High Court is meant to do justice. While I was in college, I was taught that justice knows no colour, justice knows no community and justice knows no caste. I do not understand why on the one hand we require the High Court to do justice, and on the other hand we are required to support a proposition that at least half of the Indian Judges of the Lahore High Court should be members of statutory agricultural tribes. I do not understand how a member of an agricultural tribe will be better able to understand the Customary Law than a non-agriculturist Judge. You will find that up to now no agriculturist has been able to write a commentary on the Land Revenue Act. (*Interruption*). My humble submission is that so far as the appointment of an Indian Judge in the High Court is concerned, no consideration ought to be given to the fact whether the candidate is an agriculturist or a non-agriculturist, whether he is a Hindu or whether he is a Muhammadan, and whether he is a European or whether he is an Indian. The only test is the ability of the candidate to do justice. I think, Sir, that it is a wholesome rule that at least in the High Court no communal question and no zamindar bickering ought to be introduced. The High Court is a custodian of justice. It is the highest tribunal that administers justice in this province. So, I most humbly and respectfully submit to this House that in the question of the appointment of Indian Judges in the High Court no such questions ought to be introduced.

My learned friend says that perhaps I want that no member of the agricultural tribe ought to be appointed as a member of the High Court

bench. That is not at all what I mean to press before this House. If there is an agriculturist Barrister-at-Law or an agriculturist P. C. S. who is able to discharge the functions of a Judge of the High Court adequately, I would be the first person to say that he should be appointed. As I have submitted, the sole test ought to be the ability of the man and no other consideration should prevail. With these words I oppose this resolution.

Lala Mukand Lal, Puri (Punjab Industries): Sir, I am not one of those who have ever maintained that the agriculturists of this province should not have a proper share in the administration of Government or should not have their due share in the loaves and fishes which the Government offers to the various classes of its subjects. As it is, we find that the Government is already over-ridden by what is a statutory caste, that is, the members of an agricultural tribe. You have only to look at the various offices which are held by the elected members of this Council to find out that, with the solitary exception of one member, that is the Minister for Local Self-Government, every conceivable office has been monopolised by members of the agricultural tribes. The President, the Deputy President, the Honourable Member for Revenue and the two Ministers for Agriculture and Education are members of statutory agricultural tribes. It appears that the members of agricultural tribes are not content with what they have got. They think that as by the constitution of this Council power has gone into their hands, so they must have everything whether they are fit for it or whether they are not fit for it. One of the reasons which is put forward by members of the agricultural tribes for claiming certain offices under the State is that they form the majority of the population in this province and that they pay a great deal of taxation which is levied in this province, and therefore in return for what they contribute, the State should give them a proportionate return in the form of salaries. I submit that that argument is absolutely fallacious and is incorrect. The greatest employing department of the State is the Army and in the Indian Army the largest number of soldiers are recruited from the Punjab and from the agricultural tribes. The whole of India is taxed, and a great proportion of it is paid in the form of salaries to members of agricultural tribes of the Punjab. Some people allege that it is a special privilege conferred on the classes, from which the Government recruit its army to the exclusion of other classes. I have, however, no desire to deny the bravery, the courage and the qualities of good soldiery which these classes claim for themselves, but if they claim that they do not get a proportionate return for the taxes paid by them, it is entirely incorrect. They might very well say, we are properly fitted for being soldiers, and if we have got the lion's share there, what grievance have the non-agriculturists? I say, perfectly right. But should it not be pointed out that having claimed the lion's share or in fact the entire loaf of the Army, the service for which you are particularly well fitted, is it not but right that you leave to the non-agriculturists some of the other services for which you are not perhaps quite as fit and for which other classes are better fitted? The majorities should believe in the principle of 'give and take', 'live and let live', and should not attempt to monopolise everything.

Then, Sir, the second complaint which was made by the mover was, here is the Punjab Government, who imported two non-agriculturist Judges

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from outside the province instead of recruiting agriculturist Judges from this province who would be more familiar with the Customary Law of this province, and therefore better able to administer the agricultural customs which is one of the three systems of personal laws administered in this province. Let us examine that claim a little. What the resolution asks this Council to lay down is not that agriculturists shall be appointed Judges but members of statutory agricultural tribes. Now, according to the definition of a member of an agricultural tribe in the Land Alienation Act, it is not necessary that the member of an agricultural tribe should be an agriculturist, that his ancestors or remote ancestors should have owned a marla of land or have had any connection with the land or have even lived or seen a village. All that is necessary is that he should be born of certain persons who possess a certain caste and who by a notification of the Government are declared to be members of agricultural tribes in that district. For instance, take the case of a family of Arains or Sayyads who have been following the profession of medicine or the profession of law or the humbler profession of confectioner or milk seller in the town of Lahore for generations and whose ancestors have never lived in villages, whose ancestors have never been dependent upon agriculture, whose connection with agriculture is as remote as that of any individual imaginable. According to the definition in the Land Alienation Act he may be a member of an agricultural tribe. While another person, perhaps a Christian or a member of a depressed class, a Kashmiri or a Shaikh, a Khatri or an Arora, whose ancestors have possessed lands for generations, who has been dependent on agriculture and whose pursuits have been rural, that man, according to the definition in the Land Alienation Act, may not be a member of an agricultural tribe. Therefore, Sir, any claim of preferment under the State which may be put forward on the ground of being a member of an agricultural tribe is not necessarily based on any connection with agriculture or knowledge of agricultural or rural conditions. Therefore on the ground of connection with agriculture, no claim can be made by members of agricultural tribes, which would not equally apply to a large member of agriculturists who are not members of agricultural tribes.

Sir, reference has been gratuitously made to two able lawyers, one of whom adorned with distinction the position of a High Court Judge for a number of years, and the other who is still holding that position with distinction. I may be permitted to point out that both of them are Sayyads by caste, and if you study the schedule which is attached to the Land Alienation Act, you will find that with the exception of one district, in every district Sayyads are notified as members of an agricultural tribe. So, it cannot be said that these gentlemen do not belong even by birth to that specially privileged class which in this province unfortunately, and for no special reasons, claims to have extra and special privileges. I do not for a moment say that these gentlemen were selected by reason of the accident of birth. They were selected because they were known to be sound and competent lawyers of reputation and able to administer the law in a manner in which it should be administered by the High Court Judges. Therefore the complaint which has been made by the mover of this resolution against the importation of two Honourable Judges from outside does not

hold water. In fact they happen to fulfil the condition which is required by the resolution, that they belong to a caste which is notified as agricultural tribe throughout the province and they happen to be also owners of large areas of land. The only complaint is that instead of owning land or being born in Lahore or Amritsar they happened to be born in an adjoining district of the Punjab like Saharanpur.

The danger of such resolutions, as I have always maintained, is that they engender a suspicion of being attempts to advance the claims of certain individuals under the guise of laying down a general rule. This is a matter which cannot be too strongly deprecated. Supposing you accept a resolution of this type. What does it amount to in actual practice? Supposing the appointment of a Muhammadan lawyer to the High Court of Lahore is under consideration. In practice what it would mean would be that the claims of gentlemen like Sir Abdul Qadir, Sir Muhammad Iqbal, Mr. Salim, Mr. Abdul Ghani and others, however efficient they might be, will have to give way to another gentleman who happens to belong to the favoured caste and who may possibly be less efficient than each and every one of the gentlemen just named. By what standard of fairness, on what public grounds can you justify a distinction of this type that these gentlemen who have perhaps started in profession together and who by dint of hard work and honesty and integrity have come to the top of their profession, that they should be left behind when the question of appointment comes up, and that someone else should be appointed simply because he happens to be a member of an agricultural tribe?

It is only in this Council unfortunately that a resolution of this type can be brought forward. It is because the Government in the first instance encourages false claims of this type—I do not say with the intention of creating class and creed interests and with the intention of dividing the people—that such resolutions are brought forward. The only remedy is that the Government should refuse to encourage claims of this kind. A preposterous claim like this should not be entertained for a moment by any responsible Government.

Now, Sir, the third point urged by the honourable member from Ludhiana was that 80 per cent. of the criminal and civil litigation comes from agricultural classes, and since the agriculturists contribute to the court-fee and other judicial revenues, therefore, they ought to get a greater share of the office of judges than their non-agriculturist brethren. I do not think that an argument of that type could be seriously advanced. No civilised country would entertain the claim to highest judicial office on the ground that members of a particular community figure more often as accused in criminal cases. Let me, however, examine the argument as to civil litigation. Those of us who have studied the budget know that justice instead of being a burden on this province is actually a source of revenue. After spending everything on the salaries of officers and judges, the State has not to spend anything out of general taxation towards the cost of administration of justice, both civil and criminal. Under those circumstances, it is not fair that a community which simply claims to be in a majority should say that it should have a greater share. Again, I submit that even in the matter of court fees the rules are so framed as to make land litigation

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far less expensive than litigation in money suits. I may refer to the rules under the Court Fees Act. If you bring a suit for Rs. 500 you have to pay court fee *ad valorem* of 11 per cent. But if an agriculturist brings a suit for possession of land of the value of Rs. 500 he has to pay court fees on ten times the revenue from the land, which is only a very small fraction of five hundred rupees. Therefore, this argument that 80 per cent. of criminal and civil litigation concerns the agriculturists and therefore necessarily they pay 80 per cent. of the court fees is entirely fallacious. In fact, the State already shows unnecessary solicitude to the land-owning classes in this respect. I do not plead for the increase of court-fees on that account. I am one of those who maintain that the court-fee is already very high both on the litigation of agriculturists as well as of the non-agriculturists and that it should be reduced. But when you consider the relative taxation which the court-fee involves, you will find that the court-fee paid on land suits is far less than the court-fee paid on commercial and other suits.

Then, my honourable friend referred to the fact that at one time a view of a particular provision of the Land Alienation Act was taken which was not in consonance with their wishes. They cannot have it every time their own way. May I point out, however, that it was a non-agriculturist Judge (Honourable Mr. Justice Tek Chand) and an English Judge (Honourable Mr. Justice Broadway) who set aside that judgment and interpreted the law (I have no doubt, correctly) and in consonance with the wishes of the agricultural tribes. Further, even if the High Court on some occasions interpreted a particular section of a certain enactment against the wishes of a particular community, that will be no reason for making appointments from that particular community.

One thing that should be particularly kept in mind when discussing the appointments of High Court Judges is this. The judgments of the Judges of the High Court are not only an authority for the subordinate courts of this province, but are also an authority for the subordinate courts of other provinces. We should not, therefore, do anything which would make the judgments of the High Court a subject of hostile criticism by other courts. The judgments of the High Court have to be considered by the Privy Council. They are examined, discussed and criticised by other courts; they are quoted every day in courts in Calcutta, Bombay, Madras and elsewhere and we cannot be too cautious in laying down such close and communal and racial rules for the appointment of persons to the High Court. May I ask my friend, why he has not come forward with a resolution that of the two appointments of Financial Commissioners one should go to a member of the agriculturist tribes? Why has he not come forward with a resolution that of the five Commissioners of divisions four should be from the agricultural tribes? Why has he particularly chosen the High Court Judges? I endorse the view which has been expressed by the honourable member for labour (Mr. M. A. Ghani) that in these appointments merit should be the only consideration. Mere accident of birth or even the accident of belonging to the majority party in the Council should not be the criterion for making these appointments. With these words I oppose the resolution.

Mr. C. M. G. Ogilvie (Home Secretary): Sir, I desire to express the view of the Punjab Government on this resolution and to draw the attention

of honourable members of this House to the fact that the qualifications for the judges of the High Court are laid down by statute. If they read section 101 of the Government of India Act, they will see what those qualifications are. No tribe or class or creed is mentioned therein. Apart, however, from this statutory limitation, the local Government is not concerned with the appointment either of permanent or additional judges. The appointment of permanent judges of the High Court is made by His Majesty the King Emperor. Appointments of additional judges are made by the Governor-General in Council. For neither of these classes of appointments do the local Government make recommendations. The local Government is concerned only with the appointment of acting or officiating judges. One possible source for these appointments the local Government cannot use, and that source is the bar. There are obvious reasons why Government cannot use that source. It has been held, I think generally, that the selection of a lawyer to fill an acting appointment gives him an unfair advantage over his fellow practitioners when he returns to the bar, as he has the imprimatur of the High Court and the added prestige of having sat on the bench. Therefore, for merely temporary acting or officiating appointments, the bar as an avenue of recruitment is closed. The only one that remains is that of the cadre of district and sessions judges. It may be that the class with which this resolution deals is not strongly represented on that cadre. But in making appointments from the ranks of district and sessions judges Government has to consider the seniority of the judge, and his capacity as proved by years of work as district and sessions judge, and it cannot take into consideration as the prime factor the fact that he belongs to one community or another. But I am sure that members of the agricultural tribes who are also members of this Honourable House will agree that the mere fact that a district and sessions judge happens to be a member of a statutory agricultural tribe will not necessarily make him a good High Court Judge. Government is, however, fully aware of the desirability of having statutory agriculturists in that position in view of their strength, numbers and importance in the province. Should a suitable statutory agriculturist sessions judge be available, I may assure the House that his claim will receive every consideration. (*Hear, hear*).

Chaudhri Allah Dad Khan [Ambala Division, North-East (Muhammadan.) Rural]: Sir, I rise to support the resolution moved by the honourable member from Ludhiana. He has made a very modest request that in making appointments to the High Court Government should take steps which are constitutionally open to it to ensure that half of the appointments goes to the agriculturists. The honourable member for Labour (Mr. Ghani) said that justice should know no colour or creed or any such distinction. That is admitted by everybody. The resolution itself says that subject to considerations of efficiency the rights of the agriculturists should be kept in view. It does not say that any agriculturist lawyer or anybody else who has not the necessary qualifications or is not efficient for the post should be appointed as a High Court Judge.

Again, the remark of the honourable member for Industries that this is a communal question is surely wide of the mark. Among the agriculturist

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tribes there are not Muhammadans and Muhammadans alone, but there are also Hindus and Sikhs. Again he has said that to argue that 80 per cent. of the civil and criminal litigation is by the agriculturists is fallacious. But the figures are taken from the reports of the Criminal Administration of Justice and how can they be proved wrong? The question is not whether the cases among the agriculturists bring in more income or which community pays more, or brings in greater income to the High Court. But it is a question as to which community is the main source of Government revenue. If that is kept in view it cannot be denied that the mainstay of the Government, the land revenue, is contributed to the provincial exchequer in a very large measure by the agriculturists. I can say that no one in the Punjab or for the matter of that in the whole of India is taxed so much as the agriculturist of this province. If a non-agriculturist earns an income of Rs. 2,000 he is taxed for his income. But if he earns just a rupee less, that is to say, Rs. 1,999 he escapes taxation. But look at the poor agriculturist. If he gets Rs. 3 from the land he has to pay eight annas. For, if a man has one bigha of land the income that he can get from it is Rs. 3 and he pays eight annas of land revenue. Nobody can challenge this statement. I find that even this statement is an exaggerated one for if he gets Re. 1 as income from his land he pays two annas on it. Look at the waste land which is taxed at 2 annas per bigha from which the income amounts to just a rupee. In return for these high taxes it is but right that they should demand that their rights should be kept in view. They have demanded only 50 per cent. It will be remembered that this very Government in replying to a question some years ago said that of all the posts under this Government and in the Punjab province, 66 per cent. should go to the agriculturists. I do not think that the High Court was excluded from this calculation. One honourable member of Government said that because the appointments to the High Court are made by the King Emperor this Government had no hand in the matter. If one reads the Government of India Act carefully one finds that only the permanent appointments are made by the King Emperor. As the honourable member himself admitted, additional Judges are appointed by the Governor-General while officiating appointments are made by the local Government itself. It is common knowledge that at first only officiating appointments are made. Out of them additional judges are appointed and additional Judges in time become the permanent judges of the High Court. Ultimately with whom does the appointment to the High Court rest? It is this Government in the last instance. Again, the resolution does not say that the Government should appoint 50 per cent. of the judges out of agriculturists. It only wants that steps should be taken which are constitutionally open to the local Government for this purpose. No honourable member can contend that it is not constitutionally open to the Punjab Government to recommend that an agriculturist who is otherwise efficient should be appointed.

Coming to the two High Court Judges recently appointed I do not want to dispute their efficiency, their high learning or ability. But the fact remains that one of these judges was imported into the Punjab when one of the best of the Punjabis was overlooked, and that Punjabi occupies the highest post attainable by an Indian. The claims of that Punjabi were

overlooked and a man was imported from the United Provinces. Whenever there is any demand for help the Government runs to the agriculturists. During the war I know how the agriculturists came to the rescue of the Government. They were asked for recruits and they gave their sons and brothers. It is well known that the agriculturists of the Punjab are not generally well off but they were asked to contribute to war loans and other funds. Many of these zamindars sold the jewellery of their wives and daughters and furnished money to the funds. Now when the time comes for their rights to be safeguarded or recognised to the same extent as those of other classes then the objection is raised that they are urging communal considerations. I wonder if zamindars can be said to form a community at all. There are only three communities in the Punjab and a community is only for religious purposes. It is for the first time that I learn that communities can be classed according to professions. If that were the test, the number of communities would be bewildering and no one can be correctly put down as belonging to any one definite community. The agriculturists do not form a community. They belong to a profession, a noble profession and one which is the backbone of the Government in all times of need, in all times of difficulty. Just at the present time look at the state of political unrest in the country. It is a matter of pride to members of the agricultural tribes that they as a community, if that word could be applied to them, have kept free from this agitation. They have kept aloof so far and I assure you that the day is not far off, there are already murmurs and grievances under which they are labouring, when if that class does not get what it is entitled to, the Government will find it difficult indeed to deal with it. The agriculturists do not go into agitation easily but once they take to it, they cannot be quelled down as in the case of urban areas by the lathi blows of the police. The agriculturist tribes should be kept contented in every way and when the Government comes to them in times of need why should they be overlooked in times of prosperity? It is not an impossible request that we are making to the Government. The Government cannot pretend that they have no power for as I have shown ultimately they make the choice, and the remarks made by the honourable member for Government cannot apply to the case at all. I know that we cannot urge that the permanent judges should be chosen from the agriculturist tribes. Supposing we confine our demands to officiating appointments to the High Court Bench can the Government still say that it is not within their power? I have read the Government of India Act and it clearly lays down that officiating appointments will be made by the local Government, not even by the Governor-General. The honourable member representing labour contended that out of the agriculturists none has been able to produce a book. I assure him in reply that it requires no ability to publish a book on law. You can consult a number of books, take one sentence from here and another there and I can point out to a number of lawyers who have produced tremendously useful books but who as lawyers have no practice and are no good. I am not a lawyer but I can assure you that I can produce a book on law, perhaps, of the best value, within three months. I am not going to be raised to the High Court Bench on that score. I know of a gentleman who is the author of a valuable legal work but lawyers say that he is no good as a lawyer. Take again the instance of Rustomji. Cases like that

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could be multiplied. But my point is just to show that there is no force in that objection. I do not know whether honourable members here are aware of the book on the Law of Pre-emption by Sir Muhammad Shafi. Again, the resolution does not urge that you should take High Court Judges out of those who are ploughing their land but it only wants the choice to be made out of agriculturist lawyers who possess the necessary qualification. When the Punjab Government have themselves made the rule that 66 per cent. of the posts in the province should go to members of this community, I cannot see with what force they can now oppose this resolution which is only an amplification of that general principle or a special case of that general policy already accepted by Government. Members of Government cannot deny that that rule has been accepted by Government. I have seen in the districts Deputy Commissioners acting up to such an instruction in making appointments. According to population also the agriculturists form 70 per cent. of the total in this province. The honourable member for Industries pointed out the distinction drawn that because a man happens to be born in the family of a Rajput or a Jat he becomes a statutory agriculturist whereas a Khatri owning land, say even a thousand bighas, is not included in the class. I know that there are cases in the Punjab of non-statutory agriculturists possessing land but they are few and far between and can be counted on fingers' ends. All those who are styled as agriculturists are those who follow agriculture as their profession. Government have always been careful whenever it sees land passing into the hands of many individual members of a particular tribe to notify that tribe as agriculturists. There are many cases of this kind. For instance, the Gowr Brahmins have been so included. At first they were not included in the statutory agricultural tribes, but subsequently the Government thought that these people lived mostly on agriculture and declared them in some districts as an agricultural tribe. So they base an argument on the fact that there are some people who have lands and they are not called statutory agricultural tribes and that their rights should not be so disregarded. If they have not been included we do not say that all the Indian judges should be appointed out of the agricultural tribes, we have left 50 per cent. for this kind of men and they should be content with this. As for efficiency there should be a sure test for judging the efficiency of a man. I illustrated just now the case of one of the ablest men of the Punjab who was overlooked for appointment as judge of the High Court and that man has afterwards, it is well known to everybody, risen to the highest post in the Government open to any Indian. He was an agriculturist and if this efficiency test had been standing then the poor man could not have been left out. I mean poor man not in the sense that he had no money but I mean that he had no support, and in the sense of his claim being ignored in that careless manner. It is to safeguard against such cases that this Council has brought forward such a resolution and I do not think that any member of the Government should after the assurance that Government has given oppose this resolution. If this assurance which Government gave is only a lip assurance, the Government itself should rule that 66 per cent. of appointments of this province will not go to the agriculturists. With that rule of 66 per cent. standing I ask with what

face do they now oppose this resolution. We trust the Government in the time of distress and war. During the Great War when the zamindars were called upon to give recruits it was distinctly given to them to understand that their claims would be carefully considered after the war. Now that the war has been finished for a long time I find that the Government is not acting upon the assurance. I hope all the members of the Government will, if this resolution is put to division, vote with us because in voting against it they will be falsifying the promise which the Government has given in writing and after careful deliberation. This question was not lost sight of when the question was answered by Government and when rules were framed that 66 per cent. of the appointments should go to the agriculturists. We are now asking only for 50 per cent. Our non-agriculturist friends should not oppose this resolution either. They know that we are leaving 50 per cent. to them and just now perhaps the most capable lawyer in the province out of their community sits as the Chief Judge of the High Court. They should gracefully concede the right of the zamindars of this province for they have already had enough and to spare of the appointments in the High Court and they should not now grudge the rights of the agriculturists being recognised. With these words I support the resolution.

Mr. C. M. G. Ogilvie (Home Secretary) : Sir, in view of the explanation which I gave to the House about the attitude of Government in this matter I am to say that as the appointments of permanent and additional judges are entirely outside our sphere, Government do not, as far as they are concerned, propose to take any part in the debate or to vote.

Shaikh Abdul Ghani [West Punjab Towns, (Muhammadan), Urban] (Urdu) : Sir, I rise to speak on behalf of those agriculturists who do not appear to be alive and anxious to safeguard their own interests. This is the time when all of them should have been in their seats and should not have been enjoying or chatting in the lobby. This resolution has been apparently moved for the benefit of the agriculturists who are now conspicuous by their absence from the chamber. How careless, I should say, they are of their own interests. From a certain quarter of the House it was remarked that there was none amongst the agriculturists who could fill the exalted post of a Judge of the High Court with honour. This is a serious allegation and a slur on the ability of a whole community which I cannot let pass unchallenged. I should think that the honourable member who made this remark was counting without a foe. He appears to have forgotten the long list of eminent lawyers belonging to the agricultural tribes who have occupied an honoured place in the profession and in the Province in their respective times. To quote a few of the examples of recent times Mian Shah Din comes first in that long list. The other worthy names are of Mian Sir Muhammad Shafi, Mian Sir Fazl-i-Husain, Chaudhri Sir Shahab-ud-Din, Chaudhri Zafrulla Khan. They are one and all men of very high ability and each of them can be compared favourably with the ablest lawyers of this province and of this country. All of them have won laurels in their times and one of them has actually occupied the position of a Chief Judge of the High Court of Lahore. Our High Court will have to make a sincere effort for years to produce a single judge of Mian Shah Din's ability. The rulings he gave show us his matchless ability, his high character and unbiased mind. He still holds ground for his highly developed understanding, acute intelligence and vast

[Sh. Abdul Ghani.]

learning. Let the judges of the High Court look up to him as a model. I wonder how the honourable member in presence of these glaring examples could dare say that the agricultural classes have not produced able men. The splendour of the ability of these luminaries up to this time far outshines that of any judge of any court.

Then, Sir, another honourable member objected that although on papers agriculturists are shown as 70 per cent. of the whole population of the province but in reality they are very few. He said that amongst them those people are also included who have abandoned the profession of agriculture, and no longer depend upon it. It appears that while raising this objection the honourable member did not go deep into the matter. The reality is that those referred to as having changed their profession have only changed the place of their abode. They have only shifted from the villages to the towns, for their new professions which are only additions to their old one required their presence there. They are agriculturists as well as lawyers, Government servants, and in a few cases businessmen as well. They did it to augment their income. They, although they live in towns, have not altogether broken all ties that bound them to the villages. In order to look after their landed property they every now and then go to the villages. Their connections with the village folk are as good as they were before. A zamindar living in a city is still regarded as the Sardar of his village. He is regarded by the village barbers, sweepers, water-carriers, chowkidars, brahmins, pandits and tenants as their rightful head. His influence over them has not been tarnished by the mere change of his abode.

Then, Sir, there is another point that I want to press upon the House. The honourable members who have opposed this resolution have ignored the fact that we are living in the Punjab of 1931. Our today's perturbed conditions have created a perfidious atmosphere darkened almost to night by the communal spirit. People have become biased and jaundiced against each other. Justice is administered on communal grounds. Even the conscience of men has been tinged by the dark and swarthy colours of their communal prejudices. Culture and training has much influenced the mentality of the people. If a man born in the house of a "banya", brought up and educated by the money which his father earned by advancing loans and taking interests on them, by a happy chance becomes a judicial officer, he will not be an ideal officer for he cannot understand the iniquity, injustice and harshness of usury. His heart by the unfortunate circumstances of his birth in a Sahukar family would become adamant against the miseries of the zamindars fallen prey to the high rates of interest. You cannot expect thorough justice from such a man. But if instead of him an agriculturist is appointed in a high judicial office, the debtors will have naturally confidence in his sense of justice. They will regard him as one from amongst themselves and so well acquainted with their circumstances. He will be a man with a heart full of feelings not dulled by the wrong impressions of his youth. People will expect justice from him and he will administer it in the real sense and spirit of the word. This will add to the reputation of the High Court and people will flock to it in all trust and confidence to get their civil and criminal cases decided by it. Such a High Court will be the pride of the country. Zamindars form a majority of the population of the province and

it is necessary that the High Court should win their trust. The High Court discharges two functions. The first is that it appoints the staff and superintends it. The second is that it decides cases. If the representatives of the zamindars were also included in the staff and cadre of the judges of the High Court, it would go a long way to create confidence in the minds of the zamindars as to the working. Let the Government arrange to secure the proper representation of the zamindars in the High Court. It should not become the monopoly of one class to the prejudice of other classes. The question of merit holds good only in theory. I would request my honourable friends not to sit contented so long as they are not given their proper share in the High Court. They should continue to urge upon the Government the necessity of appointing agriculturists as judges of the High Court. With these words I strongly support the resolution now before the House.

Sarder Buta Singh [Multan Division and Sheikhpura (Sikh) : Rural] (Urdu) : Sir, little is left for me to say after the exhaustive speech made by my honourable friend Shaikh Abdul Ghani. I fully associate myself with what he has said, and on my behalf as well as that of my community I emphatically impress upon the House the necessity of securing proper representation of the agricultural classes amongst the judges of the High Court. Sir, a feeling that the agricultural element is deficient in the High Court is at present animating the hearts of all the zamindars. They have realised that they are not given their proper share in the judiciary. It is of the utmost importance that the Government should see that the present demand of the agriculturists is accepted. The honourable speaker who preceded me did not express himself on one point and I draw the attention of the House to it. It is that by becoming lawyers zamindars do not cease to be agriculturists. Law is a temporary profession and lawyer's sons cannot all adopt it. Therefore, they cannot afford to keep themselves out of touch with agriculture even for a single moment. Agriculture is their permanent support. They always fall back upon it whenever their temporary professions fail them. Here we have before us the example of our Honourable President Chaudhri Shahab-ud-Din. He is holding the high position of the President of the Council, but still this fact has not turned his attention away from agriculture. Whenever I happen to call upon him at his house I am always told "he is out, gone to look after his garden." Whenever his duties admit his going away, he leaves Lahore, sometimes to plant more fruit trees in his garden and at others to visit nurseries in order to purchase saplings, etc. These are his vocations after he has attended to his official work. As my honourable friend Shah Muhammad knows whenever I am at my quarters at Sheikhpura I am always at my agricultural farm. All those who want to see me find me there. It is impossible for us to leave agriculture. It is wrong on the part of the honourable members to say that only those are agriculturists who plough the land with their own hands, for agriculture includes in itself all such things as buying seed, manure, bullocks, etc.

In the end, I would like to request my honourable friends not to give this matter, which is at present before us, a communal colouring. It is a simple economic question and should be treated as such. With these few words I lend my whole-hearted support to the resolution under consideration.

Pir Akbar Ali [Ferozepore (Muhammadan) Rural], (Urdu) : Sir, some of the speeches made in the course of the discussion on this resolution appear

[Pir Akbar Ali.]

to be the result of a grave misconception. It seems that some of the honourable members are under the impression that the zamindars have put forward this resolution because they have no confidence in the Honourable Judges of the High Court. I assure those honourable friends that they are labouring under a very unfortunate misunderstanding. We have never said that the Honourable Judges are not administering justice as it ought to be administered. On the other hand we have often said that they are administering justice as best as it is humanly possible to do. Again, we have never questioned their capability and efficiency. They are as efficient as the judges of any other High Court. But, Sir, there is no gainsaying the fact that a non-zamindar judge cannot understand and appreciate the plight of zamindars as fully as a zamindar judge can. It is on account of this fact that we have come forward with the request that while non-zamindars are getting more than their share in every department the zamindars should not be denied what is their due.

Now it has been remarked that the zamindars do not possess necessary qualifications. But I submit that it is only a lame excuse. May I ask, Sir, whether there is any community that possesses better qualifications and is more fitted than the zamindars for the Police, Revenue and Excise departments? Yet what is their share in those departments? Then what is their plight in the Co-operative Department which was brought into existence mainly for their welfare? The Government is reserving all its favours for the urban population and the result is that zamindars do not get even their proper share in the administration. This attitude of the Government has opened our eyes and we have come to understand that we will not get our due share in the administration unless we cry for it persistently. When riots took place in Lahore there was a rush of non-zamindars to the Police Department and the Government readily admitted them into it. But what is the treatment meted out to zamindars who are the main support of the Government? But perhaps I should not say that zamindars are the main support of the Government because no one treats his main support as the Government treats us. Therefore, I say, Sir, that zamindars who are the best servants of the Government and who have been supporting it through thick and thin have always been hopelessly neglected by the Government. We do not ask for anything more than our due share. On the other hand our request is that if you are not prepared to give us 70 per cent. representation which is our right on the basis of population at least do not ignore us altogether.

Then, Sir, the High Court does not consist of the judges only. There are so many appointments to be made in the subordinate staff and elsewhere. But even there we do not get any representation worth the name. What is the cause of this state of affairs? We do not say that the Honourable Judges intentionally keep the zamindars out of the department but we do say that as there is no

one to draw the attention of the judges to the claims and interests of zamindars those claims and interests are always likely to be overlooked as they have been up to this day. You know, Sir, that the Financial Commissioners often come in touch with zamindars and the result is that although even from them we do not get our full share yet we are not ignored altogether. But the

Honourable Judges of the High Court do not come in touch with any zamindar except some judgment-debtors and it is due to this fact that we request the Government to admit some representatives of zamindars into the department so that our point of view also may come to the notice of the Honourable Judges through them. With these remarks I strongly support the resolution.

Mr. Labh Singh [Rawalpindi Division and Lahore Division, North (Non-Muhammadan), Rural]: Sir, to me it is a matter of great regret that resolutions of this type are lightly tabled and seriously discussed in a House which takes pride in calling itself the legislature of an important province. Discussions of this description only demonstrate what I may say the *reductio ad absurdum* of the processes which this Government would appear to have set in motion. You can never say what sort of demands would be made by the various sections, more especially by the pampered sections of the community in this House, if no check is exercised. Some of the arguments used in support of the resolution have only to be looked at to find that they cannot possibly hold water, that they go not to support the resolution but to negative it. My friend from Sargodha, when I entered the House, was very pathetically describing the state of mind of a judge who came from an agricultural tribe as contrasted with the state of mind of a judge coming from the creditor class and he said that the judge who was of the agriculturist extraction would feel some mercy, not only that, but that his blood would boil, if a particular type of a case came up before him. Now, is that the reason why the judges should be recruited from that particular class whose blood has got to boil in a particular way under certain special contingencies? I would very respectfully submit that that is a very good reason, almost an absolute reason, why such a class should be excluded from this kind of posts if they can allow their blood to boil when administering justice. Justice has got to be administered in a calm and dispassionate frame of mind. My friend may plead for tempering justice with mercy, but he cannot be permitted to plead for tempering with justice. Justice is not to be divided or distributed in halves. It has got to be given in full and in an absolute measure. Judges are not there to divide justice or to pander justice, but to give full justice. If you divide justice, giving one half to one side and the other half to the other side, that will not be administering justice, but murdering justice. Is this the sort of argument that should be allowed to be put forward by intelligent people before reasonable people? I submit that is not the sort of argument that should be addressed in all seriousness for adoption by a House composed of people who are expected to look at things dispassionately and intelligently. My submission is this that for the recruitment to the judicial offices, and more especially to the higher judicial offices, the highest sort of test should be laid down. I would not mind if those tests are laid down in any shape or form provided they are sufficient to secure the best kind of men. If it appeals to some people or some members of this House that one of the qualifications of a judge should be that his father or his grandfather should have been sent to the civil lock-up in execution of a decree or that his moveable or immoveable property should have been attached and sold in execution of a decree, by all means lay that down in black and white and I for one would not take any exception to it. Let that be one of the qualifications of a judge if you so

[Mr. Labh Singh.]

choose, but add to that also certain other qualifications, namely, that he should be competent to administer justice, that he should be a person of the highest probity and otherwise fully qualified to understand law and to administer it. If these necessary qualifications are there, no one would take exception to adding others to them, even if they are from our point of view wholly unnecessary. I for one, at any rate, would not take any exception. But do not try to exclude people or do not try to include people simply on the score of their belonging or not belonging to a particular statutory tribe or to a particular artificial caste. With these few remarks, Sir, I beg to oppose the resolution that has been placed before the House.

Chaudhri Shah Muhammed [Sheikhupura (Muhammadan), Rural] (Urdu) : Sir, various honourable members have discussed this resolution from different points of view, but before referring to their remarks I must point out that zamindars seem to have at last found favour with Dame Fortune. I say this because I find that this resolution has been moved by an honourable member who does not belong to a statutory agriculturist tribe. Not only that. Even among the supporters of the resolution we find a non-agriculturist gentleman who has boldly sided with truth against his own community.

(At this stage Mr. President left the Chair and it was occupied by Mr. S. L. Sale.)

Now coming to the resolution, Sir, there was a time when zamindars were backward in education but it is not the same now because now we can find zamindars of all qualifications who possess degrees of M.A., B.A. and LL.B. Then we find so many zamindar candidates appearing in competitive examinations for Sub-Judgeship. But, unfortunately, all of them have to go back disappointed while non-zamindars, whether Muslims or Hindus, are readily admitted into the department. May I ask, Sir, how many zamindars have been appointed as Sub-Judges under the new rules? Is it not a fact that some of these Sub-Judges may some day become Judges of the High Court as representatives of the Provincial Civil Service? It is for these reasons, Sir, that we want some one to draw the attention of the Honourable Judges of the High Court to the claims of zamindars and to safeguard their interests.

This resolution does not raise any communal question. The term agriculturists applies to Hindus, Muslims and Sikhs alike. Thus we do not say that some members of a certain community should be appointed as judges of the High Court. We only ask you to appoint some agriculturists, whether they are Ahirs of the Gurgaon district or Gour Brahmans or whether they are Sikhs or Muhammadans. Again, we do not want you to appoint inefficient persons to these posts. There is no dearth of efficient and qualified persons among zamindars and you will have no difficulty in making selection from amongst them.

Now, I must admit that I was really very sorry to hear the speech of my honourable friend Mr. Labh Singh. In fact I never expected such unkindly and unsympathetic remarks from him. I request him and other non-zamindar members of this Council to consider our appeal dispassionately and to help us in rising from the depth to which we have sunk. It is no use making us the target of your sarcasm. On the other hand you should help

us in ameliorating our sad plight. Moreover, it is not only for the sake of judgship that we want zamindar judges, it is well known to the honourable members that even in the subordinate staff we have a very poor representation. Had there been any zamindar judge he would have tried to safeguard our interests at least to some extent. Therefore, I request the House to accept this resolution. Once more I repeat that we do not ask you to appoint inefficient zamindars as judges but if you can find an efficient zamindar, as you certainly can, then there is no reason why our claims should be overlooked. With these few remarks I strongly support the resolution under discussion.

Khan Bahadur Sardar Habib Ullah : Sir, may I point out that when such an important resolution is under discussion the Government benches are practically empty ?

Mr. Chairman (Mr. S. L. Sale) : It is not for me to summon Government members.

Rao Bahadur Chaudhri Chhotu Ram [South East Rohtak (Non-Muhammadian), Rural] : Sir, I lend my wholehearted support to the resolution that was moved by the honourable member who represents Ludhiana in this Council. It is a matter for congratulation that this resolution was moved by a gentleman who is himself not a statutory agriculturist and the most eminently reasonable speech that was made in favour of the resolution also came from a gentleman who did not belong to a statutory agriculturist tribe. The wording of the resolution is such that any one who has a sense of justice about him should readily accept it. For, what does the resolution say ? It says that subject to considerations of efficiency at least 50 per cent. of the Indian Judges should be selected from among agricultural tribes. Where is the harm in the resolution ? What is there in it which makes it undesirable or open to any objection whatsoever ? The interests of efficiency have been safeguarded by the phrase "subject to considerations of efficiency." After those interests have been safeguarded no room is left for any reasonable objection and there is no valid ground why this resolution should not be accepted ? It is a notorious fact that in the High Court there is not a single judge who belongs to any of the statutory agricultural tribes. Why, even after the interests of efficiency have been safeguarded, should not a member belonging to those tribes be appointed to the bench of the High Court ? I have not been able to see the force of the arguments that have been put forward by members who belong to non-agricultural tribes. As a matter of fact even the attitude taken up by the representative of Government has been most disappointing. He referred to section 101 of the Government of India Act and said that the qualifications laid down therein did not make any provision whatsoever in respect of caste or creed. We never suggested that that section made any such provision. But does that section say that a man belonging to any particular caste or tribe should be excluded from that office ? Certainly it does not. And all that this resolution suggests is that subject to considerations of efficiency members of agricultural tribes should be appointed to the bench of the High Court to the extent of 50 per cent. It is a very modest and reasonable request. So many objections have been raised for nothing whatsoever. The flimsy character of the objections would become apparent if we just made a

[R. B. Chhotu Ram.]

slight attempt to analyse them. One honourable member who opposed the resolution and who is seated behind me said that the best commentary on the Punjab Land Alienation Act was written by a gentleman who belonged to a non-agricultural tribe. Does that show that agriculturists are not reasonably efficient to discharge the duties of a judge of the High Court? Has the Honourable Mr. Justice Tek Chand written any commentary on any subject whatever and can anybody deny his ability? He is a man of undoubted legal capacity, of outstanding merit and yet, so far as I am aware he has not written any commentary on any subject whatsoever. What about the Honourable Mr. Justice Jai Lal? Has he written any book on any legal subject? Has he written any commentary on any of the Acts enacted by this legislature or by the Imperial Legislature? No. The fact whether a particular individual has or has not written a commentary on any legal subject does not show that he will prove particularly able or particularly incapable as a judge.

Another argument that was put forward was that so far as appointments to the High Court bench were concerned, the main factor to be considered was the proper administration of justice. Is there a single word in this resolution which suggests that justice should not be administered properly? Is there any *a priori* ground on which we can suppose that a zamindar, a member of an agricultural tribe, would not be able to dispense justice properly? Are we to proceed on the assumption that it is the monopoly of non-agricultural tribes to administer justice properly? Certainly not. My complaint is that whenever any subject of importance to the welfare of the zamindars or any subject calculated to secure the proper rights of zamindars is raised in this Council most fallacious arguments are put forward against the proposal, most flimsy objections are taken to it and arguments are put forward on assumptions which are entirely untenable. One honourable member who opposed the resolution said that zamindars were probably less fit for this particular branch of public service and that therefore they should not grudge if other members belonging to other tribes were in a majority in this branch. Where is the justification for making the assumption that zamindars are less fitted for judicial posts? None whatever? The only unfortunate thing about the whole matter is that zamindars do not get a fair opportunity. Their case is not considered really on its merits. There is a definite prejudice against them. Their opportunities of gaining access to those who make appointments or make recommendations are very few. They are kept at a distance from officers who make nominations, make recommendations or make final appointments. (Mr. C. A. H. Townsend: I think you are proceeding on your own assumptions on the subject). Am I to answer these interruptions, Sir? (Mr. C. A. H. Townsend: No). (Laughter). I will quote definite figures, incontestable figures, showing that justice is not being done to zamindars. Take the consolidated list. It is supposed to be published on the first of January every year. Take up that list and just cast a glance at the departments which are administered by the High Court, the establishment in the Sessions Judges' courts, the establishment in the High Court and the establishment in the Sub-Judges' courts. What is the percentage of zamindars employed in them? I think it will not be found to be higher than 5 or 6 or 7. (Lala Mukand Lal, Puri: Question.) It is only an

approximate estimate. I have not got the list before me but my impression is that in the High Court the percentage will not be above 5. In the Sessions Judges courts probably the same state of things prevails. Take another instance, i.e., that of the sub-judges who have been appointed during the last three years. You will find that out of the total number appointed during the last three years there is a very small fraction which comprises statutory agriculturists. During the last two years I believe they have been appointed as the result of a qualifying test. The judges are not supposed to follow the results of this test very strictly. They have a good deal of discretion left to them to make selections from those who have passed the qualifying test. Can it be seriously contended that among those who qualified themselves as a result of this competitive test not a single Hindu Statutory agriculturist was there? Not one has so far been appointed. The Government as a result of the many questions put to them instituted this test and adopted a certain definition of the term "zamindar." That definition was intended to benefit those who belonged to statutory agricultural tribes because admittedly they were backward educationally. Look at the way in which that definition has been worked by the High Court. The object was to admit to this qualifying test only first division men belonging to non-agricultural tribes and in the case of agricultural tribes even second division men. That was the intention because statutory agriculturists were backward. I have put a series of questions to the Honourable the Finance Member during the last two or three sessions of the Council. The answers to them show that the number of second division men who have been admitted to this qualifying test is fairly large. At one of the examinations I think it was about 50 out of which only 3 belonged to statutory agricultural tribes while as many as 47 from non-agricultural tribes were let in through this door. This door was meant only to let in second division men belonging to the agricultural tribes because they were backward educationally. And yet what is the result? As many as 47 persons of non-agricultural tribes were let in through this door. That is the way in which the High Court has worked this definition on its administrative side. Even the judicial side of the High Court has been referred to. I had no intention of making any reference to the judicial side of the High Court myself. But rulings have been quoted with the object, probably of showing that the natural sympathies of a man influence him sometimes when he has to make up his mind with regard to the decision of a case. I do not know how far it would be correct for me to make any reference to judicial decisions of the High Court. They may be right or they may be wrong and to some extent they may be influenced by the natural sympathies of the judge or they may not be so influenced. As certain references have already been made I wish just to draw the attention of the House to certain decisions (*Lala Mukand Lal, Puri*: Two wrongs do not make one right). Nobody seems to act up to this principle. The honourable member interrupting was also one of the guilty persons in this respect. I wish just to draw the attention of the House to one or two things. I am not referring to the decisions of the High Court but to certain decisions of Sessions Judges. There is a section in the Civil Procedure Code which gives protection to the houses owned and possessed by agriculturists. That section is absolutely ignored by Sessions Judges.

[R. B. Chhotu Ram.]

I know that a widow, a Jat widow, has been held not to be an agriculturist because she does not plough the land herself. I know that minors have been held not to be agriculturists because they cannot plough lands themselves. What a clever device has been adopted to get out of this position ! Sessions judges have been interpreting this section in a manner which has the effect of practically depriving agriculturists of the benefits of this section.

Lala Mukand Lal, Puri : Sessions judges do not interpret such sections.

Rao Bahadur Chaudhri Chhotu Ram : I mean district judges. Then the same section gives protection to all the houses occupied by an agriculturist for agricultural purposes, whatever their number, provided they are actually occupied for agricultural purposes by an agriculturist. I have known decisions of subordinate judges and district judges in which these judges have held that a house may be too big for the actual needs of an agriculturist and his family and therefore only a portion should be protected. If an agriculturist happens to own and possess more houses than one it is said that one house is enough for the family and on this pretext the other houses are attached and sold.

Lala Mukand Lal, Puri : May I ask if these judgments are different from judgments given by other High Courts ?

Rao Bahadur Chaudhri Chhotu Ram : I am concerned only with the Punjab and with Punjab agriculturists. I am not concerned with Central Provinces or United Provinces and I am not concerned with the decisions which are given by the courts of those provinces.

Lala Mukand Lal Puri : Does my honourable friend mean that they should give judgments different from the judgments of other High Courts for the convenience of agriculturists ?

Rao Bahadur Chaudhri Chhotu Ram : The High Court is the same as it was in old days, but the judges are different in spirit. There was a time when the judges did not give such decisions. Now we are living in times when the subordinate judges and district judges give decisions which are most detrimental to the interests of the zamindars and these decisions are upheld by the High Court. Therefore I urge that it is of the most vital importance to the zamindars that the High Court should have a sufficient number of men belonging to statutory agricultural tribes on its bench. The resolution as it stands contains a very modest request. Safeguard your interests of efficiency by all means but having safeguarded them please see that as many as fifty per cent. come from the ranks of agriculturists.

The honourable member who spoke on behalf of Government to-day said that the local Government had not much of a hand in making these appointments ; permanent judges were appointed by His Majesty the King Emperor and additional judges were appointed by the Governor-General, only officiating judges were appointed by the local Government. Even there the local Government has certain definite powers and these powers can be exercised to secure a sufficient proportion of statutory agricultural judges on the bench of the High Court. I do not believe that the local

Government is not consulted by the Governor-General with regard to the rest when he makes temporary appointments.

The Honourable Sir Henry Craik : It is not.

Rao Bahadur Chaudhri Chhotu Ram : Does not the local Government make any recommendation in respect of them ?

The Honourable Sir Henry Craik : No, none.

Rao Bahadur Chaudhri Chhotu Ram : Then the Governor in Council or Governor alone has to make these recommendations. Even so, the Governor, in making his recommendations, ought to pay heed to the real situation in this province. He ought to acquaint the Governor-General with the feelings which are entertained by zamindars in this province and if these feelings are made known to him I am sure they will, to some extent, influence his judgment in making future appointments. The Home Secretary also said that zamindars, i.e., members of statutory agricultural tribes, were not represented to any very large extent even among sessions and district judges. That is hardly a fault of the statutory of agricultural tribes. That is the fault of the Government itself. It is time that that fault was rectified. With these words I lend my whole hearted support to this resolution.

Mian Ahmad Yar Khan, Daultana : Sir, I move that the question may now be put.

The motion was carried.

Mr. Chairman (Mr. S. L. Sale) : The question is that—

“This Council recommends to the Government to take such steps as are constitutionally open to it to ensure that, subject to considerations of efficiency, at least half of the Indian judges of the Lahore High Court are members of statutory agricultural tribes.”

The motion was carried.

RESOLUTION re. TAQAVI LOANS.

Chaudhri Riasat Ali [Gujranwala, Muhammadan, Rural] : Sir, I beg to move that—

“This Council recommends to the Government to advance taqavi loans to the zamindars at a nominal rate of interest to meet the extraordinary strain on their financial resources caused by abnormal slump in the market.”

In proposing this resolution, Sir, I will be very brief because the time at my disposal is very short. Sir, it is an axiomatic truth that the land revenue forms the lion's share of the provincial income. It is the fruit of the zamindars' hard labour which fills the Government's treasury. His loyalty has been tried both in times of peace and war and has not been found wanting. He always rises up to the occasion. If there is war the rural population rushes to the military rank and file in overwhelming majority with the burning desire of shedding every drop of their loyal blood for the safety of the Empire. If a war loan is raised he comes forward with all his capital however limited it may be and sometimes has to go beyond his means to please the local officers. If some unforeseen calamity invades the Empire and an appeal is made by the Government for funds it is he and he alone who feels the responsibility most of all and sometimes goes beyond his means to please the Deputy Commissioner, the Revenue Assistant, the

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tahsildars and even his patwari (*hear, hear*). I will take a concrete example. In the case of recent floods an appeal was made by Government through the Red Cross Society for those who were rendered homeless on account of the disastrous floods. In my own district no less than Rs. 20,000 were collected and almost all of that money came from the pockets of zamindars with very few exceptions. In short he is singing the hymns of loyalty equally to all ears from the highest official down to the village chaukidar. He is the person who tills his soil in the burning heat of the summer sun as well as the freezing cold of the winter night. He is the person whose loyalty has always been tried. Even in these hard times when the bomb and the revolver has become almost a daily menace to the society, when sedition is being preached equally from the platform as well as from the press, his loyalty is as unshaken as ever it was (*hear, hear*). In the circumstances it is only fair that the Government should look to his interests more than it does to anybody else's. The abnormal fall in the prices of the agricultural products and the consequent slump in the market has reduced him to penury. I will quote some figures to prove that. At the time when land revenue was assessed in my district the rates were as follows. Paddy was selling at Rs. 2-14-0 a maund, wheat was selling at the rate of Rs. 3 a maund, cotton was at the rate of Rs. 7-8-0 a maund. The rates as they now stand are paddy Rs. 1-13-0 to Rs. 1-14-0, cotton varies from Rs. 4 to Rs. 4-8-0 and wheat about Rs. 2. The average yield per acre of cotton is 6 maunds, per acre of paddy 13 manies. Now as to the cost per killa I would like to mention that for every acre of munji which a cultivator sows he is a loser by Rs. 1-2-0. Ploughing costs Rs. 4, plantation, Rs. 4, weeding Rs. 4, nursery plants Re. 1, and then comes the land revenue and abiana at about Rs. 11-10-0 that has now been very kindly to some extent remitted by the Government. I am taking the average expenses. This brings me to the conclusion that the average expenses on an acre of land of munji is Rs. 24-10-0 while the average yield is Rs. 23-8-0, that is, he loses Rs. 1-2-0 by sowing an acre of land for munji. Not only this, to add insult to injury these things are not finding a market but they are left in heaps in places where they were collected at the time of the harvest. Nobody cares to buy them. As compared to this, other things are as dear as they ever were. Milk, ghee, meat and everything else is selling at the same rate, a labourer charges the same, so does the washerman, the carpenter and so does the weaver. Of all these persons none has reduced his rates and is charging the same. So if a man has to buy a boot he has to pay one mani of wheat. Even the railway fare and transportation costs are being charged at the same rate. I have actually seen litigants from the various villages at the farthest ends of the district walking on foot to attend to their cases at the district headquarters and staying in daras at night on their way to and from Gujranwala. Why! because they can't afford to pay the railway or lorry fare. This is the state of affairs in these times and it is very difficult to make both ends meet. These are very hard times and the rate of interest is so high that it is impossible both to raise new loans as well as to pay off old ones. Money is not forthcoming even for legal necessities, say the purchase of a bullock or a cow or even implements of agriculture and seeds.

It was primarily to meet such stringency that the *taqavi* system of borrowing was introduced. It is a sort of financial help to the zamindar, and it is the duty of the State to give this financial help not for the sake of making any profit out of it, but for the sake of making a provision for the loss. This system, Sir, is governed by the Land Improvement Loans Act (Act XIX of 1883) and the Land Agriculturists Loans Act (Act XXII of 1884). The rate of interest which is being charged in these days is $6\frac{1}{2}$ per cent. according to the correction slip, dated the 21st April 1930, of Standing Order 32, paragraph 2. My first contention in this connection is this that the Government should not charge this high rate of interest on *taqavi* loans. Why? Because the Government is itself a shareholder in the product and in the improvement of land. You spend a certain amount of money on land with a view to improve it, thereby increasing the letting value of that land. The result is that there is a permanent increase in the income of Government. I take a concrete example. Some Rs. 500 or Rs. 600 are borrowed to sink a well. Now, a well irrigates thirty acres of land ordinarily. A *riati patta* is given for the first twenty years. The rate of assessment on barani land varies from twelve annas to one rupee per acre.

Mr. C. A. H. Townsend : In what district, may I ask?

Chaudhri Riasat Ali : In every district.

Mr. C. A. H. Townsend : If the honourable member is speaking of every district, then it is quite untrue that the rate of land revenue is twelve annas. In some places it is much less.

Chaudhri Riasat Ali : I am speaking approximately. The rate of assessment on chahi land is more than it is on barani land where it is between twelve annas and one rupee per acre. What I am saying is that this Government does not charge anything on banjar land, I suppose, but when a well is sunk on that land Government assesses land revenue taking it as chahi land. My contention is that Government which got, say, for example, Rs. 10 on an average area of thirty acres of barani land, when an improvement is made by sinking a well, thus setting up a permanent source of irrigation, it gets more. (*A voice :* So does the zamindar). The same land which brought only Rs. 10 on account of the uncertain conditions of weather and rainfall will now bring Rs. 45 to the Government. The Government gets back its money it lends in the form of *taqavi* and it gets a profit in the form of assessment of land revenue. In my opinion land revenue should be charged as it was charged before the improvement was made or else there should be some reduction in interest because Government gets back the money that is invested in the sinking of the well.

Then the next reason which I would like to put is this that $6\frac{1}{2}$ per cent. rate of interest is not so low as it apparently looks. Government advances money, though not in all cases but certainly in some cases, only on taking valuable immoveable property as a collateral security. It gets back its money. It realises its money not in the ordinary way but as an arrear of land revenue. Well-to-do zamindars can borrow money in the bazaar at this rate if the sahukars are also given the same benefit of realisation. The realisation in their case is very difficult. It leads through a very

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complicated procedure, and involves a good deal of litigation. If they are given the same benefit they will advance loans at a lower rate.

Then, Sir, one thing more which I would like to press. It is this that all sorts of industries are being carried on in all the other more advanced countries by means of machines. We are tilling our soil on the same old methods as our forefathers did. Why is it so? We import thousands and thousands of tons of wheat from Canada and Australia in our market daily. The competition is very hard. There in those countries people cultivate their land on advanced methods and by means of implements and machines. We cannot do that, and our energy is lying waste because we lack funds. We cannot adopt those methods unless we have funds and we cannot have funds unless we raise loans, and we cannot raise loans unless the rate of interest is decreased. If the rate of interest is decreased the result will be that the zamindars will take money on a larger scale and the cultivation will be carried on by advanced methods. The zamindars will flourish, the mandis will flourish, the sahu-kars will flourish, the factories will flourish and in the end the whole country will flourish.

One thing more which I would like to suggest is this, that the success of the system of canal irrigation which was unquestionable up till now has begun to show its bad results. The reason is obvious. Thousands of acres of land are being converted into barren soil on account of sub-soil water (*sem* and *thur*). The water level is rising with marvellous velocity of $1\frac{1}{2}$ foot per year. What will be the result? In a few years the land will have been converted into a mere expanse of water or a mere desert. No sure methods of saving the country from this calamity have been discovered up to date. The system of making drains and of sinking tube wells no doubt has done a good deal, but such enterprises require the investment of huge capital. The Chakanwali Farm in my district has worked wonders because it is being financed by Government who can afford to pay so much money. However, these methods cost thousands of rupees, and the poor cultivators cannot afford to invest so much money on these methods. Therefore, people are not borrowing money for the purpose of sinking tube-wells on account of the enormous rate of interest.

(At this stage Mr. President resumed the chair.)

One thing more. It is not a new thing that I am demanding. The rates of interest on these *taqavi* loans have been varying from time to time. I may point out that at first this rate was $6\frac{1}{2}$ per cent. Then by the correction slip, dated the 24th April 1922, it was raised to $7\frac{1}{2}$ per cent. Then by correction slip 694 of 2nd February 1925 it was reduced to $6\frac{3}{4}$ per cent. Then in February 1926 it was reduced to $6\frac{1}{2}$ per cent. Then in 1927 it was still further reduced to 6 per cent., and it was by correction slip to Standing Order 32, paragraph 2, dated the 21st April 1930 that it again was raised to $6\frac{1}{2}$ per cent. (A voice: Government is borrowing at that rate now). I am not demanding a new thing. The rates have been changing and there must have been reasons. With them I am not concerned now. Taking into consideration all these things I suggest that the rate of interest should be reduced.

One point more. It might be argued, Sir, that this will cause a deficit in the budget or in the income. My contention is that if you decrease the

rate of interest then thousands of acres of banjar land will be brought into cultivation and acres of barani land will be converted into chahi. The result will be that there will be an increase rather than a decrease in the budget. In the circumstances I propose that the rate of interest should be reduced to half, that is, to $3\frac{1}{2}$ per cent.

Mr. President :

"This Council recommends to the Government to advance *taqavi* loans to the zamindars at a nominal rate of interest to meet the extraordinary strain on their financial resources caused by abnormal slump in the market."

Lala Mukand Lal, Puri [Punjab Industries]: I congratulate my honourable friend the member for Gujranwala on his most lucid speech and, as has been pointed out by the Leader of the House, maiden speech, in support of the resolution which he has moved. I heartily associate myself with this resolution, and I support the motion.

Mr. C. A. H. Townsend (Financial Commissioner): I welcome this resolution, and I have heard the speech of the honourable member with interest. I congratulate him on the care with which he has studied his subject: his reference to correction slips, in particular, were most illuminating.

I must say at once that Government regrets it cannot accept this resolution, and for that very well known bugbear we have at present—financial stringency. I hope to show later on, helped by Mr. Staig, that at present we lose money on our *taqavi* grants. We have lost a good deal more during the last five years than in the previous quinquennium, but if we accept this resolution we shall lose much more. And the loss would have to be paid by the people of this province who do not take *taqavi* loans. So much by the way.

Now, Sir, the honourable member has given us a lot of interesting statements, and it would perhaps intrigue the House if I give them a few figures as to the amounts of *taqavi* distributed in recent years. We give *taqavi* under two Acts: the Land Improvements Loans Act and the Agriculturists Loans Act. These are the figures under both the heads. In 1924 we advanced Rs. 19 lakhs, in 1925 Rs. 16 lakhs, in the following year Rs. 13 lakhs and in 1927 Rs. 24 lakhs. Then in 1928-29 we gave Rs. 54 lakhs. The actual figures for the year 1929-30 are not with me, but they are, so far as I can make out, about Rs. 44 lakhs. These figures show that in the last two years we have advanced infinitely more *taqavi* than in their predecessors. So far so good; but much less satisfactory are the figures of arrears. I am sorry to say that they are steadily increasing.

Mr. President : The Council will now take up the adjournment motion.

MOTION FOR ADJOURNMENT.

FALL IN PRICES OF AGRICULTURAL PRODUCE.

Rao Bahadur Chaudhri Chhotu Ram [South-East Rohtak (Muhamadan), Rural]: Sir, I move —

"That the Council be adjourned for the purpose of discussing the steps which should be taken to protect the interests of the Punjab in view of the unprecedented fall in the prices of agricultural produce."

[R. B. Chhotu Ram.]

Every member of this House is aware that the prices of agricultural produce on which the prosperity of this province so much depends have fallen very low indeed. Wheat which used to be sold at 5, 6 or 7 seers to a rupee has now come to be sold at, I think, about 22 or 23 seers to a rupee. In certain districts the prices are slightly better, but not very much better. I think the highest price which a maund of wheat will now fetch is Rs. 2-4-0 or Rs. 2-5-0. Anyway, the prices have fallen very low indeed. This abnormal fall in the prices of agricultural produce has upset the economic conditions in this province so violently that everybody who has any interest in the welfare of the province is thinking, and thinking seriously, as to the steps which should be taken somehow or other to restore the old balance. I am afraid the subject in some of its aspects is of a technical nature, and I may not be in a position to throw any very great light on those of its aspects, but I will suggest certain means which a layman can think of and which can be adopted to improve the present economic position of agricultural classes and of the Punjab as a whole which is so essentially an agricultural province. One thing that suggests itself to me is that the importation of foreign wheat into this country should be prohibited. I know that so far as the Punjab Government is concerned, it cannot undertake to forbid the importation of foreign wheat into this country. It is a central subject, and it is for the Government of India to take such steps as it likes or to refuse to take any steps whatsoever. But as the Punjab is almost exclusively dependent for its welfare on agriculture, I think it is up to the Punjab Government to take vigorous steps to see that the Government of India comes to the rescue. There was a time, I think it was in 1919 or 1920, when the export of wheat was forbidden in the interests of the general body of consumers. The last 10 or 11 years have seen the tables turned, and now I think it is up to the Government to see that the interests of the producers are safeguarded in the same manner in which the interests of the general body of consumers were safeguarded by the Government of India ten years ago. Ordinarily I would not request the Government to take such a radical step, but the situation with which we are faced is not an ordinary one. It is a most abnormal situation, and when we have to face an abnormal situation, abnormal steps are rendered necessary. Extraordinary steps have to be taken to meet the present situation. The situation is really most unusual. Such a situation has never arisen within the living memory of the present generation. We have to meet an extraordinary situation and in order to meet that situation, extraordinary steps should be taken by the Punjab Government, and if the Punjab Government cannot take those steps itself, at any rate it should make earnest efforts to see that the Government of India does take those steps.

Next to the prohibition of imports of foreign wheat into the country comes the question of imposing a substantial duty on the import of foreign wheat. If the Government of India cannot be persuaded or if it is not in a position to forbid entirely the import of foreign wheat, then there is no reason why the Government of India should not impose a substantial duty on the

import of foreign wheat. There are other commodities, many other articles, on the import of which the Government has levied import duties, such as cotton goods, iron, and so on. I do not see any reason why, when it is necessary to safeguard the interests of a very large section of the population, similar steps should not be taken to impose a duty, a very heavy duty, on the import of wheat.

The third step which we can reasonably ask the Government of India to take is a proper adjustment of railway freights. I am not in a position to give very accurate information on that point, but if what was stated by a certain president of a certain Chamber of Commerce is true, then, I think we are perfectly justified in asking the Government of India to adjust those freights at a very early date. I remember having read a speech in one of the daily newspapers that while the freight on a maund of wheat from Australia to Calcutta is only six annas, it costs, for a Punjabi, to take his wheat from Lyallpur to Calcutta as much as Rs. 1-3-3. Now, that gives a very ample margin for Australian merchants to beat the Punjabi in the matter of supply of wheat. There is no reason why the railway should not be able to carry a maund of wheat from Lyallpur to Calcutta for six annas if a ship can bring a maund of wheat from Australia to Calcutta, a distance of over four or five thousand miles, for six annas. It is a most unfortunate thing that the railway administration which is mainly controlled and regulated by the State itself should not be willing to regulate the question of freights in such a manner that our countrymen will not be placed at a disadvantage as against Australians. I would not labour this point any further. I think Mr. Owen Roberts is going to speak after me and he will be in a position to supply this House with very accurate information and very authoritative views on the subject.

The last point which I should like to touch upon in this connection is the question of the exchange ratio. The present exchange rate stands at 18d. to the rupee. This exchange rate was fixed some three or four years ago in the teeth of Indian opposition. Practically all the interests, I mean exporting interests were absolutely and solidly opposed to the exchange ratio being fixed at 18d. I understand that those who were interested in the import trade of India were in favour of the 18d ratio. However, the main body of Indians were opposed to the ratio being fixed at 18d. They favoured the ratio being fixed at 16d. to the rupee. The present exchange ratio causes a loss of as much as 12½ per cent. to a man who has to send his surplus produce across the seas. Suppose a Punjabi has to send wheat worth £100,000 to England. Naturally he will get his price in sterling. The effect of the present exchange rate in his case will be this, that for 18d. worth of goods he sends to England he will get in India Re. 1. If the present exchange rate were lowered to 16d. then he will be able to get Re. 1 for 16d. worth of goods he sends to England. (*Interruption*). I am speaking from the exporter's point of view. Our province is a province which produces extra wheat, that is, wheat in excess of the needs of the province. Therefore we have to export a large quantity of wheat every year to England. For that surplus quantity of wheat we get a price in sterling in England. (*A voice: Not necessarily*). Any way, I am concerned with what we get and I am not concerned with what the English people pay. At present we get Re. 1 for 18d. worth of goods. If the ratio were changed to 16d. then we shall be

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getting Re. 1 for 16d. worth of goods. Therefore under the present exchange rate the loss to us as exporters or as producers of surplus wheat is obvious. That works out to about 12½ per cent. Therefore I respectfully submit that the Punjab Government should press upon the attention of the Government of India the desirability of revising the exchange rate and bring it down to 16d. instead of 18d. to the rupee. Actual experience has shown that the present exchange rate has brought about the ruin of agricultural interests.

Mr. President :—

"The Council be adjourned for the purpose of discussing the steps which should be taken to protect the interests of the Punjab in view of the unprecedented fall in the prices of agricultural produce."

Mr. Owen Roberts (Non-official, nominated) : Sir, I am sorry that a subject like this should have been raised at the end of the day's work, because it is one that calls for a large number of considerations. I shall, first, deal with some of the points raised by my honourable friend Chaudhri Chhotu Ram who has moved the adjournment motion. He has referred to the possibility of prohibiting the imports of wheat or of levying a very heavy import duty. I will suggest an alternative to these two lines of thought, namely, the licensing of imports. Licensing of imports will give Government a degree of control which nothing else can give. They can make up their minds as to a danger price for wheat in the country ; that is, suppose they fix a price of Rs. 5, they can then issue licenses to import wheat when the price level reaches that. This policy might usefully be carried a step further. Government could arrange to purchase its own wheat if necessary and hand it over to the distributors at the seaboard. This course has a very great deal to recommend it, because Government can certainly buy under very much better terms than any private organization. The credit they can put up would enable them to get command of wheat when they desire it, at the very best price, and in a matter like this I think that we must make a distinction between interference with trade and regulation of trade. A system of trade by license would I think come under regulation of trade and would not be interference with trade for the very sound reason that Government would hand over the grain to distributors to sell. I merely put the suggestion forward as the matter is in front of us. The rate of interest is so high that zamindars are unable to raise new loans as well as pay for old loans. If a zamindar has a debt of the extent of Rs. 1,000 it is impossible for him in the present circumstances to pay that back even in ten years. Now, Sir, I come to this system of *taqavi* loans as suggested. It was a system of easy borrowing and easy payment. The object in view was not to make a profit of the interest but it was only a provision against loss. On the subject of railway freights I feel very strongly. The present reduction to Karachi has been brought about not by any wave of a magician's wand but by the application to this class of freight of a fresh standard scale of charges. The effect of that standard rate is this that if we had the power to insist on its application to wheat sent to Calcutta even on that portion of the route running through our own province the reduction which would follow on the section from Lyallpur to Saharanpur would amount to Rs. 7 a ton. I worked it out in the railway offices with every facility in front of me, and I think the

figure is correct and will ask you to consider the effect of this reduction on a boat carrying 6,000 tons; the figure would come to Rs. 42,000. My honourable friend mentioned the question of exchange ratio. This is a subject on which I definitely refuse to enter on short notice. It is very much a double-edged subject. There is such a thing as having to buy a gold credit in London and if he applied 1s. 4d. rate to do that he would find himself on the wrong side of the book by a long way. In these days one hears a great deal from time to time of the assistance that Government should give to agriculturists in this matter, but as one who has had practical experience of this trade for a number of years I would appeal to agriculturists here to put their own house in order. It is surprising to see how foreign wheat has found its way into Calcutta in years when there was no need for it to be there, and I think we are bound to try and discover the proper reason for this. That reason as far as I can see is that we have no marketing organisation. A miller in Calcutta prepares a programme which he wishes to carry out. He may require as much as 5,000 tons of wheat a month over a series of months, but when he looks round to try and get this wheat in India he cannot get it, and he has to go abroad. He cannot get the quantity and if he gets the quantity he cannot get it at a known rate for 5,000 tons. He can get prices for 1 to 200 tons and, lastly, he has got to risk the quality of the grain that he gets. I am not prepared to admit and I have some experience in the matter that Australian wheat has any advantage whatever on Indian wheat for the purposes of milling. In fact I would be prepared to say that a really good sample of 8-A wheat, provided it is not mixed with rubbish would yield results superior to or at any rate equal to a similar quantity of Australian wheat. But what efforts do we make to market it? Absolutely none. I feel that criticism like this from people like myself on a subject very often fails to carry weight because it is regarded as criticism of Indian methods. Now, Sir, I would like to say a few words on this point. When I joined this trade in 1904 there was a system of marketing in the Punjab under which travelling from Karachi you had your first class centre at Sukkur where thousands of tons of wheat were stocked and where it was possible to buy large quantities coming down the river. Your next large market was at Multan. You then had enormous markets at Lyallpur, Gojra, Toba Tek Singh and Chak Jhumra. At any of these places you might buy thirty thousand bags a day during the season. In this part of the country you had large markets at Ferozepore, Amritsar, Jullundur and Ludhiana. The reason for the disappearance of these markets is railway development and nothing else, and we are now at the old game of trying to pour new wine into old bottles. I can recollect the time when in Ludhiana the daily arrivals of grain for many weeks were between 20 to 30 thousand bags a day: when you had a string of carts extending from the mandi across the railway line and many miles into the country. How they finally found their way into the mandi I never discovered. To-day nothing of that sort exists. New railway lines have been and are being opened and all these centres have disappeared and no fresh organization has come into existence which would enable a big buyer to buy a large quantity of wheat at a known price on a given day. Every one of our competitors in the foreign wheat market is able to meet this problem, and until we bring ourselves into line with modern commercial conditions we cannot hope to get anything like reasonable value for our products. It is a

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tragedy that within a comparatively small area like this, where according to figures there must be at least a million tons of wheat in the province, it is practically impossible to purchase 5,000 tons on a given day at a given price. That is the reason why people go to Australia for relief. Take Karachi; it has now stocked itself with wheat for many weeks ahead by Australian imports and our trade is locked out, and I am afraid there is no remedy for it. We deserve it. We have just been left behind. The importance of this question to this province is going to be felt still more severely when you get the Sukkur Barrage and the new Bahawalpur Irrigation going, and unless the colonist in the Punjab takes time by the forelock and organises himself now he is going to be worse off than ever. I should like to say a great deal more on this subject, but I have an appointment to keep that I cannot possibly put off, but I shall be very pleased to place my experience at the disposal of any member of this Council or any group and to do what I can to assist in developing these arrangements and bringing ourselves up to date. (*Hear, hear*).

The Honourable Captain Sardar Sikandar Hyat Khan : [Revenue Member] : Sir, as I pointed out when leave was asked for introduction of this motion, in my opinion it would have been better from every point of view if this discussion had been left over till the budget session, as by then some of the problems referred to by the honourable mover would probably be ripe for decision. The honourable mover has rightly stated that the present slump in prices has violently upset conditions in the province. We are also aware that it has violently upset our estimates of receipts in the current year's budget. As you are aware, there was already a deficit of Rs. 67 lakhs prior to the large amount let off by way of remissions during the present *kharij*. The relief on cotton and rice alone will absorb approximately Rs. 27 lakhs. In addition to this, Government has decided to remit a lakh and 33 thousands in Rohtak district on account of the widespread damage to sugarcane. I am sure my honourable friend from Rohtak will appreciate this generous remission which is equivalent to 37.5 per cent. of *abiana* on sugarcane. Honourable members of this House are perfectly aware that Government has been anxiously pursuing all possible avenues which might lead to amelioration of the present conditions and relieve the economic pressure which unfortunately is pressing heavily not only on the zamindars but, as I pointed out during the debates in the last session, on others also who are no less affected than the zamindars. In to-day's debate two or three concrete suggestions have been made. The honourable members of this House would be gratified to learn that all these matters are already receiving attention. As a matter of fact with regard to some of them Government has already taken action which has proved successful. As an instance, I would mention the reduction of freight to Karachi. It was very strongly pressed by this Government, and I believe it was due to our representing the matter to the Government of India that the Railway Board reduced the freight on wheat to Karachi. (*Lala Mukand Lal, Puri*. Adversely affecting thereby the milling trade?) I think there may be something in that. The Government is now in correspondence with the Railway Board with regard to reduction of freight on wheat from stations in the Punjab to Calcutta. I believe that if the railway freight to Calcutta

was also reduced, it would help in taking away a portion of our surplus to Calcutta before the next *rabi* harvest ripens. No decision has been arrived at by the Railway Board as yet, but I hope I will be in a position to inform the House of the decision taken by the Government of India in the matter when we meet for the budget session. With regard to the imposition of duty on wheat imports, it is a matter in which you no doubt realise, Sir, that the decision entirely rests with the Government of India, but I can assure the honourable mover that the views of this House will be conveyed to the Government of India. Perhaps it may be possible for them to adopt some such measures if the price of wheat remains at its present level. With regard to exchange ratio, I am afraid I am not in a position to express any views in the matter, because it is a central subject and the proper place for its ventilation is the Legislative Assembly. It is for the honourable mover, if he wants the matter to be discussed, to ask his representative in the Assembly to bring to the notice of the Government of India the views which he has expressed, or which other honourable members in this House may desire to be conveyed. So far as the Government is concerned, I have assured this House before and I can assure them again that we will do all that we can possibly do in trying to relieve distress and rehabilitate the economic position of the province. But, as the honourable member representing the European community pointed out, it is also the duty of the zamindars themselves to try and put their houses in order. So far as Government is concerned all that lies in its power will be done to cope with the situation.

Mr. M. A. Ghani [Non-Official Nominated (Urdu)]: Sir, with your permission I would like to make my submissions in Urdu. It is for the first time that I have risen to speak in Urdu. There is no doubt about it that everybody is sympathetically disposed towards the zamindars. But if the motion under consideration is to result in raising the price of wheat, then, I am strongly opposed to it. This motion has been brought in in a capitalistic spirit. I quite realise the overwhelming majority of my opponents, but still being a representative of the labouring classes, I feel myself bound to oppose it. I expect mercy for those poor people who earn their livelihood by labour at the hands of my honourable friends. I also know that those poor classes have got only one representative here in this House and he cannot be expected to have any weight here in this House. But thinking that perhaps my depicting the labourers' utter poverty might stir pity in their hearts I undertake to make a few submissions in the form of an appeal to them. Since the Great War the prices of all kinds of grain have been rising, and there was a time when wheat sold at 3 seers a rupee. That was the time when the zamindars were most happy and felicitous and the labourers most wretched. It is after years that the condition of the poor people has become a little ameliorated by the slump in the grain market. But to our utter disgust we see that the zamindars' spirit for hoarding money is again overtaking them. The ravaged and starving labouring classes got some relief by the fall in prices but the honourable representatives of the zamindars could not tolerate our felicity and at once brought in this most opprobrious motion. The sure result of the motion if accepted will be a tremendous rise in the grain prices and consequent penury for the wage-earners. Through you, Sir, I implore the honourable member not to lay too much stress on this motion, for it will end by turning

[Mr. M. A. Ghani.]

many into beggars and mendicants. Don't we find the road leading to the Railway Station dotted on both sides with beggars, with hands extended in all the misery of indigency? This motion will add to their numbers. (*An honourable member*: Wheat sells 20 seers a rupee and if still they starve and beg, they are only parasites). (*Another honourable member*: These numbers are largely made up by the zamindars.) That might be so, but I say the labourers have not got a penny. They have not got even a single "marla" of land by cultivating which they might produce a little corn to fill their own and their families' stomachs. This class cannot afford even to have two meals a day. By the rise in the prices they will starve and their curses will rise to heaven and would show a withering effect on the wives and children of those who will be responsible for bringing ruin on their heads. The zamindars will rue the time, they will be sorry, they will repent but it will be too late. Yes, when pressed hard the poor will turn at bay. They cannot any longer play in the hands of the capitalists who have been and are sucking their very life blood. There is a movement going on successfully in America and other European countries to free the labourers from the meshes of the capitalists. The same movement freed Russia from the clutches of capitalism. You will only force labourers to take shelter behind that movement. If your ears could only catch the murmuring of the trouble for the coming of which you will be held responsible, you would not dare to accept such a motion as the one now before the House. Please do not force us to take up that movement as a last resort. You could have very well brought in a motion to the effect that high taxes may be levied on all sorts of luxuries in order to grant remissions to the zamindars. That would have been far better, but your selfishness and the desire to hoard has blinded you and forced you not to think of others—those others, who are destitute and engaged in a life and death struggle against starvation. After years and years of suffering we have seen better days, but our happiness and affluence has proved an eye sore to all and Chaudhri Chhotu Ram brought in this motion in order to reduce us again to our previous state of extreme need and misery. Does it not amount to cutting us dead? I ask these gentlemen through you, whether the Almighty granted them a charter to eat wheat alone and not to give to others? We have an equal right to live on the soil of this land with them. I would request my honourable friend to withdraw this motion and to move some other instead.

Then, before I finish I would like to draw your attention to another fact. The prices fell, the zamindars became destitute on account of it; Government's receipts feel short. In order to make up this deficiency in the budget the Government intends to reduce the wages. Of whom? Poor clerks, chaprasies and other menials. (*An honourable member*: Who told you that?) It is a proposal before the Government. For the good of the people of the province I most respectfully request that no such measure be adopted. All civilised Governments try to reduce the prices of staple foods and cloth. I request [the] Government not to accept this motion. With these words I strongly oppose the motion now before the House.

Chaudhri Muhammad Abdul Rahman Khan [Jullundur, Muhammadan, Rural (Urdu)]: Sir, the honourable member representing labour

has very strongly opposed the motion of my honourable friend Chaudhri Chhotu Ram. I may tell him that by opposing this motion he has not rendered any service to the labouring classes. He has on the other hand harmed their cause. It is an apparent fact that all the wage-earning classes depend upon the zamindars. If the zamindars are in a state of opulence they give more work to the labourers and thus enable them to earn more. But if the zamindars happen to become poor along with them the labourers become poor. They do not get work and consequently do not earn much. When thrown out of work there is no help for them but to starve. Wheat and cotton are the only two crops that bring in any money into the country by their export. If these sell cheap the money will also decrease in the country and hence there will be very little for the labourers to earn. Their wages will be reduced and they will naturally fall on bad days. I remember that when staple foods sold very very cheap, the labourers were given very small wages. They worked for the whole of the day and got annas 4 in the end. You can imagine how much they could buy with this much money. Just a little quantity of wheat and other things of daily use. But now if you go to the villages you will find that they have built for themselves *pucca* houses. There were times when the farm labourers and the kamins on occasions of marriages quarrelled amongst themselves over rice water. They flocked to the house where a marriage ceremony was being celebrated and requested that rice water may be given to them. But now if you offer them rice water they would make a wry face, and refuse to drink it. It is because during the last few years prices rose considerably, the zamindars became rich and paid fat wages to the labourers, on account of which they also realised what decent living was. It is wrong to state that by the slump in the market the zamindars will starve. The zamindars cannot starve. They will continue to have grain, milk and butter. They can entertain their guests with these. What food can be better than this? Zamindars will not starve but of course those classes who depend upon them will starve. For example carpenters, blacksmiths, cobblers, masons and sahu-kars. The things that these artisans manufactured no longer sell now. I met an artisan. He told me that he was not earning much for by the fall in the prices the demand for his manufactures also decreased. My honourable friend has only harmed the interests of his constituents. If they came to know about it they will in the future take care not to send such a representative as he in the council. With these few words I strongly support the motion under consideration.

Chaudhri Bansi Lal [Lahore City, Non-Muhammadan, Urban (Punjabi)]: Sir, I have also to make one humble request in connection with the motion before the House. What a pity it is that the case of the depressed classes for example of the sweepers and bahishtis is being ignored in the desire to help the zamindars. Perhaps it has never occurred to the honourable mover and others of his way of thinking that a sweeper and a bahishti has never been able to earn more than Rs. 6 or Rs. 8 a month with which he has to maintain himself and his family. The recent fall in the prices of foodstuffs had, to some extent, relieved these poor people, whose number is not small, of the trouble which they had been experiencing to eke out their existence, and if efforts are made, as has been suggested, to raise the level of prices once again, these poor people will be hard hit. All the amenities of life are already denied to us. The doors of the High Court are closed

[Ch. Bansi Lal.]

to us. They have opened no schools for our children. We have never been granted land, and it has been made impossible for us to enter into services: and now agriculturists want that this God-sent relief should also be denied to us. I wonder why the agriculturists should be so anxious to secure very high prices for agricultural produce. Let the Government grant me 100 squares of land and I shall undertake to pay all dues even if the prices remain as they are. May I hope that our case will not be forgotten and that Government will not be moved by these appeals to take steps which might help to raise the level of prices.

Rao Bahadur Chaudhri Chhotu Ram [South-East Rohtak, Non-Muhammadan, Rural] (Urdu): Sir, I am glad to say that the speech made by the Honourable the Revenue Member has gone a long way to satisfy me, and in view of that fact I do not propose to press my motion to a division. But some of the honourable members have made certain remarks during the discussion which, I think, call for a reply from me. When they are disposed of I may request for leave to withdraw my motion.

First of all my honourable friend Mr. Owen Roberts was pleased to remark that the zamindars of the Punjab should learn to set their own house in order. He pointed out that the method of the sale of agricultural produce prevalent in this province was not quite satisfactory so far as the interests of zamindars are concerned. I do not say that he is wrong but my submission is that even with respect to this matter the Government can do much to help the zamindars. It should explain to the zamindars as to what methods they should adopt for getting better profits, and then it is the duty of the Government to help them to adopt those methods and provide facilities for sending the agricultural produce to central markets and thus getting it sold at better prices. Thus, Sir, if nothing has been done in this connection the fault lies with the Government and not with the zamindars.

Then my honourable friend who represents labour in this Council was pleased to remark that this House is a capitalist ridden House. I think he is not aware of the fact that most of the members of this House are small landholders who till their land with their own hands. There is no zamindar member in this House who may be called a capitalist in the real sense of the term. (*A voice*: There is one at least). The honourable member does not know that my father tilled his own land and that my uncle and brothers till their land with their own hands. I myself have done every agricultural work with my own hands except actual ploughing and I may also inform my honourable friend that I do not possess more than fifty bighas of ancestral land. Thus, Sir, there may be a few members coming from the Multan division and Shahpur district whom my honourable friend may call big landlords but most of the districts are represented by members who are peasant proprietors and whose relatives till their lands with their own hands.

Unfortunately, my honourable friend Mr. M. A. Ghani is the representative of those labourers only who are working in big factories, mills and workshops. He does not know the sad plight of agricultural labourers. He is not aware of the fact that in many cases these labourers get their wages in the form of grain and fodder and that if the prices of agricultural produce fall they are hit as hard as the zamindars themselves. The honourable

member thinks only of the comparatively few labourers working in the mills at Dhariwal. His anxiety is that if there is any rise in the prices of wheat and other agricultural produce the mill hands will suffer. I request him to remember that it is not wise to sacrifice the interests of the majority for the sake of a few.

The honourable member has also accused us of being unsympathetic to the wretched beggars rotting on the roads. But I submit, Sir, that the majority of these so-called wretched beggars are only professional beggars who do not deserve any sympathy at our hands. In fact most of them are leading a much easier life than ordinary zamindars. More often than not they earn as much as two or three rupees a day while most of the zamindars do not get even one rupee a week in spite of their hard work.

Again, Sir, of late it has become a fashion to say that if we do not pay attention to the plight of the labouring classes and to their amelioration the country is sure to be plunged into turmoil and chaos like Russia. These people lose sight of the fact that there is a world of difference between old Russia and the Punjab. I am of opinion that if any province in this country is best fitted to withstand Bolshevism it is our province (*Hear, hear*). If our position were occupied by the province of Bengal there might be some danger of this sort. In our province the land is distributed in such a way that the number of big landlords is almost negligible. Out of every thousand zamindars in the Punjab 999 are small landholders. In my own district, Rohtak, there is only one zamindar who pays Rs. 2,000 a year as land revenue. Therefore, Sir, we need not be afraid of this bogey of Bolshevism.

Then, the same honourable member pointed out that some proposal was being put forward to reduce the pay of poor peons and chaukidars. My submission is that no member of the zamindar party has made any suggestion of that kind and also that none of us will support such a proposal if it is put forward at all. On the other hand if it is proposed to reduce the salaries of high officials, members of the Provincial and Imperial Services, we will certainly support the proposal.

In the end, Sir, another honourable member was pleased to suggest that land may be handed over to sweepers and chamars. He also promised that if his suggestion were accepted those people would pay all the land revenue by the first day of the next month. But I submit, Sir, that a thing is easier said than done. He must remember that the payment of land revenue is not such an easy problem now-a-days. Most of the zamindars have had to part with the ornaments of their women in order to pay land revenue. Not only that. One of the honourable speakers has told us that a certain unfortunate zamindar was forced by circumstances to face the indignity of selling his daughter for that purpose. The honourable members will admit, Sir, that no zamindar would stoop so low unless he was face to face with the most extraordinary financial troubles.

Now I thank the Honourable the Revenue Member for the promise held out by him in relation to this motion and also for some steps which have already been taken in the Rohtak district to give relief to zamindars. With these remarks I beg leave of the House to withdraw my motion.

The motion was, by leave, withdrawn.

The Council, then, adjourned *sine die*.

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